

ORDINANCE NO. 89-5981

**AN ORDINANCE ADOPTING UNIFIED DEVELOPMENT REGULATIONS FOR THE CITY OF NAPLES, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. PURPOSE: TO COMPLY WITH STATUTORY REQUIREMENTS FOR THE CODIFICATION OF UNIFIED DEVELOPMENT REGULATIONS, WHICH INCLUDE CONE OF INFLUENCE - GROUNDWATER PROTECTION; AFFORDABLE HOUSING STANDARDS DISTRICT; CONSERVATION DISTRICT; CONCURRENCY MANAGEMENT PROGRAM AND MONITORING REQUIREMENTS; CORRIDOR MANAGEMENT OVERLAY DISTRICT; AND AIRPORT HIGH NOISE OVERLAY DISTRICT.**

WHEREAS, the City of Naples adopted a Comprehensive Plan on January 4, 1989, which the Department of Community Affairs found to comply with the requirements of Chapter 163, Part II, Florida Statutes; and

WHEREAS, Chapter 163.3202(1) of the Florida Statutes requires a municipality to adopt and enforce land development regulations that are consistent with and implement the adopted comprehensive plan; and

WHEREAS, Chapter 163.3202(2), Florida Statutes, requires that the land development regulations contain specific provisions necessary or desirable to implement the adopted comprehensive plan; and

WHEREAS, these land development regulations are compiled in one document and provide for (1) the subdivision of land; (2) district regulations for the land use categories included in the land use element of the comprehensive plan which ensure the capability of adjacent uses, provide for open space, and protect environmentally sensitive lands; (3) protection of potable water wellfields; (4) requirements for drainage and stormwater management; (5) regulations for signage and parking, including onsite traffic flow; and (6) regulations assuring that public facilities and services meet or exceed the standards established in the capital improvements element required by Chapter 163.3177, Florida Statutes, and are available when needed for development or that development permits are conditioned on the availability of these public facilities and services necessary to serve the development; and

WHEREAS, these unified development regulations implement the comprehensive plan and include provisions for a transfer of development rights within conservation areas; incentives for affordable housing and other goals established in the comprehensive plan; planned unit development guidelines and performance standards; and

WHEREAS, the Planning Advisory Board held a public hearing on July 6, 1989, and heard public comment following which they recommended approval of the Unified Development Regulations; and

WHEREAS, City Council held first reading on July 19, 1989, at which time they continued the first reading to October 18, 1989, and cancelled the second reading originally scheduled for August 2, 1989, to provide an appropriate time period for public input including public workshops;

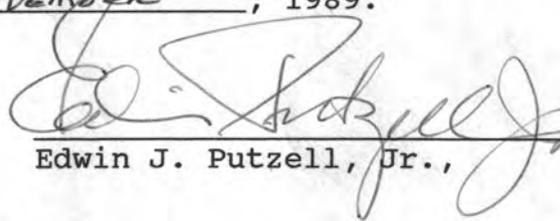
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

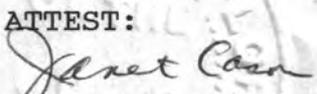
SECTION 1. That Unified Development Regulations are hereby adopted for the City of Naples, Florida, which include Cone of Influence - Groundwater Protection; Affordable Housing Standards District; Conservation District; Concurrency Management Program and Monitoring Requirements; Corridor Management Overlay District; and Airport High Noise Overlay District, a copy of which are attached hereto and made a part hereof.

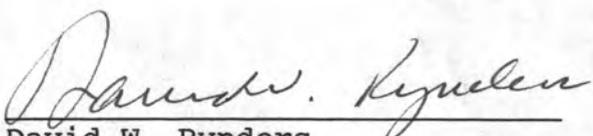
SECTION 2. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 18TH DAY OF OCTOBER, 1989.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 1st DAY OF November, 1989.

  
Mayor  
Edwin J. Putzell, Jr.,

ATTEST:  
  
Janet Cason  
City Clerk

APPROVED AS TO FORM AND LEGALITY BY   
David W. Rynders  
City Attorney

**COMPREHENSIVE DEVELOPMENT**

**CODE**

**CITY OF**

**NAPLES, FLORIDA**

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Adopted November 1, 1989

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MUNICIPAL CODE CORPORATION

Tallahassee, Florida

1990

## PREFACE

This volume contains the Comprehensive Development Code of the City of Naples, Florida, as adopted by Ordinance No. 89-5981 on November 1, 1989.

The Comprehensive Development Code has been printed herein substantially as enacted with the following exceptions: Section and subsection numbering and lettering have been added and a uniform system of capitalization and punctuation have been employed, and, where appropriate, references in text have been changed to accurately reflect the section and subsection numbering utilized. Words or phrases enclosed in brackets have been added by the editor for clarification and indexing purposes.

### *Amendatory Legislation*

A feature of this publication that is particularly useful is the table of amendments. Any amendatory legislation may be located therein by number and date of enactment, and the individual section or subsection that was amended will be listed. In addition, the amendatory legislation affecting each section is listed in parentheses following the affected section.

### *Index*

As part of the publication project, a comprehensive index was prepared. Each particular subject has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology and still others in language generally used by city officials and employees. There are numerous cross references within the index which stand as guideposts to direct the user to the particular item in which he is interested.

### *Acknowledgements*

This volume is presented for the use and benefit of the citizens of Naples, Florida. Publication was under the direct supervision of William B. Eddy, Supervising Editor and Robert Laslie, Vice President Supplements, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publishers would also like to extend their sincere appreciation to the city officials for their cooperation and assistance throughout the publication of the volume.

MUNICIPAL CODE CORPORATION  
Tallahassee, Florida

## ORDINANCE NO. 89-5981

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/s/ \_\_\_\_\_  
Edwin J. Putzell, Jr.,  
Mayor

ATTEST:

/s/ \_\_\_\_\_  
Janet Cason  
City Clerk

APPROVED AS TO FORM AND LEGALITY BY:

/s/ \_\_\_\_\_  
David W. Rynders  
City Attorney

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## CHAPTER 1

### GENERAL PROVISIONS

#### Section 1-1. Title.

This code shall be known as and may be referred to as the City of Naples Comprehensive Development Code. This comprehensive development code may, in subsequent sections, be referred to as "the code."

#### Section 1-2. Intent and Purpose.

This code contains standards intended to ensure that neighbors and adjacent and neighboring properties are protected from potential negative impacts in developing and using a parcel of land. This code also contains standards intended to preserve and protect the health, safety and general welfare of the community. In addition, it is the intent of the code to protect the character and property values of the city; the assets of the city and their economic value as it relates to Naples as tourist oriented community; and to maintain and enhance the attractive nature of the city.

As required by Chapter 163.3202 of the Florida Statutes, this code contains specific and detailed provisions necessary or desirable to implement the adopted City of Naples Comprehensive Plan and regulates the subdivision of land; the use of land and water; signage; storm-water management; and environmentally sensitive lands. The code also provides for the protection of potable water wellfields and ensures that public facilities and services meet or exceed the standards established in the Capital Improvement Element of the Comprehensive Plan. In addition, the concurrency management system requires that proposed development is conditioned on the availability of public facilities and services.

#### Section 1-3. Relationship to Existing Regulation.

To the extent that the provisions of this code are the same in substance as the previously adopted provisions that they replace in the City's Code of Ordinances, including the zoning and subdivision ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this code merely by the repeal of the zoning ordinance.

#### Section 1-4. Interpretation.

In the interpretation and application of this code, all provisions shall be liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.

**Section 1-5. Repeal of Prior Provisions.**

This code is not intended to repeal, abrogate or impair any existing easements, covenant or deed restrictions. However, where this code conflicts or overlaps other regulations, whichever imposes the more stringent restrictions shall apply.

**Section 1-6. Severability.**

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this code of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

**Section 1-7. Effective Date.**

The provisions of this code are effective immediately upon adoption by the city council.

## CHAPTER 2

### DEFINITIONS

#### Section 2-1. In General.

For the purpose of this chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural, the singular; the word "structure" shall include the word "building." The word "shall" is mandatory, the word "may" is discretionary.

#### Section 2-2. Construction of Standard Building Code; Application of Conflicting Laws.

The Standard Building Code shall not be construed to repeal any portion of any ordinance relating to zoning, building, electricity, plumbing, elevators, fire prevention, gas, sanitation or health, or any matter or thing used in connection therewith. In the event that any regulation in any ordinance of the City of Naples shall relate to the same subject matter that is also regulated by the Standard Building Code but shall differ from or conflict with the regulations of the latter, then the regulations as set forth in the ordinances of the City of Naples shall apply to and supersede the provisions of the Standard Building Code.

#### Section 2-3. Definitions.

*Access aisle:* An element of off-street vehicular use areas providing paved accessibility from the accessway to off-street parking or loading spaces or other vehicular use areas.

*Accessory use or structure:* A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

*Accessway:* Element of off-street vehicular use areas comprising the paved area providing the entrance to and/or exit from the street right-of-way at the property line leading to the access aisle(s).

*Accretion:* Slow addition of sand to beach which increases beach size; opposite of erosion.

*Airport clear zone:* See high noise impact area.

*Alley:* A recorded right-of-way which affords only secondary means of access to abutting property and which is not intended for general traffic circulation.

*Areas of public concern:* Areas which pose unique land use problems or conflicts, or have the potential for such problems in the future; in some cases they require development of significant environmental impact assessment and/or general development and site plan approval.

*Arterial road:* Provides relatively continuous service, high traffic volume, long trip length and high operating speed.

*Bakery, retail:* A combination bakery and baked goods sales shop at which all of the baked goods produced are sold at retail on the premises.

*Balcony:* A platform enclosed by a parapet or railing that projects from the wall of a building and is not within the general outline or profile of the building.

*Basement:* A portion of a dwelling located partly underground but having less than half its clear floor to ceiling height below the average grade of the adjoining ground.

*Beach:* The zone of unconsolidated material that extends landward from the mean low water line to the place where there is marked change in materials or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach" is alternatively termed "shore."

*Beachend:* Improved area where the street meets the beach, used for parking and disembarking.

*Boat yards and ways:* A commercial marine facility which provides such facilities as are customary and necessary to provide complete construction, reconstruction, repair or maintenance, including lifting or launching services for all types of marine craft and equipment; in addition to such wet or dry storage as may be necessary for the repair activities.

*Building:* Any structure having a roof and used or built for the shelter or enclosure of persons, animals or property of any kind.

*Building code:* The Standard Building Code, as adopted by the City of Naples.

*Building height:* The vertical distance measured from the average crown of the abutting road, or the established 100-year flood elevation, whichever is applicable, as determined by the zoning administrator, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof or to the mean height between eaves and the ridge of a gable, hip or gambrel roof.

*Capital improvement:* Physical assets constructed or purchased to provide, improve or replace a public facility and which are large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year financing.

*CDBG:* Community Development Block Grant.

*Cellar:* A portion of any dwelling having half or more than half of its clear floor to ceiling height below the average grade of the adjoining ground.

*Channelized:* Physically directing traffic flow by means of islands, barriers or curbing which forces vehicle traffic into specific lanes; encourages free flowing traffic.

*Child care center:* An enterprise involving the care of three (3) or more children at one and the same time, either by day or night, which children are not foster children or related by blood or marriage to the operator.

*City:* The City of Naples, Florida.

*City high hazard areas:* Areas seaward of the most restrictive line of the following: State of Florida Coastal Construction Control Line, Federal Emergency Management Agency designated Velocity zones (FEMA V zones) and erosion prone bay frontage.

## DEFINITIONS

§ 2-3

*Clinic:* An establishment where persons, who are not lodged overnight, are admitted for examination or treatment by one person or a group of persons participating in any form of the healing arts, including physical therapists or laboratory technicians under the supervision of a doctor, whether such persons be medical doctors, chiropractors, osteopaths, chiroprudists, naturopaths, optometrists, podiatrists, dentists, or any such profession, the practice of which is regulated by the State of Florida.

*Cluster:* A cluster development is one in which a number of dwelling units are grouped, leaving some land for common use. Residential projects of three (3) or more units (or over one-half (1/2) acre in size) may employ the concept of clustered development whereby residential units are grouped to provide a more efficient design of infrastructure and to provide useable open space for the residents. Clustered developments must comply with the density and lot coverage requirements for the parcel. However, minimum lot requirements may be decreased provided the land thus saved is allocated to useable open space areas for the residents of the project. The maintenance of the open space areas is the responsibility of the owner(s).

*"Coastal area" of Naples:* For planning purposes, the entire city is considered to lie within the Coastal Zone Boundary. This is due to the interrelationships of land and water areas.

*Coastal barrier island:* A geological feature which is completely surrounded by marine waters that front upon the open waters of the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and are composed of quartz sands, clays, limestone, oolites, rock, coral coquina, sediment or other material, including spoil disposal, which feature lies above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

*Coastal high hazard areas:* Areas designated by local governments; includes areas which have historically experienced destruction or severe damage, or which may experience destruction or severe damage, from storm surge, waves, erosion or other outcomes of rapidly moving or storm driven water.

*COBRA:* Coastal Barrier Resource Act of 1982.

*Collector road:* Provides service of moderate traffic volume, moderate trip length and operating speed, collects and distributes traffic between local and arterial roads.

*Commercial fishery:* A commercial establishment for the receiving, processing, packaging, storage and wholesale or retail distribution and sale of products of the sea. Such an establishment may include facilities for the docking, loading, unloading, fueling, icing and provisioning of vessels and for the drying, maintenance and storage of equipment.

*Commercial vehicle:* Any vehicle designed, intended or used for transportation of people, goods or things, other than private passenger vehicles and private trailers, used for nonprofit transportation of goods and boats.

*Cones of influence:* Contour lines associated with water wells which exhibit groundwater depth and the area in which groundwater movement occurs as water is extracted from the waterwells.

*Conservation areas:* Locations of critical environmental concern such as mangrove areas, natural drainage ways, beaches and fresh water wetlands. This designation also applies to those areas which are presently isolated from urban development and which lack essential public services and facilities. Includes marginal land, Class III waters and parks and open space; see Future Land Use and Conservation/Coastal elements.

*Cooking facilities:* Any appliance or manufactured unit (i.e., "pullman kitchen" unit) used for the preparation of food.

*Curb line radii:* Curvature of street curbs at intersections.

*DCA:* Florida Department of Community Affairs.

*Density:* The number of residential dwelling units permitted per acre (43,560 square feet) of land. Streets, alleys, swamplands, mangrove areas, and areas covered or to be covered by water (except land to be covered by water for on-site storm water retention purposes, or as a landscape architectural feature, and which is not part of a platted lake or drainage easement) are not included in the calculation of net acreage. In the determination of the number of residential dwelling units to be permitted on a specific parcel of land, a fractional unit larger than one-half (.50) shall entitle the owner to an additional unit.

*Department store:* A retail establishment occupying a minimum of sixty thousand (60,000) square feet of gross leasable area, offering a wide variety of merchandise and services, and organized into departments according to the kinds of goods sold.

*Debt service projections:* City's financial obligations for previously funded capital improvement projects; repayment of revenue bonds.

*Development:* Carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three (3) or more parcels (F.S. Ch. 163.3221 (3)).

*Development order:* Any order granting, denying or granting with conditions an application for a development permit (F.S. Ch. 163.3164 (6)).

*Development permit:* Includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land (F.S. Ch. 163.3164 (7)).

*DNR:* Florida Department of Natural Resources.

*Dock:* Any structure, otherwise known as a pier, wharf, or loading platform which is constructed on pilings over open water, or which is supported by flotation on the water.

*Dockage area:* Less than ten (10) boat slips.

*DOT:* Florida Department of Transportation.

## DEFINITIONS

§ 2-3

*Drainage basin:* Topographic boundaries which contribute stormwater to a drainage system, estuarine or ocean waters.

*Drawdown:* Underground depth of water as it relates to a water well site.

*Drive-in business:* Any place of business or premise which serves, sells or otherwise makes available its services or products to patrons situated in automobiles.

*Driveway:* The paved area leading from the edge of a street pavement to the accessway at the property line.

*DSEI:* Development of Significant Environmental Impact.

*Dune:* A mound or ridge of loose sediments, usually sand sized, lying landward of the beach, and deposited by natural or artificial means.

*Dwelling district:* A "dwelling district" as used herein shall refer specifically to districts "RE," "R1-E," "R1-15," "R1-10," "R1-7.5," "R3-6," "R3-12," "R3T-12," "R3-15," "R3T-18," and "R3-18" and "PD" zoned property designated for a residential use.

*Dwelling unit:* An assemblage of rooms or spaces that could provide living accommodations for a single family whether in a single family residence, a residence in a multifamily residential building or a single family living unit in a transient lodging facility.

*Effluent:* Flowing out of a body of water, sewer or storage tank. Example: wastewater effluent.

*Entertainment, staged:* An accessory use in conjunction with a restaurant, cocktail lounge or other similar establishment, or a principal use, wherein floor shows or other forms of entertainment are provided. Solo entertainment is excepted from this definition.

*Extermination:* The control and elimination of insects, rodents, or other pests by eliminating their harborage places by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination method approved by the enforcing official.

*Fallout shelter:* A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout, air raids, storms or other emergencies.

*Family:* An individual or two (2) or more persons related by blood, marriage, law or legal adoption, or not more than four (4) persons not so related living together as a single house-keeping unit in a dwelling unit. Foster children and domestic servants employed on the premises shall be considered as "related by blood, marriage, law or legal adoption."

*Feeder trunk line:* Collection of pipes which feed main lines for sewer and wastewater effluent reuse system.

*FEMA:* U. S. Federal Emergency Management Agency.

*Flood or flooding:* A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

*Floodplains:* Areas inundated during a 100-year flood event or identified by the National Flood Insurance program as an A Zone or V Zone on flood insurance rate maps or flood hazard boundary maps.

*Floor area and gross floor area:* Floor area and gross floor area shall be determined by measuring the outside wall dimensions of all enclosed floor area under roof, excluding basements, uninhabited attics, garages, carports and screen enclosed areas.

*Foster care facility:* Housing which provides a family living environment, including supervision and care necessary to meet the physical, emotional and social needs of the residents and serves either children or adult foster residents.

*Four Corners:* The intersection of U.S. 41 and Fifth Avenue South.

*Garbage:* Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

*Gasoline service station:* A place of business at which the principal service is the retail sale of gasoline.

*Gate house:* An accessory, nonresidential building or structure which is utilized by a security guard or gatekeeper for the exclusive purpose of controlling access to a parcel of property.

*Grocery store:* Establishments dispensing food of any kind, other than bakeries, for consumption off the premises; and having a gross floor area of one thousand five hundred (1,500) square feet or more.

*Gross leasable area:* The total floor area designed for tenant occupancy and exclusive use, including mezzanines, and upper floors, if any, expressed in square feet measured from center lines of joint partitions and exteriors of outside walls.

*Groundwater recharge:* Areas where water enters the ground and is stored in an aquifer and is later extracted for public use.

*Group home:* Facility which provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents. It shall not include rooming or boarding homes, clubs, fraternities, sororities, monasteries or convents, hotels, residential treatment facilities, nursing homes, or emergency shelters.

*Guest house:* An accessory dwelling unit which is incorporated in, attached to or detached from a principal dwelling, and which is used exclusively by occupants of the principal dwelling and/or for the noncommercial accommodation of persons visiting the occupants of the principal dwelling.

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*Hazardous waste:* Solid waste which may cause or significantly contribute to an increase in mortality or serious illness or which may pose a substantial present or potential hazard to human health or the environment.

*High density residential:* Intended to accommodate multifamily residential densities of up to eighteen (18) dwelling units per net acre.

*High noise impact areas:* Area surrounding Naples Municipal Airport where potential noise impact exists from low flying aircraft; designated as the 65 Ldn noise contour.

*Historic resources:* Areas, districts or sites containing properties listed on the Florida Master Site File, National Register of Historic Places or designated by a local government as historically, architecturally, or archaeologically significant.

*Home occupation:* An occupation carried on as a secondary use in a residence by the occupant of a residential dwelling unit. The use of a telephone in a residence for business purposes is not considered a home occupation.

*Horticultural landfill:* Located east of Goodlette-Frank Road and south of the Public Works complex is the storage location for all city wide plant clippings.

*Hurricane vulnerability zone:* Areas delineated by the regional or local hurricane evacuation plan as requiring evacuation. The hurricane vulnerability zone shall include areas requiring evacuation in the event of a 100-year storm or Category 3 storm event.

*Infrastructure:* Public facilities serving the needs of the population including roads, bridges, sewage disposal and potable water systems, solid waste disposal sites, piers and docks.

*Inland waters:* Includes all tidal waters and all streams, lakes, canals or bay bottom lands as are in fact navigable, but does not include beaches fronting on the Gulf of Mexico.

*Interceptor:* Pumps that transmit sewage and wastewater to treatment plants or lift stations.

*Kitchen:* A portion of a building used or that could be used for the preparation of food and, for the purpose of this ordinance, shall include cooking facilities, and may include a sink, food refrigeration and preparation facilities, food and utensil storage and dining facilities. Any and all of the above features and related improvements (i.e., wiring, plumbing and the like) shall be removed when a kitchen has been determined by the zoning administrator to have been installed in violation of this ordinance.

*Level of service:* Indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

*Lift station interceptor:* Similar to an interceptor with sewage being transported toward a treatment plant and effluent reuse being transmitted away from the treatment plant.

*Littoral zone:* Intertidal and near shore subtidal area of the shoreline.

*Lot:* A lot is a lawful building site. Such building site may consist of all portions or combinations of land parcels described by metes and bounds or lots as shown on a subdivision plat.

*Lot area:* The total area, measured in a horizontal plane, within the lot lines of a lot.

*Lot coverage:* Coverage of a lot by all buildings is defined as that percentage of a lot or parcel of land that is covered or occupied by all buildings, including accessory buildings under the terms of these regulations. Fences, shuffle board courts, swimming pools and the like shall not be included in computing lot coverage.

Balconies and means of egress shall be included in determining building coverage if either of the following conditions exists and to the extent that such conditions exist:

- (a) Balconies and means of egress project more than six (6) feet from the building wall of any floor;
- (b) The combined length of balconies and means of egress on any one floor level along a building wall exceeds fifty (50) percent of the length of said wall.

*Lot depth:* The horizontal distance between the rear lot line, or the narrowest front lot line in the case of lots with two (2) frontages, or the intersection of the side lot lines, and the midpoint of the front line, measured back from said midpoint in the mean direction of the side lot lines; also the line so described.

*Lot line:* The lines bounding a lot as herein defined.

*Lot of record:* A lot which is part of a platted subdivision or a parcel of land recorded in a Collier County Deed book or Official Record Book.

*Lot width:* The horizontal distance between the side lot lines, or between the side lot line and the longest front lot line, measured at right angles to the lot depth at a point midway between the front and rear or narrowest front lot line.

*Low density residential:* Intended to accommodate single family or other similar residential uses of up to approximately six (6) dwelling units per net acre.

*Marina:* An establishment with a waterfront location designed to service all sizes of watercraft. A marina may include such activities as refueling and lubrication of watercraft, covered or uncovered boat slips or dock space, dry storage of watercraft, charter and sightseeing boat dockage, boat and boat motor sales or rentals, outfitting, maintenance and repair, including haul-out facilities, boat launching, retail sale of boating or fishing supplies and accessories, restaurants or refreshment facilities, laundry facilities or other customary accessory facilities. No dredge, barge or other work boat dockage is permitted, and no boat manufacturing or major reconstruction is permitted.

*Mean sea level:* The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this code, the term is synonymous with National Geodetic Vertical Datum (NGVD).

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*Medium density residential:* Intended to accommodate single and multifamily residential densities of up to twelve (12) dwelling units per net acre.

*Mixed use area:* Designation to guide the development and redevelopment of bay front property to allow for water related and dependent uses as well as innovative water front development.

*Mobile home:* A single family dwelling designed for transportation after fabrication on streets and highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.

*Mobile home park:* An area designed, constructed, equipped, operated or maintained for the purpose of providing spaces for two (2) or more mobile homes, intended to be used as temporary or permanent living facilities.

*Model home:* A residential structure used for demonstration purposes, not occupied as a dwelling unit and open to the public for inspection.

*MPO:* Naples/Collier County Metropolitan Planning Organization.

*Multifamily:* Two (2) or more families.

*NGVD:* National Geodetic Vertical Datum, a geodetic datum established by the National Ocean Service and frequently referred to as the "1929 Mean Sea Level Datum."

*Nonconformity:* A lot, structure, or use of land, or any combination thereof, which was lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance.

*Non-point source pollution:* Combination of pollution sources that are dispersed in such a way that a specific, single source of the pollution cannot be identified. Example: Agricultural fertilizer runoff.

*Nursery school:* Any structure, lot or premise where a commercial or institutional establishment is maintained or operated temporarily or permanently for the training and/or care (other than medical care) of preschool age children.

*Nursing, rest or group home:* A home, institution, building or residence, public or private, whether operated for profit or not, which provides accommodations, maintenance, personal care or nursing for a period exceeding twenty-four (24) hours to three (3) or more ill, physically infirm, aged persons or others in need of physical or mental rehabilitation, who are not related by blood or marriage to the operator.

*Office:* A business facility in which business administration, business service, and business transactions occur, but in which there is no on-premise display or sale of merchandise.

*Open space:* Undeveloped land suitable for passive recreation or conservation uses.

*Ornamental buffer:* Ornamental buffers shall be a minimum of six (6) feet high and shall be composed of structural and/or plant materials. Within one year of installation, and at all times thereafter, ornamental buffers shall be at least seventy-five (75) percent opaque and shall be maintained in a neat, attractive condition.

*Paratransit:* Transit service such as ride-sharing, car/van pools and demand response buses.

*PD:* A zoning designation; a planned development allows a mix of well designed residential, commercial, recreational and/or other uses. PD District encourages imaginative, high quality land planning by approving development compatible with surrounding land and activities.

*Person:* Any individual, or any entity, partnership, association, corporation, company or organization of any kind. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

*Point source pollution:* Confined point of origin such as pipes, ditches, conduits, or wells from which pollutants are or may be discharged.

*Potable water facilities:* System which collects, treats and distributes drinking water; includes water wells, treatment plants, reservoirs and distribution mains.

*Premises:* A lot, plot or parcel of land, including the buildings and structures thereon.

*Principal building:* A building which houses the main use or activity occurring on a lot or parcel of ground.

*Private club:* A property owned or leased and operated by a group or an association of persons and maintained and operated solely for the members of such a group or association and their guests, and which is not available for unrestricted public access or use and which is not operated for profit.

*Public notice:* At least fifteen (15) days public notice, published one time in a newspaper of general circulation in the City of Naples, which states the date, place, time and nature of the business with which the notice is concerned.

*Public utility:* Any publicly owned or publicly regulated facility for rendering electricity, gas, communications, transportation, water supply, sewage disposal, drainage, garbage or refuse disposal or fire protection to the general public.

*Residence:* A single family dwelling or dwelling unit in a multifamily complex, which contains sleeping, bathroom, and kitchen facilities.

*Restaurant:* An establishment where meals or prepared foods, including beverages, are served to customers.

Establishments dispensing foods of any kind solely for consumption off the premises, and having a gross floor area of less than one thousand five hundred (1,500) square feet shall be considered as retail sales establishments and not restaurants.

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Restaurants are hereby classified and further defined into three (3) categories:

- (1) *Restaurant, conventional*: Consisting of customer seating at tables, booths or counter stools, indoors or outdoors and providing no service to persons at walk-up windows and/or counters or in motor vehicles, but shall include cafeterias.
- (2) *Restaurant, carry-out and drive-up*: Specializing in short order foods and beverages, including the preparation of food to be taken out and consumed off the premises; may be entirely a counter stool type operation, or with any combination of counter stool and/or tables and booths; and no service provided to persons in a motor vehicle except for establishments dispensing foods from drive-up or walk-up windows and/or counters for consumption either on or off the premises are permitted under this classification.
- (3) *Restaurant, drive-in*: Any restaurant serving food and/or beverages to persons in motor vehicles to be consumed on the premises.

*Revetment*: A sloping structure which serves to separate real property and/or any improvements thereon from any natural or manmade body of water.

*Right-of-way*: Land to which the state, county or city owns the fee simple title or has an easement for transportation or utility use.

*Riprap slope protection*: Any shore protection device constructed of loose rock or rubble or other material in a sloping configuration.

*Rubbish*: Combustible and non-combustible waste materials except garbage.

*R/UDAT*: Regional/Urban Design Assistance Team, American Institute of Architects.

*Saltwater/freshwater interface*: Common boundary where salt and fresh water meet.

*Saltwater intrusion*: Locations where saltwater blends into or intrudes into fresh water.

*Seasonal population*: Part-time inhabitants who utilize, or may be expected to utilize, public facilities or services, but are not residents. Seasonal population shall include tourists, migrant farmworkers and other short-term and long-term visitors.

*Seasonal population formula*:  $\text{Housing Units} \times \text{Vacancy Rate} \times \% \text{ of Occasional Housing} \times \text{Persons per household} \div \text{Current Number of Motel/Hotel Units} \times \text{State average of persons per party}$ .

*Seawall*: Any solid upright structure which serves to separate real property and/or any improvements thereon from any natural or manmade body of water.

*Shopping center*: A group of commercial establishments planned and developed as a unit, having a minimum lot area of three (3) acres, with common off-street parking provided on the property.

*Shoreline*: A straight or smoothly curved line which, on tidal waters, follows the general configuration of the mean high water line (1.09 feet above mean sea level, or as determined by U.S. Coast and Geodetic Survey datum); and which, on non-tidal waters, is determined by the

annual average water level. Small boat slips and other minor indentations shall be construed as lying landward of the shoreline and are considered upland when measuring required yards or computing the lot area of waterfront property.

*Staged entertainment:* An accessory use in conjunction with a restaurant, cocktail lounge or other similar establishment, or a principal use, wherein floor shows or other forms of entertainment are provided. Solo entertainment is excepted from this definition.

*Storage garage:* A building or portion thereof designed or used exclusively for term storage of motor driven vehicles, and at which motor fuels or oils are not sold and motor driven vehicles are not equipped, repaired, hired or sold.

*Story:* That portion of a building included between a floor and the floor or roof next above it, including a loft area, carport, or garage. If any part of a building is two story, the entire building is considered two story.

*Street:* A public or private thoroughfare which affords the principal means of access to abutting property.

*Structure:* Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground.

*SWFRPC:* Southwest Florida Regional Planning Council.

*SFWMD:* South Florida Water Management District.

*Substandard:* Housing unit lacking some or all plumbing facilities and/or being overcrowded. Complete plumbing facilities include hot and cold running water inside the unit, flush toilet and a bathtub or shower for the exclusive use of the occupants within the unit. Overcrowded unit is one with more than 1.01 persons per room.

*Swales:* Depressions, commonly used in landscaping plans to retain and slow the movement of water.

*Time sharing lodging:* A use of a dwelling unit or units under an arrangement or plan whereby the use of the unit has been segmented over time so that the owners, lessees or holders (regardless of the form of ownership or form in which the right to use is expressed) of such dwelling units have a periodically recurring exclusive right to use of either that unit or another unit in the same development, according to a predetermined fixed schedule, and only if the schedule would permit in any one year a change or turnover of occupancy five (5) or more times. In time share lodging facilities, each unit may contain living and sleeping accommodations, sanitary facilities and kitchen or cooking facilities.

For the purposes of this ordinance, time share lodging, interval ownership, interval occupancy, and similar uses shall be construed to be the same.

The city council finds that time share lodging is distinguished from transient lodging in that:

- (1) Occupancy is usually for weekly periods of time or longer.
- (2) The units are not primarily intended for rent to the public.

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- (3) The units are usually larger in size than traditional hotel or motel units, and may be subject to a greater intensity of human occupancy.
- (4) The facility is normally subject to a higher occupancy rate.
- (5) Each unit typically includes complete living, sleeping, cooking and sanitation facilities.
- (6) The facility and neighboring properties are subject to unique impacts as a result of marketing activities.
- (7) The management characteristics have the potential of being substantially different from those of transient lodging facilities.
- (8) Ownership is diffused rather than concentrated.
- (9) Occupancy is not intended for the overnight tourist or traveler.
- (10) Recreation facilities are usually more extensive and used more intensely.

The above distinguishing features are not intended to be all inclusive.

*Trail:* Tamiami Trail—U. S. 41.

*Transient lodging facility:* A hotel, motel, motor lodge, tourist court, or similar building or group of buildings in which sleep accommodations and sanitary facilities are offered to the public and intended for rental to transients with daily, weekly, or seasonal charge. A transient lodging facility is distinguished from multifamily dwellings (apartments) where rentals are for periods of a month or longer and occupancy is by residents rather than transients.

*Upland conservation:* Native vegetation consisting of pine/scrub oak communities.

*Upland vegetation:* Includes disturbed wetland sites, primarily Australian pine/palmetto areas.

*Vegetative communities:* Ecological communities based on certain soils, vegetation and animals; i.e., coastal strands, oak hammocks and cypress swamps.

*Vital areas:* Land use designation which includes marine grass beds, tidal swamps and marsh areas, freshwater swamps and marsh areas, Gulf beaches and dunes, and Class II waters.

*Water accelerators:* Process to soften water with the use of chemicals.

*Water dependent:* Development directly carried out on, in or adjacent to a body of water; usage requires access to water.

*Water recharge areas:* Land or water areas through which groundwater is replenished.

*Water related:* Developments or activities not directly dependent on water access; may provide goods and services associated with water dependent uses. All motels/hotels within the city are considered water related due to their proximity to the beach or bay.

*Water resource:* Any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

*Waterwell area:* Location of city waterwells used for potable water consumption activities.

*Wellfield:* An area consisting of several waterwell sites which is used for extracting water out of the ground.

*Yard:*

(A) Front, rear and side yards identified:

- (1) A yard which abuts a street or the gulf is a front yard.
- (2) All navigable waterfront yards other than gulf front are rear yards.
- (3) All yards which abut an alley and are parallel to the front yard are rear yards. In the event of a lot which has more than one (1) alley abutting it, the zoning administrator shall determine which yard shall be the rear and side yards.
- (4) Rear yards, other than above, occur only in the interior of a block and are parallel or nearly parallel to the front yard.
- (5) Yards other than above which are perpendicular or nearly perpendicular to a front yard are side yards.

(B) Corner and double frontage lots: Corner lots and double frontage lots which are not on an alley and are not on navigable waters have two (2) front yards, two (2) side yards and no rear yards. A lot encircled by streets has only front yards.

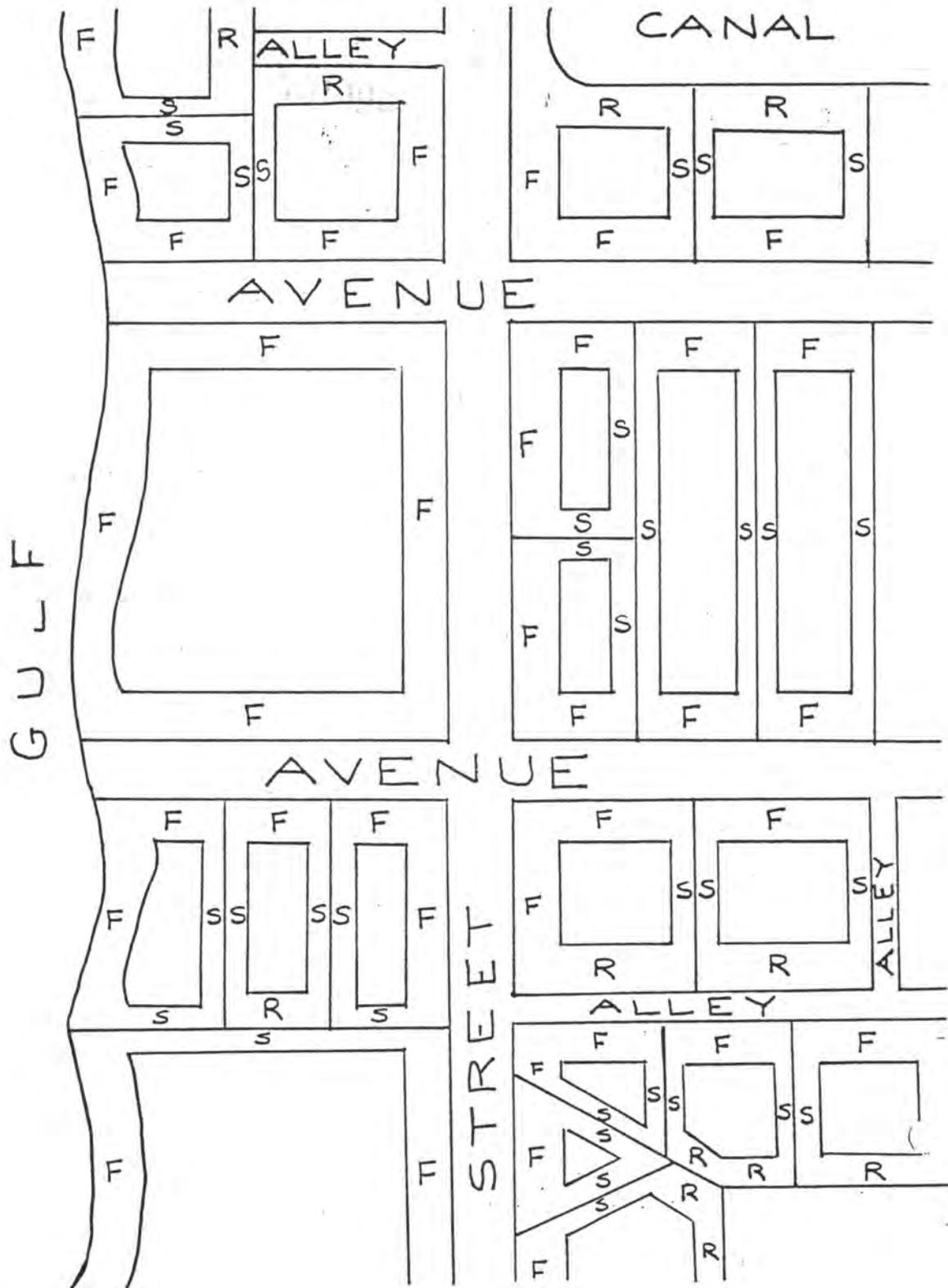
(C) Irregular lot shapes: In the event of irregular lot shapes, or on double frontage lots for the purpose of determining permitted fence heights, the zoning administrator shall determine yard locations which shall as closely approximate the above rules as is practical.

(D) Sketch identifying typical yards: The sketch on the following page illustrates a variety of lot types and indicates which are front, side and rear yards.

*Xeriscape:* Drought resistant or drought tolerant landscaping.

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## CHAPTER 3

### ADMINISTRATION, PROCEDURES AND ENFORCEMENT

#### ARTICLE I. DEPARTMENT OF COMMUNITY DEVELOPMENT

##### Section 3-1. Established; Responsibilities.

There shall be a department of community development under the direction of the community development director. The community development director shall be responsible for:

- (1) Issuance of permits for new construction within the city;
- (2) Inspection of all construction in progress within the city to assure compliance with all building and zoning regulations as established by the Code of Ordinances of the city; the director and the inspection staff shall have authority to issue stop orders on construction upon finding violations;
- (3) Enforcement of all building and zoning regulations as established in this code of the city; the director and the inspection staff shall have authority to issue notices of violation to violators of the zoning code;
- (4) Acting as secretary to the contractor's examining board;
- (5) Acting as secretary to the board of appeals as established in this chapter;
- (6) The orderly development of the city in accordance with the comprehensive plan, as adopted by the city council;
- (7) Processing of petitions, including, but not limited to, conditional uses and variances from the zoning ordinances; provide evaluations and recommendations concerning said petitions;
- (8) Consultation with citizens, developers and contractors regarding pending construction and development projects;
- (9) Acting as secretary to the planning advisory board;
- (10) Proposing evaluations and processing amendments to this code;
- (11) Performance of other duties as assigned by the city manager.

##### Section 3-2. Construction of Terminology.

Whenever the terms "department of building and zoning," "building and zoning official," "building and zoning administrator," "department of planning," or "planning director" appear in any ordinance of the City of Naples, the Naples Comprehensive Development Code or in the city Charter, such terms are hereby amended to refer to and shall hereafter be construed to mean the "department of community development" or the "community development director," respectively, as the same may be applicable.

Sections 3-3—3-20. Reserved.

## ARTICLE II. BOARDS AND AGENCIES

### Section 3-21. Board of Appeals.

#### Subsection 3-21-1. Created; Composition; Qualifications; Terms of Office; Removal of Members; Quorum.

There is hereby established a board of appeals, which shall consist of five (5) members. Said membership shall include one architect and one civil engineer, and not less than one of the remaining three (3) members shall have professional or business background in the building industry. All members shall be residents of the City of Naples. Members of said board shall be appointed by a majority vote of the city council and may be removed by a majority vote of council. The initial membership of the board of appeals shall be composed of present members of the board of adjustments and appeals and said members shall continue in office until they resign, the terms for which they were appointed expire or until they are removed from office as provided above. Thereafter, board members shall be appointed as aforesaid for a term of four (4) years, except that all vacancies shall be for the unexpired term. Three (3) members of the board shall constitute a quorum for the transaction of business.

#### Subsection 3-21-2. Jurisdiction; Duties, Functions.

(A) The board of appeals shall conduct public hearings on appeals from decisions of the building and zoning administrator in the application and interpretation of the following:

- (1) The Standard Building Code, as adopted.
- (2) The City of Naples Housing Code.
- (3) The Flood Plain Management Criteria.
- (4) The Standard Plumbing Code, as adopted.
- (5) The Standard Mechanical Code, as adopted.
- (6) The National Electrical Code, as adopted.

(B) The board shall have the authority to modify, reverse or affirm decisions of the building and zoning administrator. Decisions of the board, except those relating to Appendix A, Section A103, of the Standard Building Code, shall be final, subject to review of the circuit court in the manner prescribed by the laws of Florida. The city council may, by a majority vote of the council members present, modify, sustain or overrule any decision of the board of appeals relative to Appendix A, Section A103, of the Standard Building Code, upon its own initiative or upon petition filed with the city manager or his designee, by any party aggrieved thereby, or by any officer of the city within thirty (30) days from the date of the board's decision.

**Subsection 3-21-3. Procedures, Rules and Regulations.** The following procedural rules and regulations shall be followed by the board:

(A) Whenever the building and zoning administrator 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 the Standard Building Code, as adopted by the City of Naples, or ordinances relating thereto, 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 the Standard Building Code or the housing code of the City of Naples, or any of the regulations thereunder, have been misconstrued or wrongly interpreted, or whenever a variance is sought from the provisions of section 10-4 of this code, relating to flood insurance criteria, the owner of such building or structure, his attorney or duly authorized agent, or any citizen affected thereby, may appeal from the decision of the building and zoning administrator to the board of appeals within thirty (30) days from the date of said decision. In the case of a building or structure which, in the opinion of the building and zoning administrator is unsafe or dangerous, the building and zoning administrator may limit the time for such appeal to a shorter period.

(B) The decision or order of the building and zoning administrator shall be furnished in writing to the applicant or his duly authorized agent or attorney, setting forth the reasons therefor.

(C) Notice of appeal shall be filed by the applicant on a form provided by the building and zoning division within thirty (30) days after the decision or order is rendered by the building and zoning administrator and shall be accompanied by a fee of seventy dollars (\$70.00). A copy of the notice of appeal and the written decision or order of the building and zoning administrator shall be filed with the secretary of the board of appeals, with a copy thereof to the city attorney.

(D) The board shall set a date and time for a public hearing, which hearing shall be held within fifteen (15) days after notice of appeal has been received. Notice of such public hearing shall be published in a newspaper of general circulation in the City of Naples at least seven (7) days prior to the date of said hearing. The applicant or his agent or attorney shall be notified in writing of the date and time for said hearing, with a copy of said notice to be furnished to the city attorney.

(E) The applicant shall appear in person or by his duly authorized agent or attorney. All persons testifying shall be properly sworn.

(F) The chairman of the board of appeals shall read into the record the notice of appeal and the building and zoning administrator's decision or order.

(G) The applicant shall present his testimony, together with all witnesses, evidence and exhibits. Any member of the board may, if desired, question the applicant or his witnesses concerning any testimony or exhibit submitted. Upon completion of the applicant's presentation, the building and zoning administrator shall testify as to any matters

relating to his decision or order, from which the appeal was taken and shall present any witnesses or evidence in his behalf. The applicant shall be given an opportunity to cross-examine the building and zoning administrator.

(H) At the conclusion of said hearing, the board of appeals shall reach a decision without unreasonable or unnecessary delay. Three (3) affirmative votes shall be required to modify or reverse a decision of the building and zoning administrator. Said decision shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. The decision shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the building and zoning administrator and shall be open to public inspection. A certified copy thereof shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building and zoning administrator for two (2) weeks from the date of said decision by the board.

(I) The building and zoning administrator shall act as secretary to the board of appeals and shall keep a detailed record and transcript of all proceedings, which shall include the notice of appeal and all evidence and exhibits submitted; the names and addresses of all persons appearing before the board in the cause, together with a summary of their testimony; the decision or order of the building and zoning administrator; the decision of the board and the reasons therefor; the vote of each member participating therein and the absence of a member or any failure of a member to vote.

(J) If the decision of the board reverses or modifies a refusal order or disallowance of the building and zoning administrator or varies the application of any provision of the Standard Building Code, the housing code or the provisions of the flood plain management regulations, the building and zoning administrator shall immediately take action in accordance with such decision.

(K) An appeal from the action of the building and zoning administrator to the board of appeals shall stay all proceedings in furtherance of the action appealed from, unless the building and zoning administrator certifies to the board after petition for appeal is filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and health. In such case, proceedings shall not be granted by the board of appeals or by a court of record on application, and on notice to the building and zoning administrator from who the appeal is taken and on due cause shown.

(L) In addition to the authority hereinbefore given to the board of appeals, such board shall have the authority upon good cause shown in writing to grant an extension of time within which an owner or occupant may be required to comply with notice of violation which has been issued by the building and zoning administrator, provided such written request for the extension of time is presented to the board prior to the expiration of time originally stated in the written notice of violation. The building and zoning administrator shall be furnished immediately with a copy of such written request for an extension and shall immediately file a written report regarding the request which shall be considered by the board of appeals at the same time the requested extension shall be considered. The

authority of the board of appeals in hearing requests for extension of time shall be in each instance limited to either granting or denying the request for such extension and shall not be considered as an appeal from the terms of the notice of violation, and the board of appeals shall not have authority to modify or vary the terms of the notice of violation except as to the time of performance, unless a notice of appeal is filed as hereinabove provided. In granting or denying the request for extension of time, the board of appeals shall consider such factors as are appropriate, including the good faith effort to comply with the availability of materials and workmen. All requests for extension of time shall be considered by the board not less than three (3) days after the filing of such request, and the person seeking the extension of time, as well as the building and zoning administrator, shall be notified of the time and place of such meeting. In granting or denying the request, the board of appeals shall, in each instance, state its reasons therefor and state the length of time, if it is extended, during which the acts required to be done shall be completed, which time, in no instance, may be greater than ninety (90) days after the time stated in the original notice of violation.

**Cross references**—Procedure for obtaining variances to building requirements, § 3-85-1; procedure for obtaining variances to floodplain management regulations, § 3-85-4; procedures for appealing decisions of board of appeals, § 3-89-2; procedure for appealing decision of building and zoning administrator relative to construction matters, § 3-89-3; construction and rehabilitation standards, Ch. 5; building codes, § 5-2; fees for board of appeals, § 11-5.

### **Section 3-22. Code Enforcement Board.**

#### **Subsection 3-22-1. Created; Composition; Qualifications; Terms of Office; Removal of Members; Quorum.**

There is hereby created a code enforcement board of the City of Naples, Florida, which shall consist of seven (7) members to be appointed by the mayor and city council. The membership of the code enforcement board shall, whenever possible, include an architect, a businessman or business woman, an engineer, a general contractor, a subcontractor, and a realtor. All members of the board shall be residents of the city and shall serve without compensation. The initial appointments to the code enforcement board shall be as follows: One member shall be appointed for a term of one year; three (3) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years. Appointments to fill any vacancy on the code enforcement board shall be for the remainder of the unexpired term of office. Thereafter, each term shall be for a period of three (3) years. Each member shall be limited to two (2) consecutive three-year terms; after serving two (2) such terms, a member may reapply for appointment one year after the expiration of said member's last term. Members of the code enforcement board may be removed from office by the city council for cause upon written charges and after public hearing. Any member who fails to attend two (2) out of three (3) consecutive meetings without cause and without prior approval of the chairman of the board, shall have his office declared vacant, and the mayor and city council shall promptly fill such vacancy. Vacancies shall be filled by appointment by the mayor and city council for the unexpired

term(s) affected. The presence of four (4) or more members shall constitute a quorum of the code enforcement board necessary to take action.

**Subsection 3-22-2. Jurisdiction; Duties, Functions.**

(A) The code enforcement board shall have the jurisdiction and authority to hear and decide alleged violations of codes and ordinances of the City of Naples including, but not limited to:

Zoning, Ch. 7, Sections 8-1, 8-2, 8-3, 8-4, 8-5, 8-6, 8-7, 8-9;

Boats, Docks, Lakes and Waterways;

Buildings, (except those provisions relating to the responsibilities, duties and powers of the board of appeals and the contractor's examining board);

Seawall and Revetments;

Fire Protection;

Health and Sanitation;

Occupational Licenses and Excise Taxes;

Noise;

Subdivisions, Chapter 6;

Swimming Pools;

Television Antennas, Mast and Towers;

Water;

Water and Sewer Service Area Regulations;

Wells;

and other codes or ordinances for which there is no criminal penalty. In the event a violation of any code or ordinance is filed with the code enforcement board, no criminal penalty will be deemed applicable to said violation.

(B) The jurisdiction of the code enforcement board shall not be exclusive. Any alleged violation of any of the provisions in the above paragraph may be pursued by appropriate remedy in court at the option of the administrative official whose responsibility it is to enforce that respective code or ordinance.

**Subsection 3-22-3. Procedures, Rules and Regulations.**

(A) At the first meeting of the code enforcement board, the members of the board shall elect a chairman and a vice-chairman to preside in the absence of the chairman. Meetings of the board shall occur no less frequently than once every two (2) months; however, the board may meet more often, as necessary.

(B) Special meetings of the board may be convened by the chairman upon the giving of written notice thereof hand delivered to the residences of each other member of the board. Unless waived by a majority of the board, notice of a special meeting shall be given at least twenty-four (24) hours prior thereto.

(C) Minutes shall be maintained of all hearings held by the code enforcement board, and all hearings shall be open to the public. The city council shall provide clerical and administrative personnel as may be reasonably required by the board for the proper performance of its duties. The city attorney or his/her designee shall be counsel to the code enforcement board; such attorney shall attend all meetings of the board, and shall assist the board in the conduct of its hearings, and in the performance of its duties.

(D) The code enforcement board shall have the power to:

- (1) Adopt rules for the conduct of its meetings and hearings.
- (2) Subpoena alleged violators (respondents) and witnesses to its hearings.
- (3) Subpoena evidence as necessary for its hearings, including, but not limited to, physical and documentary evidence such as records, surveys, plats and photographs.
- (4) Take testimony under oath.
- (5) Issue orders having the force and effect of law which can command whatever steps are necessary to bring a violation into compliance, said decision to be made at the hearing and reduced to writing and mailing to the respondent(s) within ten (10) days thereafter.
- (6) Establish and enforce fines pursuant to the following:
  - (a) The code enforcement board may order a respondent to pay a fine not to exceed two hundred fifty dollars (\$250.00) per day that any violation continues past the date set by the board's order for compliance, or upon finding that same violation has been repeated by the same violator (respondent). A certified copy of an order imposing a fine may be recorded in the public records in the office of the clerk of the circuit court in and for Collier County, Florida, and once recorded, shall constitute a lien against the land on which the violation exists, or, if the violator does not own the land, upon any other real or personal property owned by the violator and may be enforced in the same manner as a court judgment by the sheriffs of the state, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court, except for enforcement purposes. No lien shall exceed five thousand dollars (\$5,000.00) in total principal amount, although accrued interest may accumulate above said amount.
  - (b) After six (6) months from the filing of any such lien which remains unpaid, the enforcement board may authorize the city attorney to foreclose on the lien.
  - (c) No lien provided by this section shall constitute for a period longer than two (2) years after the certified copy of an order imposing a fine has been re-

corded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

- (d) No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Article X, Section 4, of the State Constitution.
- (7) Authorize the attorney acting as counsel to the board to foreclose on liens imposed pursuant to the above which remain unpaid after a period of six (6) months.
- (E) Hearing procedures for alleged violations.
  - (1) An alleged violation of any of the codes or ordinances listed above shall be filed with the code enforcement board by the administrative official who bears responsibility for enforcement of that respective code or ordinance. If a previous, continuing, pending or repeated violation of a code or ordinance is believed to have occurred or to exist, the official shall notify the violator and give said person a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction or upon finding that the same violation has been repeated by the same violator, the administrative official shall recite to the board the name(s) and address(es) of the respondent(s), the code provision involved, and a short factual statement which forms the basis for the belief that a violation exists. The code enforcement board may then order that a hearing be held at a subsequent meeting of the board, and shall give notice thereof to the violator (hereinafter "respondent") by certified mail, return receipt requested, or by personal service.
  - (2) At the hearing, the burden of proof shall be upon the administrative official to show, by a preponderance of the evidence, that a violation did occur or does exist, or has been repeated. Assuming proper notice of the hearing has been given to the respondent, either as actual notice, or as provided herein, a hearing may proceed in the absence of the respondent.
  - (3) All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply. Irrelevant, immaterial and unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Documentary and physical evidence may be admitted. The attorney acting as counsel to the board shall rule on objections made to any question asked of any witness and on admissibility of evidence.
  - (4) Board members who are present and voting, and the attorney acting as counsel to the board, may inquire of any witness before the board. The respondent, or his attorney, and the city administration official or his designee bearing responsibility for enforcement of the relevant code or ordinance shall be permitted to

inquire of any witness before the board. Members of the board who are present and voting and the attorney acting as counsel to the board may call any witness deemed necessary to a full and fair hearing of the case.

- (5) At the conclusion of the hearing, the code enforcement board shall issue findings of fact and conclusion of law, and shall issue an order affording the proper relief consistent with the powers granted herein. The order shall be stated orally at the meeting, and shall be reduced to writing and mailed to the alleged violator within ten (10) days after the hearing. The finding shall be by motion approved by the affirmative vote of a majority of those members present and voting, except that at least four (4) members of the code enforcement board must vote in order for the action to be official.

### **Section 3-23. Contractors' Examining Board.**

#### **Subsection 3-23-1. Created; Composition; Qualifications; Terms of Office; Removal of Members; Quorum.**

There shall be only one contractors' examining board, composed of nine (9) members, who shall be appointed by the city council. The nine (9) members of the contractors' examining board shall consist of a licensed architect, two (2) licensed general contractors, a licensed engineer, a licensed engineering contractor, a licensed electrical contractor, a licensed plumbing contractor, a licensed specialty contractor and a licensed mechanical contractor. Term of office for the examining board members shall be as follows: Beginning January 1, 1987, one (1) licensed architect, one (1) licensed general contractor, and one (1) licensed engineer shall be appointed for a period of one (1) year; one (1) other licensed general contractor, a licensed engineering contractor and a licensed electrical contractor shall be appointed for a period of two (2) years; and a licensed plumbing contractor, a licensed specialty contractor and a licensed mechanical contractor shall be appointed for a period of three (3) years. At the expiration of each term of office, members shall be appointed for terms of three (3) years. Each member shall hold office until his or her successor has been duly appointed and qualified. Any vacancy occurring during the unexpired term of office of any member of the examining board shall be filled by the city council for the unexpired term within thirty (30) days after such vacancy occurs. Any member of the examining board may be removed from office by a majority vote of the city council. Five (5) members of the board shall constitute a quorum at any meeting; however, in no case shall any decision be made with less than five (5) concurring votes.

#### **Subsection 3-23-2. Jurisdiction; Duties; Functions.**

The contractors' examining board shall have the power to determine the qualifications of applicants for various types of contractors' licenses and certificates of competency; to hold hearings to determine if a license or certificate of competency of any contractor should be suspended for any violation of this chapter, to fix the length of time for such suspension or to revoke the license or certificate under the provisions of this chapter, or to appoint an employee from the building department to investigate any complaints made

against the licensed contractor and determine whether it shall take administrative action against the contractor or direct the investigator to file a complaint for prosecution for the violation against the contractor, to call upon members of the industry to advise and assist them. The board may prescribe different types of examinations for different kinds of contractors within each trade and issue limited certificates for which an applicant is qualified. Building contractors' examining board shall have jurisdiction over all matters pertaining to the examination, qualification, disciplinary action and certificate of competency of general contractors, sub-general contractors, sub-building contractors, engineering contractors, electrical contractors, plumbing contractors, mechanical contractors and liquefied petroleum gas installation contractors.

**Subsection 3-23-3. Procedures, Rules and Regulations.**

(A) The board shall elect its chairman and vice-chairman from its own members. The building official shall serve as secretary of the board but shall have no vote.

(B) The board shall hold twelve (12) regular meetings annually. Regular meetings shall be called by the chairman of the board, and in his absence by the vice-chairman of the board, special meetings may be called by the chairman, vice-chairman, or the secretary of the respective board.

(C) Minutes of board meetings shall be public records. Reports of a confidential nature such as credit reports, financial statements and communications, with respect to the applicant's qualifications, shall be confidential and shall not be a part of the minutes of the board meetings and such confidential reports shall be maintained in a separate file on each applicant. All minutes and records shall be kept in the office of the building department.

(D) For the purposes of administering this chapter, the contractors' examining board may call on the building department to furnish such employees as may be necessary to carry on or assist the board in performing its duties.

(E) The contractors' examining board may make such rules and regulations as are consistent with the general policies of this chapter as it may deem necessary to carry out the provisions of this chapter, but all such rules shall be approved by resolution of the city council before said rules shall have any force or effect.

(F) Disciplinary proceedings:

- (1) The secretary of the contractors' examining board may, upon his own motion, or shall upon a sworn complaint in writing of any person, investigate or cause to be investigated by a special investigator appointed by the board, the charges against any contractor qualified hereunder and submit a written report to the appropriate contractors' examining board. Upon the filing of petition of bankruptcy by or against a qualified contractor under this chapter, or if a qualified contractor fails to keep in force the insurance policy required in section 3-23-3(F)(5)(b) of this chapter, the secretary of the board shall immediately suspend the certificate of

competency and report the matter to the appropriate contractors' examining board for revocation action.

- (2) The contractors' examining board upon receipt of such report shall decide if the report makes a prima facie showing of a violation of this chapter and if so, shall take the following action: Instruct the secretary to send, by registered mail, a letter to the qualified contractor to his last known address, as shown by the board's records, setting out the name of the complainant, the time of commission of the alleged offense, and the section of this chapter alleged to be violated, and notifying the qualified contractor to appear before the board at a time and place fixed, no sooner than twenty (20) days from the mailing of the registered letter, to show cause why his certificate of competency should not be further suspended or revoked.
- (3) The administrative hearing provided for above shall be open to the public. The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript. 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 competent and reliable, regardless of the existence of any common law or statutory rules 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 or privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Each part shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issue 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 the evidence against them. A written decision shall be made by the contractors' examining board by a majority of the entire board within five (5) days after the close of the hearing. The decision shall be one of the following:
  - (a) Not guilty.
  - (b) Suspension of certificate of competency, stating time.
  - (c) Revocation of certificate of competency, naming effective date.
- (4) The city council shall meet within five (5) days after the decision of the examining board as listed above and shall affirm or disaffirm the finding and decision of the examining board within five (5) days thereafter. An appeal from the decision of the city council may be made by the contractor involved to the circuit court within twenty (20) days, but not thereafter.
- (5) The appropriate contractors' examining board shall suspend a contractor's certificate of competency and on the examining board's recommendation, the city

council may revoke a contractor's certificate of competency if after hearing, it is found that the contractor:

- (a) Has been adjudicated bankrupt.
- (b) Fails to maintain at all times with an insurance company, authorized to do business in the State of Florida, the limits of insurance required by any other applicable law or authority having jurisdiction but not less than bodily injury liability insurance with the minimum limits of fifty thousand dollars (\$50,000.00) for one person and one hundred thousand dollars (\$100,000.00) for more than one person in any one accident, and property damage insurance with a minimum limit of not less than five thousand dollars (\$5,000.00) for any one accident, including any damage to public rights-of-way or shrubbery and to file certificates, signed by the qualified agent of the insurer, with the secretary of the appropriate contractors' examining board showing the type of policy issued, the policy number, the name of the insurer, the effective date of the policy, the amount, and providing by endorsement of the policy, an agreement by the insurer to give thirty (30) days' written notice by registered mail to the secretary of the appropriate contractors' examining board, of the intent to cancel the policy for any reason. The examining board may reinstate such revoked certificate of competency at such time as the contractor again supplies full insurance coverage as required by this chapter.
- (c) Violated any of the provisions of this section or Chapter 3, Article III.

**Section 3-24. (Reserved for Historic Preservation Board)**

**Section 3-25. Planning Advisory Board.**

**Subsection 3-25-1. Created; Composition; Qualifications; Terms of Office, Removal of Members; Quorum.**

A planning advisory board of five (5) members and one (1) alternate member is hereby established. All members shall be residents of the City of Naples and shall be appointed by a majority vote of the mayor and city council. The term of office for each member and alternate shall be three (3) years and shall be limited to two (2) consecutive three-year terms; after serving two (2) such terms, a member or alternate may reapply for appointment to the planning advisory board one (1) year after the expiration of said member's or alternate's last term. Term of office shall commence on the first day of May of the year in which appointed. Any member or alternate of the planning advisory board may be removed for cause by a majority vote of the mayor and city council. Members of the planning advisory board presently serving shall continue in office until they resign, their terms expire or they are removed from office as set out above. A majority of the planning board membership shall constitute a quorum for the transaction of business, providing, however, that no official action shall be taken by the planning board to adopt or amend the comprehensive plan, or component thereof, without the concurring vote of a majority of all members comprising the planning board.

**Subsection 3-25-2. Jurisdiction; Duties, Functions.**

(A) The planning advisory board shall have the powers and duties set forth herein and any other duties assigned to it by the city council. The provisions of the Florida State Sunshine Law, Chapter 286.011, Florida Statutes, as they apply to Naples City public officials are hereby extended and ordained to apply to meetings between Naples City Council members and members of the Naples Planning Advisory Board. Further, council members are hereby prohibited from testifying before or addressing the planning advisory board or its individual members at public meetings of the planning advisory board on matters which will be referred to the city council. It is intended by these provisions to specifically prohibit council members from manipulating or influencing the recommendations of the planning advisory board to the council prior to council consideration. It is also intended by this section to prohibit council members from contacting in person, by phone or otherwise, members of the planning advisory board in regard to recommendations being formulated by the planning advisory board. Excepted from this provision are council members having a conflict of interest as defined by Sections 112.311, 112.313 or 112.3143, Florida Statutes. In such cases, such members shall comply with the disclosure requirements of Section 112.3143, Florida Statutes.

(B) Any person who shall violate the provisions of this section shall be subject to a fine and/or imprisonment as provided in this code. Violation of the provisions of this section by any council member shall constitute malfeasance in office and shall therefore subject said council member to recall as provided by law.

(C) Pursuant to and in accordance with Section 163.3174 of Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act) the planning advisory board is hereby designated and established as the local planning agency for the incorporated territory of the City of Naples, Florida. The local planning agency, in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, Section 163.3161–3211, Florida Statutes, shall:

- (1) Conduct the comprehensive planning program and prepare the comprehensive plan or elements or portions thereof for the City of Naples;
- (2) Coordinate said comprehensive plan or elements or portions thereof with the comprehensive plans of other appropriate local governments and the State of Florida;
- (3) Recommend said comprehensive plan or elements, or portions thereof, to the city council for adoption; and
- (4) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the city council such changes in the comprehensive plan as may be required from time to time.

(D) The planning board shall have the power and the duty to prepare and recommend to the city council for adoption, a comprehensive plan for the physical development of the City of Naples and to perfect it from time to time. In conducting its work, the planning board may consider and investigate any subject matter tending to the development and

betterment of the municipality and may make recommendations as it may deem advisable concerning the adoption thereof to the city council. Such comprehensive plan may show, among other things, existing and proposed streets, sidewalks, highways, expressways, bridges, tunnels and viaducts and approaches thereto; routes of railroads and transit lines; terminals, ports and airports, parks, playgrounds, forests, reservations, and other public open spaces; sites for public buildings and structures; districts for residences, business, industry, recreation, agriculture and forestry; special districts for other purposes; limited development district for purposes of conservation; water supply, sanitation, drainage, protection against floods, and the like; areas for housing developments, slum clearance, urban renewal and redevelopment; location of public utilities whether publicly or privately owned, including but not limited to sewerage and water supply systems; together with time and priority schedules and cost estimates for the accomplishment of the proposal. The comprehensive plan shall be based upon and include appropriate studies of the location and extent of present and anticipated use of land, population, social and economic resources and problems, and other useful data.

(E) The planning board shall act as the zoning board for the City of Naples as provided for in the City Charter of the City of Naples, Florida.

(F) The planning board shall prepare and recommend to the city council for adoption, rules and regulations governing the approval of maps and plats of the subdivisions of land within the corporate limits of the City of Naples.

**Subsection 3-25-3. Procedures, Rules, and Regulations.**

(A) Members of the local planning agency shall continue to be appointed and follow such rules of procedure, methods of choosing officers, setting of public meetings, providing of financial support, and accomplishing its duties as provided in this article.

(B) All meetings of the local planning agency shall be public meetings and all agency records shall be public records. The local planning agency shall encourage public participation.

(C) The city council may appropriate funds at its discretion to the local planning agency for expenses necessary in the conduct of its work. The local planning agency may, in order to accomplish the purposes and activities required by the Local Government Comprehensive Planning and Land Development Regulation Act, expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; provided acceptance of loans or grants must be approved by the city council.

(D) The planning advisory board shall elect a chairman and a vice-chairman from among the members, and may create and fill such other offices as are determined to be necessary. Terms of all officers shall be for one (1) year, with eligibility for reelection. The planning board shall appoint a secretary, who may be an officer or employee of the municipality.

(E) The planning board shall make its own rules and regulations as may be deemed necessary for the proper function of the board in regard to:

- (1) Determining its time of meeting;
- (2) Filing procedure;
- (3) Publication of agenda of board meetings;
- (4) Circulation of petition to membership;
- (5) Attendance of petitioner or his agent.

(F) All meetings of the planning board at which official action is taken shall be open to the public and all records of the planning board shall be a public record.

(G) The planning board may appoint such employees and staff as it may deem necessary for its work and may contract with the state planning agency, city planners and other consultants for such services as it may require. The expenditure of the planning board, exclusive of gifts, shall be within the amounts appropriated for the purposes by the city council.

(H) Members of the planning board shall receive no salary for their services, but may receive such travel and other expenses while on official business for the city as are made available by the city council for these purposes.

**Sections 3-26—3-50. Reserved.**

### **ARTICLE III. CONTRACTOR LICENSING**

#### **Section 3-51. Authorization; Application; General Requirements.**

##### **Subsection 3-51-1. Applicability.**

(A) It shall be unlawful for any person or firm to engage in the business or act in the capacity of a contractor, subcontractor, master or journeyman, as hereinafter defined, anywhere within the limits of the city without a current valid certificate of competency issued by the examining board having jurisdiction over the several trades concerned.

(B) Every person who, under the terms of this chapter, is required to hold a certificate of competency, and who, upon the effective date of this chapter, holds a current certificate of competency issued by the City of Naples shall be entitled to a certificate of competency without examination, but such certificate shall be subject to any restrictions and limitations carried by the certificate and shall entitle the holder of such certificate to do business thereunder.

(C) Whenever an occupational license is required of any contractor, subcontractor, master or journeyman, no such occupational license shall be issued unless the applicant

shall first procure from the appropriate examining board a current certificate of competency and shall present a copy to the license division.

(D) Any person or firm not possessing a current certificate of competency and holding themselves out to be a contractor shall be subject to the provisions and penalties of this chapter, and such representations shall be prima facie evidence in court or in any other proceeding authorized by this chapter that the person or firm purported to have the capacity to act as a contractor.

**Subsection 3-51-2. Exemptions.**

(A) The provisions of this chapter do not apply to an owner of residential property altering or repairing his own house or duplex if occupied by the owner and not intended for sale. An owner of residential property may construct one single family residence for his own use and occupancy without qualifying for a certificate of competency, but the application for a building permit for construction of more than one single family residence in a year's time shall be construed as engaging in the construction business and such an owner must secure a certificate of competency before the permit will be issued. Nothing herein shall release the owner-builder from the requirement of obtaining a permit.

(B) The provisions of this chapter shall not apply to contractors bidding on or performing works for municipal, county, state, federal government, or other public body.

(C) The provisions of this chapter shall not apply to a maintenance man or handyman.

**Subsection 3-51-3. [Vehicle Identification.]**

Every contractor who is subject to the provisions of this article shall display the name of his business or firm and his certificate of competency number on every vehicle used in the performance of his work.

**Section 3-52. Definitions.**

*Firm:* Shall include a sole proprietorship, partnership, corporation, association or any other type of business organization.

*Contractor:* Any person, firm or corporation who engages in any business under an express or implied contract in any of the trades hereinafter listed.

*Subcontractor:* One who contracts with a contractor to perform part or all of the latter's work.

*Engage in business:* Shall mean doing a trade for any owner or any tenant of land or of a building or of any part thereof, or for any person, firm or corporation in possession or in charge of the same or any part thereof, or entering into a contract with any such owner, tenant, person, firm or corporation for the doing of a trade.

*Trade:* Shall include, but shall not be limited to, plumbing, electrical work; plastering; construction, repair or removal of buildings, and any other similar occupation connected with the construction industry.

*Building contractor:* Any person or firm who undertakes, or offers to undertake, or purports to have the capacity to undertake or submits a bid or does himself or by or through others, to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building or other structure, to excavate, to commence any project, development or improvement or do any part thereof including the erection of scaffolding, or any other structures or works in connection therewith, or the incorporation of labor or material therein.

*General building contractor:* A contractor whose construction work involves two (2) or more building trades or crafts, who has financial means to undertake the work and the knowledge gained by not less than ten (10) years' experience either as a superintendent for a general contractor or as a licensed building contractor for such period (or has had an educational equivalent thereto) or in any combination thereof, and has satisfactorily passed a general contractor's examination, and has shown that his scope of operation should be unlimited as to the height and complexity of design or the construction he undertakes.

*Sub-general contractor:* A contractor whose construction work involves two (2) or more building trades or crafts, who has financial means to undertake the work and the knowledge gained by not less than five (5) years' experience as a superintendent for a general contractor or a building contractor or has been a licensed sub-building contractor for such period or has had the educational equivalent thereto, or in any combination thereof, and has satisfactorily passed a sub-general contractor's examination and, thus, has shown that his scope of operation should be permitted for the construction or alteration of buildings of not more than two (2) stories in height, but this proviso shall not prohibit him from engaging in the construction of a structure of a greater height when he acts as a sub-contractor under the supervision or responsibility of a general contractor.

*Sub-building contractor:* A contractor whose construction work involves the use of two (2) or more building trades or crafts, who has financial means to undertake the work and has the knowledge gained by three (3) years' experience as a superintendent for a general contractor or a building contractor (or has had experience in construction work or an educational equivalent thereto), or in any combination thereof, and has satisfactorily passed a sub-building contractor's examination, and thus, has shown that he is qualified to engage in the business of a beginning contractor in the construction of a simple one-story design with load-bearing walls which does not require more advanced technical knowledge, and in case of commercial or industrial structures or buildings which shall not exceed fifteen hundred (1,500) square feet.

*Specialty contractor:* A contractor whose operations consist of the performance of construction work requiring special skills and whose principal contracting business involves the use of specialized building trades and crafts, usually, a minor part of the complete structure. Specialty contractors shall be classified as, but not limited to, one of the following crafts:

Acoustical and insulating;

Awning erection;

Cabinet and millwork (where installation is included);

Carpentry;  
Cement, concrete and masonry;  
Demolition;  
Elevators;  
Fence erectors;  
Flooring and floor covering;  
Glazing and window installation;  
Landscaping:  
    (a) Lawn sprinkler systems;  
    (b) Sod installation;  
Painting;  
Paving and asphalt sealing;  
Plastering, lathing, stucco and drywall;  
Roof coating and waterproofing;  
Sandblasting;  
Sign erection (exclusive of the electrical work required);  
Steel, reinforced iron and structural erection;  
Structure moving;  
Swimming pools;  
Tennis courts;  
Termite treating;  
Tile, marble and terrazzo.

*Engineering contractor:* A contractor who does work such as, but not limited to: Harbors; docks; excavating; filling and grading; drainage; pile driving; levees, pumping stations and similar type work in conjunction with water power, water control, waterworks and water supply; paving and sidewalks; curbs and gutters, streets and roads, bridges and overpasses and underpasses in streets, roads and public thoroughfares; underground sewage collection and disposal systems; bulkheading and underground utility line construction; both sanitary and storm sewer systems, and similar work, or that portion of such installation and systems not generally defined or considered under the provisions of this chapter, or in general trade practices, as building structures, plumbing, electrical, gas or mechanical installation (as defined under "mechanical contractor").

*Plumbing contractor:* A contractor doing work on any premises or in any building or structure requiring the installation, maintenance, repair, alteration or extension of a plumbing, septic tank, wells, swimming pool and solar heating systems and all appurtenances, apparatus or equipment used in connection therewith, including any incidental excavating work, and who is, or who employs, a supervising master plumber at all times.

*Septic tank contractor:* A contractor who does any work involving the installation, cleaning, repair, alteration or extension of a septic tank or laundry waste treatment system and all appurtenances, apparatus or equipment used in connection therewith.

*Well drilling contractor:* A contractor who operates a well drilling machine, apparatus or appliance in the drilling of water or drainage wells or who is engaged in the installation, maintenance and repair of plumbing and piping incidental to a private swimming pool, not under the regulations of the state board of health, and having a closed system not connected to a water supply used for human consumption.

*Gas fitting contractor:* A contractor doing work on any premises or in any building or structure, requiring installation, maintenance, repair, alteration or extension of fuel gas piping or appliances, including liquefied petroleum gas piping and appliances if such contractor qualifies under state law.

*Liquefied petroleum gas installation contractor:* A contractor doing work on any premises or in any building or structure requiring the installation, maintenance, repair, alteration or extension of liquefied petroleum gas piping or appliances or who furnishes the liquefied petroleum gas to the consumer and maintains the gas mains, lines, laterals, tanks, regulators, meters and other paraphernalia in connection therewith.

*Electrical contractor:* A contractor doing work on any premises or in any building or structure requiring the installation, repair, alteration, addition or changes to any system of electrical wiring, apparatus or equipment for light, heat or power, and who is, or who employs, a supervising electrician at all times.

*Electrical sign contractor:* A contractor doing work on any premises or in any building or structure requiring the installation, repair, alteration, addition or change to any system of electrical wiring, apparatus or equipment for electrical signs, and who is, or employs, a supervising master sign electrician at all times.

*Mechanical contractor:* A contractor doing work on any premises or in any building or structure requiring the installation, repair, alteration, addition or changes to any system of refrigeration, air conditioning, heating, ventilating, boiler and unfired pressure vessel systems, and apparatus or equipment used in connection therewith.

*Master:* Any person who possesses the necessary qualifications, training and technical knowledge to do, plan, lay out and supervise the work connected in his particular trade. He must be a qualified contractor or work for a qualified contractor, and hold a current certificate of competency indicating his qualifications, in order to work in his trade.

*Journeyman:* Any person who possesses the necessary qualifications, training and technical knowledge to do the work connected in his particular trade. He must work for a qualified contractor and hold a current certificate of competency indicating his qualifications, in order to work in his trade.

*Maintenance man:* A person employed upon a salary basis, weekly or monthly, by the owner, whose principal occupation is maintaining and preserving of fixed property of his employer.

*Handyman:* A person employed upon an hourly or daily salary basis by the owner to perform odd jobs of a general utility nature.

### **Section 3-53. Procedures for Obtaining Contractor's Certificate of Competency.**

#### **Subsection 3-53-1. Application for Contractor's Certificate of Competency.**

(A) Any person or firm requiring or desiring to be qualified as a contractor shall make application on a form prescribed by the appropriate contractors' examining board at the office of the secretary of such board in the building department. The application shall be retained by the board together with all supporting papers.

(B) Should applicant be a firm, the application shall be executed by the president, or one legally qualified to act for the firm who shall show his authority to so act on the application, and shall name an authorized agent on behalf of the firm showing his authority:

- (1) To act for the firm in all matters in any manner connected with the contracting business;
- (2) To supervise the construction under the occupational license issued to the firm; and
- (3) To take the qualifying examination for the firm, unless holding a current certificate of competency of the class and type necessary.

The firm shall be qualified only through the qualifications of such agent taking the examination, or through an agent currently qualified, and if the agent (qualifier) shall sever his affiliation with such firm, the certificate of competency held by such firm shall be automatically cancelled. An agent (qualifier) shall be restricted to the work of the firm he is currently qualifying.

(C) No application shall be considered unless the applicant gives all information required on the form, which shall include:

- (1) A statement of applicant's proposed contracting business.
- (2) The type of certificate being applied for.
- (3) Name, residence, business address of applicant.
- (4) If applicant is a firm, the name and business address of the firm and the name, residence of all directors and officers of their firm and their interest therein, and

the name, residence, of the applicant's qualified representative and information contained above; if applicant is a corporation, a certificate of incorporation.

- (5) A sworn financial statement of the applicant and a credit report.
- (6) A list of all contractual business owned, operated, or managed by applicant during the past five (5) years.
- (7) Copy of workmen's compensation insurance policy, when applicable.
- (8) Copy of liability insurance policy.
- (9) Three (3) letters of recommendation from reputable business or professional persons, not related by blood or marriage to the applicant, of this county, or the county of applicant's last business location, attesting to applicant's honesty, integrity and good character.

**Subsection 3-53-2. Contractors Examining Board Action.**

(A) The secretary of the appropriate board shall notify the applicant of the next regular examination and shall notify the board of the application not less than fifteen (15) days before next regular meeting and make such additional investigation as may be directed by the board.

(B) The contractors' examining board shall prescribe the type of examination of the applicant to show his degree of experience; his knowledge of building, safety, health and lien laws of the county, state and federal government as may be applicable; and his knowledge of rudimentary administrative principals of the contracting business for which application is being made. All examinations given to all applicants shall be prepared by some firm outside the City of Naples which specializes in the preparation of examinations, whenever such examinations are available. The board may accept evidence of prior successful completion by an applicant of the H. H. Block & Associates of Gainesville, Florida, examination, and waive the requirement for new written examination.

**Subsection 3-53-3. Requirements for Approval.**

The city shall not issue or renew a certificate of competency unless by a majority vote of the board members present, the board finds:

- (1) That the applicant, or if applicant is a firm, then the qualified representative, has made a passing grade on the examination and has the necessary experience for the type of certificate applied for.
- (2) That the applicant and each member of the firm possess a reputation for honesty, integrity, and has a good character. This shall be determined by the board from the information contained in the letters of recommendation submitted by the applicant and other statements submitted to or obtained by the contractors' examining board or its investigators. The lack of honesty, integrity or good character may be established by competent evidence that:
  - (a) Applicant has committed an act within the past three (3) years involving dishonesty, fraud, deceit or lack of integrity whereby the applicant has been benefited or whereby some injury has been sustained by another.

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- (b) Applicant has committed an act within the past three (3) years which, if committed or done by a licensed contractor, would be grounds for suspension or revocation of a contractor's license.
- (c) Applicant has, in the past five (5) years, refused to pay valid bills of at least five (5) different persons or firms.

**Section 3-54. Procedure for Obtaining Certificate of Competency for Master or Journeyman Electricians and Plumbers.**

**Subsection 3-54-1. Application.**

Any person required or desiring to be qualified as a master or journeyman electrician and plumber shall make application on a form prescribed by the appropriate contractor's examining board at the office of the building department. The application shall be retained by the board together with all supporting papers.

**Subsection 3-54-2. Examination.**

(A) A fee of thirty-five dollars (\$35.00) shall be paid for the examination for a master or journeyman electrician and plumber. This fee is for a proctored examination given by H. H. Block & Associates of Gainesville, Florida.

(B) The secretary of the appropriate board shall notify the applicant as to time and place of the next examination, at least fifteen (15) days prior to the examination.

**Subsection 3-54-3. Prerequisites.**

(A) As a prerequisite to taking the examination for journeyman electrician and plumber, the applicant shall possess the required skill, knowledge and experience in the category for which the application is made, as evidenced by four (4) years of proven experience in the trade or educational equivalent thereto, or a combination thereof.

(B) As a prerequisite to taking the examination for master electrician and plumber, the applicant shall possess the required skill, knowledge and experience in the category for which the application is made, as evidenced by two (2) years of proven experience in the trade as a journeyman electrician or plumber, or educational equivalent thereto, or a combination thereof.

**Section 3-55. Competency Card Expired or Revoked.**

Where a certificate of competency has been revoked or has expired for any reason, the board may require complete re-examination before a certificate of competency may be renewed or reinstated.

**Section 3-56. Unlawful Acts or Omissions.**

It shall be unlawful for any contractor, as defined by this chapter, licensed individually or as a firm contractor, officers, directors or qualified representative of a firm contractor to commit any one or more of the following acts or omissions. In the event of any

violation of items (1) or (2) below, the contractor shall be required to appear before the contractors examining board for a determination to be made by the CEB that a violation has in fact occurred. If the CEB determines that a violation has occurred, they shall put the contractor on notice of the penalties of subsequent violations. In the event of a finding by the CEB that a second violation has occurred by the same contractor, the contractor's permitting privileges shall be suspended by the CEB for six (6) months. Upon a finding of a third violation by the same contractor, the CEB shall recommend that city council revoke the contractor's city competency card.

- (1) To contract or do any work outside the scope of operations, as set out in the definition of the particular type of contractor for which he is qualified, or to do any work outside the scope of the building permit issued by the city or the plans for the job as approved by the city.
- (2) Commence any work on a building or structure before obtaining all of the necessary permits required by the city.
- (3) Abandon without legal excuse a construction project or operation in which he is engaged or under contract as a contractor.
- (4) Divert funds or property received for the execution or completion of a specific construction project or operation, or for a specified purpose to any other use whatsoever after conviction of such diversion of funds by any court of competent jurisdiction.
- (5) To 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 and without the approval of the city.
- (6) Disregard or violate, in the performance of his contracting business, any of the building, safety, health, insurance or workman's compensation laws of the State of Florida or ordinances of this city.
- (7) Misrepresent any material facts in his application and supporting papers in obtaining a license under this chapter.
- (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.
- (9) Aid or abet an unlicensed person to evade the provisions of this chapter 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 chapter.
- (10) Do any fraudulent act as a contractor by which another is substantially injured.
- (11) Fail to make good faulty workmanship or materials obviously performed or installed to evade performance of the contract or specifications as agreed upon.

(Ord. No. 90-6098, § 2, 4-18-90)

**Cross reference**—Contractor's examining board, § 3-23; building division fees, § 11-3; contractor licensing fees, § 11-3-1.

**Sections 3-57—3-80. Reserved.**

## ARTICLE IV. PROCEDURES

### Section 3-81. Procedure for Amending Code or Plan.

#### Subsection 3-81-1. Comprehensive Plan Amendments.

(A) The procedure set forth in the "Local Government Comprehensive Planning and Land Development Regulation Act" as amended from time to time shall be complied with in all respects for the adoption of amendments to the Comprehensive Plan of the City of Naples.

(B) The affirmative vote of four (4) members of the city council shall be required to approve such amendments.

#### Subsection 3-81-2. Amendment to Code; Effect of New Ordinances; Amendatory Language.

(A) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed chapters, sections or subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are re-adopted as a new Code of Ordinances by the Naples City Council.

(B) Amendments to any of the provisions of this code shall be made by amending such provisions by specific reference to the section number of this code in the following language: "That section . . . . . of the Code of Naples, Florida, is hereby amended to read as follows: . . . . ." The new provisions shall then be set out in full as desired.

(C) In the event a new section not heretofore existing in the code is to be added, the following language shall be used: "That the Code of Naples, Florida, is hereby amended by adding a section (or article or chapter) to be numbered . . . . ., which said section reads as follows: . . . . ." The new provisions shall then be set out in full as desired.

(D) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

#### Subsection 3-81-3. Altering Code.

It shall be unlawful for any person in the city to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever, except by ordinance or resolution or other official act of the city council, which will cause the law of the City of Naples to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in this code.

**Subsection 3-81-4. Procedure for Obtaining Rezone and Change in Text.**

(A) *Definition; purpose; general requirements:* Petitions to rezone property or to expand or change a non-conformity may be initiated by the city council, the planning advisory board or the owner of the property involved. Change in text petitions may be initiated by the city council or the planning advisory board.

(B) *Method of approval:* Rezone and change in text petitions shall be acted upon by ordinance. An ordinance changing the text of this code may be adopted by a majority vote of the council members present. The affirmative vote of four (4) members of the city council shall be required to approve an ordinance rezoning property. Whenever the city council has denied a petition for the rezoning of property, the planning advisory board shall not thereafter:

- (1) Consider any further petition 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 a petition for any other kind of rezoning on any part or all of the same property for a period of six (6) months from the date of such action.

(C) *Procedure:*

- (1) Petition forms may be obtained at the planning division. Completed petitions shall be submitted to the planning division, together with the required fee and supportive materials as required by the zoning administrator, at least thirty (30) days prior to the meeting of the planning advisory board at which the petition is to be considered. Petitions received less than thirty (30) days in advance of a meeting will be placed on the agenda of the next planning advisory board meeting.
- (2) The planning division shall review the petition and, if it determines the petition to be in order, notice of public hearing before the planning advisory board shall be advertised in a newspaper of general circulation in the city at least fifteen (15) days prior to the public hearing, setting forth the date, time and place that said petition will be considered by the planning advisory board.
- (3) In the case of a rezone petition initiated by the property owner, the planning division shall notify owners of property located within five hundred (500) feet of the property involved in the petition informing them of the date, time, place and reason for the public hearing. In addition, the planning division shall place a sign in a prominently visible location on the subject property containing information as to the date, time, place and purpose of the public hearing. (Failure to notify all owners of property located within five hundred (500) feet by mail will not render any action taken on said petition void.)
- (4) In the case of rezone petitions initiated by the city council or the planning advisory board, the procedures set forth in Section 166.041, Florida Statutes, as amended, relative thereto shall be followed.
- (5) At the public hearing, the planning advisory board shall hear the petitioner or his designated representative and all other interested parties who may appear and request to be heard.

- (6) As soon as practicable after the public hearing, the planning advisory board shall submit its recommendation for approval or disapproval or approval with conditions, in writing, together with the minutes of the hearing, to the city council. The recommendation of the planning advisory board shall be placed on the agenda for the next regular meeting of the city council following receipt of said recommendation or as soon thereafter as may be practicable.
- (7) After considering the recommendation of the planning advisory board, the city council may approve or deny the petition, or approve the same with conditions. Conditions in addition to those recommended by the planning advisory board may be imposed by the city council.

(D) *Guidelines; standards:* Except where the proposal for the rezoning of property involves an extension of an existing district boundary, no change in the zoning classification of land shall be considered which involves less than forty thousand (40,000) square feet of area and two hundred (200) feet of street frontage, except for the "PS," Public Service, zone district in which the subject property may have a minimum lot area of thirty thousand (30,000) square feet and a minimum lot width of one hundred and fifty (150) feet.

### **Section 3-82. Procedure for Site Plan Review.**

#### **Subsection 3-82-1. Definition; Purpose; General Requirements.**

(A) All development within the city that occupies five (5) or more acres of land, including areas which are covered by water and/or mangrove areas, or that occupies, or is proposed to occupy, property that is zoned "HC," Highway Commercial, or "PD," Planned Development, but intended to accommodate "HC" uses, or "PD" but for which a specific development plan has not been approved, shall be presumed to cause a significant impact upon the city and shall require a general development and site plan (GDSP) review and approval in addition to the requirements stated elsewhere in the Comprehensive Development Code of the City of Naples, Florida. No building permit shall be issued for a development of significant impact until a GDSP has been approved and until the final plans have been reviewed and approved as being in compliance with the approved GDSP.

- (B) The following exemptions may be made from GDSP requirements:
- (1) *Single family and two-family dwellings:* The lawful construction, alteration or occupancy of a single or two-family dwelling on a lot on which there exists no other building or use are exempt from the GDSP requirements of this ordinance, except where such use is proposed to be located in an area designated as "Conservation/Limited Development" in the city's adopted comprehensive plan.
  - (2) *Alterations or additions to existing developments:* Alterations or additions to existing developments that are defined by this ordinance as developments of significant impact may be approved administratively, provided such work does not exceed ten (10) percent of the gross floor area of all buildings within the development.

**Subsection 3-82-2. Method of Approval.**

(A) If subsequent to the review, comment, and discussion of the GDSP, and of such modifications as the developer may make to it, the planning advisory board and the director are in agreement concerning the approval or disapproval of the GDSP, then the director shall approve or disapprove the GDSP. If disapproved, the director shall inform the developer of the reason for the disapproval and the action necessary to procure approval.

(B) If the recommendation of the planning advisory board disagrees with the intention of the director to either approve or disapprove the GDSP, then the director shall so inform the board. The planning advisory board and the director shall then submit, in writing, their individual recommendations to the city council. Final authority to approve or disapprove the GDSP in this case shall rest with the city council.

(C) If the GDSP is disapproved by the director, and the developer declines to make the plan modifications recommended by the director, the developer may petition the city council for a review and determination of whether or not the correct decision was made, and, if not, for a corrected decision. In this event, city council, after receiving copies of all GDSP exhibits, staff comments and recommendations, and a recommendation from the planning advisory board at a regularly scheduled meeting shall either affirm or overrule the decision of the director and, if overruled, shall render a decision.

**Subsection 3-82-3. Procedures.**

(A) Initially, a GDSP is presented as a generalized site plan which indicates the basic or general configuration of building masses, vehicular circulation and off-street parking areas, and landscaped open spaces, and is supported by preliminary information as to utilities, water management, traffic control facilities, and the like.

(B) Applications for GDSP approval may be obtained at the planning division, City Hall. Prior to completion of the GDSP application, a pre-application conference should be held with the director of community development or his designated representative. The applicant is encouraged to submit a tentative land use sketch or schematic plan for review and to obtain information on any projected plans, programs or other matters that may affect the proposed development.

(C) Completed applications shall be submitted to the planning division, along with the required fee and exhibits. The following exhibits shall be prepared by a registered surveyor, engineer, architect, professional land planner, landscape architect, economist or attorney as may be appropriate. All required plans or maps shall show the title of the project, name of the project planner or designer, scale, north arrow and date.

- (1) Proof of ownership: Proof of ownership may consist of a copy of a deed, certificate of ownership from an abstract company, or other acceptable instrument.
- (2) Letter of authorization: A letter of authorization officially submitting the proposal for approval, signed by the developer or his authorized representative. If

submitted by other than the current owner of the property, the letter shall include or be accompanied by satisfactory evidence of the existence of a purchase or lease agreement or other instrument, so as to ensure that the current owner is in agreement with the development as proposed. In the event that the owner of the property in question does not represent himself at the necessary meeting, he must provide a letter which authorizes another person to do so.

- (3) **Legal description:** A written legal description of the total site proposed for development. The legal description shall include the name, plat book and page number of any recorded subdivision comprising all or part of the site. Where the site is not located in a recorded subdivision, the legal description shall be by metes and bounds.
- (4) **Covenants:** A recitation of all covenants, both existing and proposed, to run with the land.
- (5) **"PD" development criteria:** For properties to be developed under the "PD," Planned Development, provisions of this ordinance, a statement of proposed development criteria and standards must accompany the proposed development plan.
- (6) **Vicinity map:** A map labelled General Vicinity Map, drawn to scale, showing the relationship of the proposed development to the surrounding neighborhood within at least one mile.
- (7) **Existing conditions map:** A map labelled existing conditions drawn to an appropriate scale showing present conditions, where applicable, of the proposed site and peripheral area within at least one hundred (100) feet of the property line; exact location of boundaries of the site, including city limit lines; streets, alleys and sidewalks, including rights-of-way and pavement widths of same; driveway approaches, curbs and gutters, utilities, structures, water bodies, important natural features; and location of all on-site trees protected by the applicable county or city protection ordinance.
- (8) **General site plan:** A plan, labelled General Site Plan, drawn to the same scale as item (7) above, indicating the following generalized proposals:
  - (a) The approximate location, size and height of all structures.
  - (b) Approximate location and arrangement of off-street vehicular parking area including access aisles, parking stalls and truck loading and unloading spaces.
  - (c) Approximate location of landscaped or open space areas.
  - (d) A preliminary or generalized utilities and drainage plan.
- (9) Typical architectural elevations.
- (10) **Traffic circulation plan:** A plan, labelled Traffic Circulation Plan, showing all proposed internal and external means of vehicular and pedestrian circulation, if any, with existing or proposed boundary streets and sidewalks, acceleration and deceleration lanes, traffic control or channelization, the relationship between driveway cuts and median divider cross-over locations, if any, service and emergency vehicle accessways and the relationship of the above proposed structures. This plan may be combined with the general site plan.

- (11) Additional information: A written statement containing narrative or tabulations indicating the following:
- (a) The name, address and telephone number of the land owner, project developer, surveyor, project representative, engineer, architect, designer, land planner, landscape architect, economist, attorney and/or other professionals as may be appropriate.
  - (b) For proposed residential and transient lodging facilities; planned land uses, a tabulation of net densities, gross acreage, number of dwelling units, and approximate acreage of open spaces and recreational areas.
  - (c) For proposed nonresidential uses; planned land uses, approximate gross and leasable square footage of floor area.
  - (d) For all uses; tabulations of total gross acreage in the project and the percent of site coverage by all buildings.
  - (e) A statement as to the availability and adequacy of potable water, water pressure for fire fighting purposes, and sanitary sewer services.
  - (f) A general statement covering the basic water management strategy to be employed.
  - (g) A development schedule indicating the approximate date when construction of the project can be expected to begin and end and, if developed in stages, designation of estimated stages and time schedules.
  - (h) For all plans; title of the project, name of the project planner or other professional, scale, north arrow, date of original drawings and date of any revisions.
  - (i) Commonly owned and used areas, and the method by which they will be managed and maintained.
  - (j) Areas, if any, proposed to be conveyed, dedicated, or reserved for public or semi-public purposes.

(D) The planning staff shall review the application and required exhibits when ready and shall determine that the documents are adequate as to form and informational content. The community development director shall then review the GDSP with the appropriate city departments for their comments and shall prepare a report and recommendations to the planning advisory board. The director shall submit his report and recommendation to the PAB for their consideration.

(E) After the approval of the general development and site plan, it may be necessary for detailed plans of the functional components to be submitted to the appropriate city department for review and approval in advance of completion of all plans and application for building permits. In those cases where intermediate level functional plans are submitted to the city, the planning division shall review such plans to determine whether such plans agree with the approved GDSP. In the event of any substantial variation between an intermediate stage functional plan and an approved GDSP, the planning division shall notify the applicant that the plan is not in agreement with the approved GDSP and must be changed.

(F) Applications for building permits for all or part of an approved GDSP shall be submitted to the building official through the planning division. The planning division shall review the final detailed plans and after reviewing the entire matter with the planning advisory board, if necessary, determine whether or not said plans are in substantial compliance with the approved GDSP. In the event of substantial compliance, the director shall so certify to the building official who shall then process final plans in the usual manner. In the event of non-compliance with the approved GDSP, the planning division shall advise the applicant, in writing, of the specific nature of the non-compliance and of the specific changes required to secure compliance. In the event final plans are found by the planning division not to be in substantial compliance with the approved GDSP, and the developer declines to make the plan modifications recommended by the department, the developer may petition through the planning division for a review and determination of whether or not the correct decision was made. After receiving copies of the final plans, staff comments and recommendations and a recommendation from the planning advisory board, the city council shall, at the regularly scheduled meeting, either affirm or overrule the decision of the director, and if overruled, shall render a decision. If the council decision is to affirm the decision of the director, the reasons for disapproval and the plan modifications required to secure approval shall be set forth in writing.

(G) Once approved, no further review of a GDSP shall be required, regardless of the number of development phases, unless the developer proposes to make significant changes to the approved GDSP. In the event of a significant change being made to an approved GDSP, a revised plan shall be submitted to the planning division and processed as if it were a new one.

**Subsection 3-82-4. Guidelines; Standards.**

The purpose of the GDSP review is:

- (1) To encourage logic, imagination, innovation and variety in the design process.
- (2) To make certain that the proposed development is compatible with its surrounding area.
- (3) To insure appropriate planning and to require the necessary improvements with respect to:
  - (a) Vehicular entry and exit drives;
  - (b) On-site vehicular circulation;
  - (c) Accessways for emergency and service vehicles;
  - (d) The impact of traffic generated by the project on traffic patterns and volumes on adjoining and nearby streets and the adequacy of such streets to accommodate such traffic;
  - (e) The adequacy of public utilities;
  - (f) The adequacy of buffers between the project and adjoining dissimilar uses;
  - (g) Off-site improvements necessitated by the traffic or other aspects of the proposed project.

**Section 3-83. Procedure for Obtaining Conditional Uses.**

**Subsection 3-83-1. Definition; Purpose; General Requirements.**

A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district but may, if controlled as to number, area, location, relation to the neighborhood and based upon the design and character of a particular development proposal, be appropriate. Any conditional use granted by the city council shall expire twelve (12) months after the date of approval of such conditional use, unless a building permit based upon and incorporating the conditional use is issued within the said twelve-month period or, in the event a building permit is not required, the expiration date shall be twelve (12) months from the date of approval if by that date the use for which the conditional use was granted has not been commenced. In either event, petitioner may appeal to the city council for an extension of time. Construction and improvements shall be in substantial conformance with the plans and drawings submitted with the conditional use request, as they may be modified or conditioned by the city council.

**Subsection 3-83-2. Method of Approval.**

Conditional uses listed in a particular zoning district may be permitted by resolution of the city council after an application for such conditional use has been submitted to the planning advisory board and after a duly authorized public hearing on the question has been held and the planning advisory board has voted to recommend approval or disapproval.

**Subsection 3-83-3. Procedures.**

(A) Conditional use petitions may be obtained at the planning division office, City Hall, and may be initiated by the owner of the subject property or his designated representative. This petition must be completed and returned to the planning division, along with the required fee and the necessary supportive materials as required by the zoning administrator, including a development and site plan, at least thirty (30) days prior to the planning advisory board meeting at which the petition is to be considered. Petitions received later than thirty (30) days in advance of any scheduled board meeting will be placed on the agenda of the next following meeting.

(B) The planning division shall review the petition and if it determines the petition to be in order, notice of public hearing before the planning advisory board shall be advertised in a newspaper of general circulation in the city at least fifteen (15) days prior to the public hearing, setting forth the date, time and place that said petition will be considered by the planning advisory board.

(C) The completed petition shall be circulated by the planning division to various department heads, as applicable. The department head or his designee shall carefully consider whether or not the specific rules governing district and supplementary district regulations relative to their specific areas of responsibility have been met and shall

carefully consider the guidelines or standards for conditional uses, where applicable. Each department head shall make written comments and/or recommendations and shall include the reasons therefor.

(D) Prior to the public hearing, the planning division shall notify owners of property located within five hundred (500) feet of the subject site, informing them of the date, time, place and reason for the public hearing. In addition, the planning division shall place a sign in a prominently visible location on the subject property which contains information as to the date, time, place and reason for the hearing. (Failure to notify all owners of property within five hundred (500) feet of the subject site shall not render the hearing void.)

(E) At the public hearing, the planning advisory board shall hear the petitioner or his designated representative and all other interested parties who appear and request that they be heard; shall consider the recommendation of the zoning administrator and other department heads; and shall consider the following standards or guidelines. As soon as practicable after the public hearing, the board shall submit its recommendation to the city council in writing, together with the minutes of the hearing, whether to approve, disapprove, or approve the conditional use with conditions.

(F) After consideration of the recommendation of the planning advisory board, and after the petitioner has been given an opportunity to be heard, and only after making a specific finding that the following standards or guidelines have been met, the city council may, by a majority vote of the members present, and by resolution, grant or deny the conditional use or grant it conditional upon such alternate and additional restrictions, stipulations and safeguards as may be deemed necessary to insure compliance with the intent and purpose of the zoning ordinance. Said conditions, when required by the city council, shall be made a part of the conditional use. Violation of such conditions which are made a part of the terms under which the conditional use is granted shall be considered a violation of this code. Conditions in addition to those imposed by the planning advisory board may be imposed by the city council. The planning advisory board and the city council shall cite their reasons in accordance with the following guidelines or standards for granting, denying or conditioning the conditional use request.

**Subsection 3-83-4. Guidelines; Standards.**

In their deliberations concerning the granting of a conditional use, the planning advisory board and the city council shall carefully consider the following guidelines and standards:

- (1) Ingress and egress to the subject property and the proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic generation flow and control, and access in case of fire or catastrophe shall be adequate and not potentially detrimental to existing or anticipated uses in the vicinity and particularly not detrimental to property immediately adjacent to the subject site.

- (2) Off-street parking and loading areas, where required or requested by the property owner, shall be adequate, well-designated, and relate well, in terms of proximity, access, and the like, to the uses intended to be serviced, with particular attention to the items in (1) above and the smoke, noise, glare, dust, vibrations, fumes, pollution or odor effects related to the vehicular use area or the conditional use and such shall not be detrimental to the adjoining properties in the general area.
- (3) Refuse and service areas, with particular reference to the items in (1) and (2) above, shall be adequately screened so as not to be visible from adjacent properties or a public right-of-way and shall be located in such a way as not to be a nuisance, by virtue of smoke, noise, glare and the like, to adjacent properties.
- (4) Utilities, whether public or private, shall be adequate and not detrimental with reference to location, availability, adequacy and compatibility.
- (5) Screening, buffering or separation of any nuisance or hazardous feature, with reference to type, dimensions and character, shall be fully and clearly represented on the submitted plans and shall be adequate to protect adjacent properties.
- (6) Proposed signs and exterior lighting shall be considered with reference to glare, traffic safety, and compatibility and harmony with surrounding properties and shall be determined to be adequate, safe and not detrimental or a nuisance to adjacent properties.
- (7) A determination shall be made that the proposed development will not hinder development of the nearby vacant properties with a permitted use in the subject zone district.
- (8) The land and/or buildings which are involved shall be adequate in terms of size, shape, type of building and the like, to insure compatibility with the proposed conditional use.
- (9) The proposed development shall be compatible and/or appropriate with adjacent properties and other property in the district and geographic area.

**Section 3-84. Procedure for Expanding, Enlarging or Changing a Nonconformity.**

**Subsection 3-84-1. Definition; Purpose; General Requirements.**

(A) Within the districts established by this ordinance or amendments that later may be adopted, there may exist lots, structures, and uses of land and structures which were lawful before this ordinance was passed, the new establishment of which would be prohibited by this ordinance. These lots, structures, and/or uses are defined as nonconformities. Nonconformities include nonconforming lots, nonconforming structures and nonconforming uses. Where such an existing use has been a "use permitted" in a zoning category and said use is subsequently changed to a conditional use, the existing use is not thereafter a "use permitted" but becomes a nonconforming use under this zoning ordinance until conditional use approval is obtained for that property as provided for in this code.

(B) Except when other provisions of this ordinance specifically require elimination of nonconformities, a nonconformity may be continued so long as it remains otherwise lawful,

subject to the remaining provisions of this section. Repairs, maintenance and improvements on nonconformities may be carried out, provided that such work does not increase the cubical content of the building or ground area devoted to the nonconforming use.

(C) Nothing in this section shall prevent compliance with applicable laws or ordinances relative to the safety and sanitation of a building occupied by a nonconforming use.

(D) If any nonconformity is damaged by fire, flood, explosion, collapse, wind or other catastrophe to such an extent that the cost of rebuilding, repair or reconstruction will exceed sixty (60) percent of its appraised value as shown on the tax assessment book at the time of the damage, any rebuilding or repair shall be deemed an expansion of a nonconformity and handled in accordance with this section. Where the damage is sixty (60) percent or less of the current tax appraisal, the nonconforming structure may be restored or rehabilitated if it is not enlarged in area or cubical content.

(E) If for any reason a nonconforming use of land or of a structure ceases for a period of more than twelve (12) months, the land or structure shall not thereafter be put to a nonconforming use. An affected property or business owner may request the city council to approve up to two (2) six-month extensions of time, which may be granted for good and sufficient cause.

(F) Additions to nonconforming single-family residences, housing conforming uses, shall be permitted if the addition complies fully with setback and all other applicable regulations.

(G) Notwithstanding limitations imposed by other provisions of this ordinance, any nonconforming lot of record which was in single and separate ownership on the date of adoption of the ordinance or amendment which made the lot of record nonconforming may be used as permitted by the district regulations of the zone in which the lot is located. This provision shall apply even though such lot of record fails to meet the requirements for width or area, or both, that are generally applicable to it, provided that all yards and other requirements not involving area or width of lot shall conform to the regulations for the district in which the lot of record is located.

(H) When two (2) or more contiguous, vacant, nonconforming lots of record are in single ownership, such lots may be subdivided only if such subdivision will make them conforming.

(I) Any nonconformity which becomes conforming shall not thereafter be changed to a nonconformity.

#### **Subsection 3-84-2. Method of Approval.**

Except as otherwise provided by this section, no nonconformity shall be expanded, enlarged or changed to a different nonconformity except upon recommendation of the planning advisory board, after a public hearing with due public notice, and approval of the city council. Action on nonconformity petitions may be taken by resolution adopted by a

majority vote of the council members present without a public hearing by the city council, but only after the petitioner has been given notice and an opportunity to be heard.

**Subsection 3-84-3. Guidelines; Standards.**

Since the size and nature of the expansion of a nonconformity may vary widely, a site plan and preliminary building plans indicating the proposed expansion or change shall be presented with each request for such expansion or change. Prior to granting an expansion or change of nonconformity, the board and the city council shall insure that:

- (1) The expansion, enlargement or change of the nonconformity will not damage the character or quality of the neighborhood in which it is located, or hinder the proper future development of the surrounding properties;
- (2) Any nuisance feature involved is not increased;
- (3) Excessive vehicular traffic is not generated on residential streets;
- (4) An automobile parking or traffic problem is not created;
- (5) Appropriate drives, walks and buffers are installed.

and if such insurances are not possible, the requested expansion, enlargement or change shall be denied.

**Section 3-85. Procedure for Obtaining Variances.**

**Subsection 3-85-1. Building Requirements.**

(A) *Definition; purpose; general requirements.* For purposes of this section, a variance shall be deemed to be a relaxation of the provisions of the Standard Building Code, the housing code or the flood insurance criteria as set forth in Chapter 10 of this code where such variance will not be contrary to the public interest and where, owing to special conditions and circumstances peculiar to the property, a literal enforcement of the provisions of said code and flood insurance criteria would result in unnecessary and undue hardship.

(B) *Guidelines; standards.* The variance shall not be granted unless and until:

- (1) A written petition is submitted to the board of appeals demonstrating that special conditions and circumstances exist that justify the granting of the requested variance; that literal enforcement of the provisions of said codes or flood insurance criteria would deprive the petitioner of rights commonly enjoyed by other properties; that granting the variance will not confer on the petitioner any special privilege that is denied to others; that literal enforcement of the provisions of said codes or flood insurance criteria will work undue and unnecessary hardship on the petitioner, and that granting the variance will, for reasons stated in the petition, be in the public interest;
- (2) Public notice shall be given and public hearing held as hereinbefore required;
- (3) The board of appeals shall make findings as required by (1) above and shall further find that the variance is the minimum variance necessary to accomplish

the intent and purpose of said codes and flood insurance criteria as set forth in Chapter 10 of this Code.

- (4) The board of appeals shall further make a finding that granting of the variance will not be detrimental to the health of the neighborhood or the occupants of the structure, or otherwise detrimental to the public welfare.

In granting a variance, the board may attach reasonable conditions and safeguards in conformity with said codes and Chapter 10 of this code. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the Standard Building Code, the housing code or Chapter 10 of this code.

**Cross reference**—Housing code, § 5-4.

### **Subsection 3-85-2. Coastal Construction Control Line.**

(A) *Definitions; purpose; general requirements.* Any grant of a variance by the city council shall not relieve the applicant from complying with the provisions of Section 161.053 of the Florida Statutes. The following classes or types of construction activities seaward of the coastal construction setback line do not require a variance from the city council, but they must receive a permit in accordance with prescribed procedures from the city manager, or his designee.

- (1) Dune nourishment, dune restoration or construction, including revegetation, provided less than one hundred (100) cubic yards of sand/sediment will be required to affect the nourishment, construction, or restoration.
- (2) Landscaping and beach or dune stabilization projects, provided that less than one hundred (100) cubic yards of sand/sediment/soil will be excavated and/or relocated on the site.
- (3) Limited grading not exceed one (1) vertical foot from existing average grade elevation, and the removal and relocation of windblown sediment.
- (4) Beach vehicular ramp maintenance.
- (5) Beach cleaning operations.
- (6) Removal of any rigid structure or loose debris not to include the permanent removal of beach and dune sediment.
- (7) Placement of temporary sandbag structures.
- (8) Emergency construction for the protection of existing upland structure in danger of collapse from anticipated high frequency storm conditions or where a structure is undergoing progressive structural failure.
- (9) Oil spill clean-up operations.
- (10) Construction, maintenance or repair of shore-normal, wooden, elevated beach/dune walk over structures meeting Florida Department of Natural Resources standards, but not including viewing decks.
- (11) Construction or repair of beach access stairs meeting Florida Department of Natural Resources standards.
- (12) Installation of sand fencing.

- (13) Temporary excavation for installation or repair of subgrade utilities including water, sewer, electrical and gas lines.
- (14) Placement of sand fill material and planting of vegetation for the repair of small isolated dunes, to include the filling of blow-outs and other low areas of the beach/dune system.
- (15) Placement of sand fill material and sand retention geotextiles immediately landward of existing rigid coastal protection structures.
- (16) Routine maintenance or repair and stormwater discharge lines.
- (17) Removal of collected windblown sand provided that it is spread evenly on the beach or formed into a dune configuration.
- (18) Installation of security fencing around a swimming pool, provided it will create no adverse impacts, as elaborated in this section, and will not impede public pedestrian movement, as elaborated in this section.

(B) *Method of approval.* The city council may, upon petition of affected riparian upland owners, and after due public notice and hearing, grant a variance to the setback line established in this code. The city council shall, within sixty (60) days from the date of the petition, hold a public hearing thereon. A notice of said public hearing shall be published one time in a newspaper of general circulation in the City of Naples at least fifteen (15) days prior to the date of said hearing, setting forth the time and place of such hearing. The sixty-day requirement herein is directory and not mandatory. The city council may at such hearing recess or continue the same from time to time as is necessary.

(C) *Procedures.* The following procedures shall be followed in the filing and processing of application for variances to the coastal construction setback lines established by Chapter 10 of this code.

- (1) A petition shall be filed with the city manager, or his designee, and shall be accompanied by a qualified attorney's opinion verifying that the petitioner owns the fee simple title to the property described in the petition.
- (2) The city manager, or his designee, shall review the petition to determine if the same is complete and in compliance with the requirements of this article. Upon determining that the same is complete and in compliance with this article, the city manager, or his designee, shall cause notice of public hearing to be advertised in accordance with the above paragraph.
- (3) In the event it is determined that the petition is incomplete or insufficient, the petitioner shall be so notified and petitioner shall be required to submit an amended petition. Notification to the petitioner that the petition is incomplete or insufficient shall stay the sixty-day requirement set forth in the above paragraph, and the city council shall within sixty (60) days from the date of the amended petition hold a public hearing, after it has been determined that said amended petition is in compliance with this article.
- (4) All administrative and advertising costs pertaining to such petitions shall be borne by petitioner.

- (5) A petition for a variance from the Coastal Construction Control Line shall contain the following:
- (a) Description of petitioner's property;
  - (b) Description of established setback line from which petitioner requests a variance;
  - (c) Description of the setback line as requested by petitioner;
  - (d) The grounds upon which the petitioner relies for the granting of the requested variance. The petitioner must clearly justify such a variance, and shall show that the effect upon the beach area environment and upland properties and the impact and interaction of his proposed construction line will not adversely affect the following factors, natural elements and forces;
    1. Ground elevations;
    2. Historical storm and hurricane tides;
    3. Predicated maximum wave uprush;
    4. Beach and offshore ground contours;
    5. Erosion trends;
    6. Vegetation line;
    7. Dune and bluff line;
    8. Building and zoning requirements of the city and other ordinances of the city;
    9. The master plan of the city.

(D) *Guidelines; standards.*

- (1) No variance shall be granted unless the petitioner shall make an affirmative showing by clear and convincing evidence that his proposed construction line shall not adversely alter the natural state of the beach area protected by the present setback line; that it shall not accelerate, increase or aggravate natural erosion; that it shall not endanger upland properties; that beach and sand dune erosion shall be controlled; and that it shall not adversely affect the public health, safety and welfare.
- (2) Whenever a variance is granted to permit construction which may have the effect of impeding the pedestrian movement of persons on the beach, the petitioner shall provide and maintain improvements, which allow pedestrian traffic to cross over or around the facilities. Such improvements shall be maintained in a safe, accessible and stable condition and the public's right to use of such improvements shall not be obstructed or discouraged by petitioner or subsequent owners in title.

**Cross references**—Seawalls and revetments, § 5-10; coastal construction, § 10-3; fees, Ch. 11.

**Subsection 3-85-3. Zoning Requirements.**

(A) *Method of approval.* After considering the recommendation of the planning advisory board, the city council may, by a majority vote of the council members present, deny the requested variance or, after making a specific finding that all of the conditions enu-

merated in this section have been met, pass a resolution to grant it or grant it with conditions. A variance may be granted conditional upon such alternate and additional restrictions, stipulations, and safeguards as may be deemed necessary to insure compliance with the intent and purpose of the zoning ordinance. Violation of such conditions when made a part of the terms under which the variance is granted shall be considered a violation of the zoning ordinance. Conditions in addition to those imposed by the planning advisory board may be imposed by the city council.

(B) *Procedure.*

- (1) Petitions for variance from the terms of this code may be obtained from the planning division, City Hall, and may be initiated by the owner of the property involved or his designated representative. Completed petitions shall be returned to the planning division, along with the required fee and supportive materials as required by the zoning administrator, at least thirty (30) days prior to the meeting of the planning advisory board at which the petition is to be considered. Petition received less than thirty (30) days in advance of a meeting will be placed on the agenda of the next planning advisory board.
- (2) After reviewing the petition, the planning division shall give due public notice that a public hearing will be held by the planning advisory board to consider said petition. The planning division shall notify all owners of property located within five hundred (500) feet of the property described in the petition. (Failure to notify all owners of property located within five hundred (500) feet by mail through inadvertence will not render the hearing void.)
- (3) The petitioner or his authorized agent shall appear at the public hearing. After considering the recommendation of the zoning administrator comments by the petitioner and the public and the following conditions for granting a variance, the planning advisory board shall make its recommendation either to grant, deny, or grant with conditions the requested variance.
- (4) As soon as practicable after the public hearing, the planning advisory board shall submit its recommendation, in writing, to the city council, together with the minutes of the hearing. The planning advisory board recommendation shall be considered by the city council at its next regular meeting or as soon thereafter as may be practicable.

(C) *Guidelines; standards.* The following conditions must be met prior to the granting of a variance:

- (1) The plight of the applicant must be due to unique circumstances not created by him.
- (2) Special conditions and circumstances must exist which are peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same district.
- (3) Literal interpretation of the provisions of the zoning ordinance must deprive the applicant of rights commonly enjoyed by the properties in the same district.

- (4) The variance shall not permit establishment or enlargement of any use or structure which is not permitted in the district in which the variance is requested.
- (5) The variance must be consistent and in harmony with the intent and purpose of the zoning ordinance.

**Subsection 3-85-4. Floodplain Management.**

*(A) Definition; purpose; general requirements.*

- (1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built, and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (4) The director of community development shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

*(B) Method of approval.* The board of appeals, as established in Chapter 3 of this code, shall hear and decide appeals and requests for variances from the requirements of this section.

*(C) Guidelines; standards.*

- (1) In passing upon such applications, the board of appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of the article, and
  - (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location, where applicable;
  - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) The compatibility of the proposed use with existing and anticipated development;

- (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (2) Upon consideration of the factors listed above and the purposes of this article, the board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (3) Condition for variances:
- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
  - (b) Variances shall only be issued upon:
    1. A showing of good and sufficient cause;
    2. A determination that failure to grant the variance would result in exceptional hardship; and
    3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**Subsection 3-85-5. Administrative Grant of Variance.**

For structures permitted prior to June 5, 1985, and completed under that permit, the community development director may grant administrative variance of up to 4.5 inches for encroachments into required yards upon assurance that:

- (1) The building was issued a building permit prior to June 5, 1985;
- (2) The building was completed under that permit;
- (3) The city issued a certificate of occupancy, or final inspections as appropriate, for the building under said permit; and
- (4) The community development director has determined no special circumstance exists.

If any of these above criteria are not met, the community development director shall require a variance process to be followed.

Final approval of administrative variances will be granted by city council through their consent agenda.

(Ord. No. 89-6003, § 1, 12-6-89)

**Cross references**—Resource protection standards, Ch. 10; floodplain management, § 10-4; fee, § 11-5.

**Section 3-86. Procedure for Subdivision of Lands.**

The procedures for the subdivision of land are found in Chapter 20 of the Code of Ordinances, which is adopted by reference as a part of this code in Chapter 6 of this code.

**Section 3-87. Procedure for Vacating.****Subsection 3-87-1. Method of Approval.**

Following a public hearing before the planning advisory board, the city council may, by resolution, approve said vacation if it is determined that there is no present necessity, or reasonably foreseeable necessity, for the retention of same, and that the right to convenient access of adjoining property owners will not be affected thereby.

**Subsection 3-87-2. Procedures.**

(A) Petitions to vacate, abandon, discontinue or close any public street, alleyway, dedicated easement or subdivision plat, either in whole or in part, may be initiated by the city council, the planning advisory board, city manager or by any person affected thereby.

(B) Such petitions shall be filed with the city manager, or his designee, and shall be accompanied by a legal description of the property or easement proposed to be vacated, certified by a qualified engineer. Petitions to vacate any plat, either in whole or in part, shall be accompanied by an attorney's opinion verifying that the person making application for said vacation owns the fee simple title to the whole or part of the tract covered by the plat sought to be vacated.

(C) A processing fee of two hundred dollars (\$200.00) shall be borne by petitioner.

(D) The planning advisory board shall hold a public hearing to consider such petitions, and as soon as practicable thereafter, the board shall submit its recommendation in writing to the city council, together with a copy of the minutes of the hearing. The city council shall hold a public hearing to consider said vacation, and shall publish notice thereof in a newspaper of general circulation in the City of Naples in not less than two (2) weekly issues of said paper.

**Section 3-88. Procedure for Obtaining Temporary Uses.****Subsection 3-88-1. Buildings/Structures.**

Except for the construction related uses permitted under the temporary use permit provisions of this section, no temporary building or structure, not permanently affixed to city approved foundations and utilities and in compliance with all other city requirements, shall be permitted in any zone district unless specifically approved by the city council.

**Subsection 3-88-2. Temporary Use Permits.**

(A) *Special uses:* A temporary use permit must be obtained and may be granted for a period not to exceed forty-five (45) days for such temporary uses as:

- (1) Circuses.
- (2) Carnivals.
- (3) Fairs.
- (4) Christmas tree sales lots.
- (5) Temporary promotional activities.
- (6) Garage sales, a maximum of one (1) permit per premise, per year, plus one (1) permit in conjunction with the relocation of the residents of a structure (no fee is to be charged for garage sale permits).
- (7) Other similar uses of a temporary nature.

(B) *Real estate development projects:* In the case of real estate development projects in any zoning district other than single family residential, the developer may request a temporary use permit to permit necessary commercial, promotional, storage and construction activities which occur during construction of the project and which terminate upon completion of the project. The following activities may be permitted under the terms of such temporary use permit.

- (1) Real estate sales offices. Provided the developer/applicant owns the subject property, a temporary use permit may be issued for a period not to exceed one hundred eighty (180) days prior to the issuance of construction permits for an on-site sales office. The sales office may be used only for the sale of units to be built on the subject site. Upon the termination of the one-hundred-eighty-day period, an application may be filed for an extension of the permit for a period not to exceed ninety (90) days.
- (2) Construction materials storage, processing and fabrication.
- (3) Offices for persons engaged in the development of land.
- (4) Equipment storage.
- (5) Temporary housing.
- (6) Model homes.
- (7) Sales promotional signs. A temporary use permit may be issued for promotional activity signs in conjunction with the future construction of buildings or land development, for a period not to exceed one hundred eighty (180) days prior to the issuance of building permits, provided the developer/applicant owns the subject property. Upon the termination of the one-hundred-eighty-day period, an application may be filed for an extension of the permit for a period not to exceed ninety (90) days. Notwithstanding any other provisions of this subsection, promotional signs for the purposes hereinabove set forth may be maintained on the property for a period of up to one (1) year after the date of the certificate of occupancy. Two (2) six-month extensions may be granted thereafter, at the discretion of the zoning administrator.
- (8) Temporary permits not required: Temporary use permits are not required for normal construction activities for which a building permit has been issued.

(C) *Temporary signs:* Temporary signs may not exceed the following:

- (1) "R3-12," "R3T12," "R3-15," "R3T18," "R3-18" and properties zoned "PD" for multifamily residential use: One (1) ground or wall sign per project, limited in size as follows:
  - (a) Duplex—Eight (8) square feet.
  - (b) Three- or four-unit dwellings—Sixteen (16) square feet.
  - (c) Five (5) or more unit dwellings—Twenty-five (25) square feet.
- (2) "M," "O," "HC," "C1," "C1-A," "C2," "C2-A," "C3," "C4," "I," "PS" and "PD" zoned properties intended to accommodate the same uses: Ground or wall signs: Maximum number, one (1); size, thirty-two (32) square feet.

(D) *Application submittal:*

- (1) Temporary use permit applications for the above special uses, real estate development projects, and signs, along with the required fee, a plot plan indicating the area for which the permit is to apply, a complete description of the activities which will occur and the time for which the permit is requested, shall be submitted to the zoning administrator.
- (2) The zoning administrator may grant a temporary use permit upon finding that the applicant has complied with the following:
  - (a) Any nuisance or hazardous feature involved is suitably separated from adjacent uses.
  - (b) Excessive vehicular traffic will not be generated.
  - (c) A vehicular parking problem will not be created.

(E) *Termination, cancellation of permit:* Each temporary use permit shall be granted for a specific period of time, at the end of which, if the use permitted as a temporary use has not been discontinued, it shall be deemed a violation of the zoning ordinance and shall be subject to the penalties provided for herein. A temporary use permit may be cancelled by the zoning administrator at any time the terms of the permit are violated.

### **Section 3-89. Procedure for Appealing Decisions.**

#### **Subsection 3-89-1. Procedure for Appealing Decisions of the Code Enforcement Board.**

Any aggrieved party, including the City of Naples, may appeal a ruling or order of the code enforcement board to the Circuit Court of Collier County, Florida. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the code enforcement board. The appeal must be filed within thirty (30) days after the hearing at which the order being appealed was announced. The board shall establish reasonable charges for the preparation of the record, to be paid by the petitioner.

**Subsection 3-89-2. Procedure for Appealing Decisions of the Board of Appeals.**

(A) Decisions of the board, except those relating to Appendix A, Section A103 of the Standard Building Code, shall be final, subject to review of the circuit court in the manner prescribed by the laws of Florida. The city council may, by a majority vote of the council members present, modify, sustain or overrule any decision of the board of appeals relative to Appendix A, Section A103 of the Standard Building Code, upon its own initiative or upon petition filed with the city manager or his designee by any party aggrieved thereby, or by any officer of the city within thirty (30) days from date of the board's decision.

(B) Any person aggrieved by the decision of the board of appeals, or any taxpayer, may appeal such decision to the circuit court, as provided in Chapter 26, Florida Statutes.

**Subsection 3-89-3. Procedure for Appealing a Decision of the Building and Zoning Administrator Relative to Construction Matters.**

(A) Whenever the building and zoning administrator 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 the Standard Building Code, as adopted by the City of Naples, or ordinances relating thereto, 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 the Standard Building Code or the housing code of the City of Naples, or any of the regulations thereunder, have been misconstrued or wrongly interpreted, the owner of such building or structure, his attorney or duly authorized agent, or any citizens affected thereby, may appeal from the decision of the building and zoning administrator to the board of appeals within thirty (30) days from the date of said decision. In the case of a building or structure which, in the opinion of the building and zoning administrator is unsafe or dangerous, the building and zoning administrator may limit the time for such appeal to a shorter period.

(B) The decision or order of the building and zoning administrator shall be furnished in writing to the applicant or his duly authorized agent or attorney, setting forth the reasons therefor.

(C) Notice of appeal shall be filed by the applicant on a form provided by the building and zoning division within thirty (30) days after the decision or order is rendered by the building and zoning administrator and shall be accompanied by a fee of seventy dollars (\$70.00). A copy of the notice of appeal and the written decision or order of the building and zoning administrator shall be filed with the secretary of the board of appeals, with a copy thereof to the city attorney.

(D) The board shall set a date and time for a public hearing, which hearing shall be held within fifteen (15) days after notice of appeal has been received. Notice of such public hearing shall be published in a newspaper of general circulation in the City of Naples at least seven (7) days prior to the date of said hearing. The applicant or his agent or attorney shall be notified in writing of the date and time for said hearing, with a copy of said notice to be furnished to the city attorney.

(E) The applicant shall appear in person or by his duly authorized agent or attorney. All persons testifying shall be properly sworn.

(F) The chairman of the board of appeals shall read into the record the notice of appeal and the building and zoning administrator's decision or order.

(G) The applicant shall present his testimony, together with all witnesses, evidence and exhibits. Any member of the board may, if desired, question the applicant or his witnesses concerning any testimony or exhibit submitted. Upon completion of the applicant's presentation, the building and zoning administrator shall testify as to any matters relating to his decision or order, from which the appeal was taken and shall present any witnesses or evidence in his behalf. The applicant shall be given an opportunity to cross-examine the building and zoning administrator.

(H) At the conclusion of said hearing, the board of appeals shall reach a decision without unreasonable or unnecessary delay. Three (3) affirmative votes shall be required to modify or reverse a decision of the building and zoning administrator. Said decision shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. The decision shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the building and zoning administrator and shall be open to public inspection. A certified copy thereof shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building and zoning administrator for two (2) weeks from the date of said decision by the board.

(I) An appeal from the action of the building and zoning administrator to the board of appeals shall stay all proceedings in furtherance of the action appealed from, unless the building and zoning administrator certifies to the board after petition for appeal is filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and health. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board of appeals or by a court of record on application, and on notice to the building and zoning administrator from who the appeal is taken and on due cause shown.

**Subsection 3-89-4. Procedure for Appealing Decisions of the Zoning Administrator.**

(A) *Method of approval.* By a majority vote of the council members present, the council may sustain, modify or overrule the administrative decisions.

(B) *Procedures.*

- (1) Petitions for appeals relative to administrative decisions may be obtained from the planning division, City Hall. Completed petitions shall be returned to the planning division, along with the required fee and supportive materials as required by the zoning administrator. The zoning administrator will submit such

material, along with a staff report and recommendation, to the planning advisory board.

- (2) The petitioner or his authorized representative shall appear before the planning advisory board; the zoning administrator shall keep minutes of the meeting; and the planning advisory board shall make a recommendation to the city council for sustaining, modifying, or overruling the administrative decision, in writing, as soon after the meeting as is practicable.
- (3) The planning advisory board recommendation will be considered by the city council at their next regular meeting, or as soon thereafter as may be practicable.

**Subsection 3-89-5. Procedure for Appealing Decisions of the Director of Community Development Relative to Floodplain Management Regulations.**

The board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the director of community development in the enforcement or administration of the floodplain management regulations.

**Section 3-90. Enforcement.**

**Subsection 3-90-1. General Penalty; Continuing Violations; Adjudging Fines and Imprisonments.** (State law reference: Penalty for violation of ordinances, see Section 165.19, Florida Statutes.)

(A) It shall be unlawful for any person to violate or fail to comply with any provision of this code; and where no specific penalty is provided therefor, the penalty for violation thereof shall be a fine not exceeding three hundred dollars (\$300.00) or imprisonment for a term not exceeding ninety (90) days or both such fine and imprisonment. Each day any violation of any provision of this code shall continue shall constitute a separate offense. For violation of any provision of this code or any misdemeanor law of the State of Florida adopted by the city, if it appears to the court upon a hearing of the matter that the defendant is not likely again to engage in a violation of this code, and that the ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by this section, and after a finding by the court that supervision in the community or to assist in the rehabilitation of the offender, or both, the court, in its discretion, may either adjudge the defendant to be guilty or stay and withhold the adjudication of guilt, and in either case stay and withhold the imposition of sentence upon such defendant, and shall place him upon probation.

(B) Whenever the judge of the county court of Collier County shall, under any of the ordinances of the city, adjudge a person to pay a fine, or a fine and costs of prosecution, he shall also provide in such sentence a period of time for which such person shall be imprisoned in default of the payment of the same. Whenever the sentence shall be one of both fine and imprisonment, it shall also provide for an additional period of imprisonment in the city jail for which such person shall be held in default of payment of fine and costs. Such additional period shall commence to run from the expiration of the period of impris-

onment fixed by the sentence, provided that in no case shall the imprisonment for failure to pay a fine, or fine and costs, together with any other imprisonment in the same case, exceed the period of four (4) months.

(C) Nothing in this section shall exempt a prisoner from being put at labor during the period of such additional imprisonment.

(D) All judgements and sentences imposed and ordered by the county court of Collier County shall run consecutively unless otherwise specifically provided by the judge of such court in such judgement and sentence.

**Subsection 3-90-2. Administration and Enforcement of Zoning Ordinance.**

(A) A zoning administrator, designated by the city manager, shall administer, interpret and enforce the zoning ordinance. The zoning administrator may be provided with the assistance of such other persons as the city manager may direct. If the zoning administrator shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person, firm or corporation responsible for such violation, indicating the nature of the violation, stating the action necessary to correct it and specifying the time permitted for correction of the violation. He shall require discontinuation of the illegal use of the land, building or structures; removal of illegal structures, additions or alterations; discontinuance and correction of any illegal work being done; and shall take all other lawful action necessary to insure compliance with or to prevent violation of the zoning ordinance.

(B) No land use or structure shall be initiated, erected, moved, added to or structurally altered unless a zoning clearance therefor has been issued if required by the zoning ordinance.

(C) All applications for building permits shall, in addition to containing the information required by the building division, include such other information as may be required by the zoning administrator.

(D) Zoning clearances or building permits issued on the basis of faulty permit applications shall be voided by the zoning administrator or building official.

(E) When permits are issued through administrative error, the error shall be called to the attention of the permit holder as soon as the error is discovered by the zoning administrator or building official. If the error is not voluntarily corrected, the matter shall be immediately referred to the city council, who shall take such lawful action as is appropriate and necessary.

(F) Any building or structure for which there is a valid building permit which was issued prior to the effective date of this ordinance, may be constructed and used in accordance with plans and specifications upon which said valid building permit was granted, except that various nonconforming and amortization sections of this ordinance shall apply to all such buildings, structures or permits.

## CHAPTER 4

### CONCURRENCY MANAGEMENT PROGRAM AND MONITORING REQUIREMENTS

#### Section 4-1. Purpose and Intent.

(A) The purpose of this chapter is to outline the schedule and identify the mechanisms for concurrency management, as required by the Florida Growth Management Legislation of 1986, for the city's comprehensive plan (adopted January 4, 1989).

(B) Monitoring and annual reporting of the adopted level of service for public facilities is the administrative mechanism which identifies whether the facilities are provided concurrently to additional development.

(C) The concurrency management program shall commence in fiscal year 1989-90.

#### Section 4-2. Conditions for Concurrency.

##### Subsection 4-2-1. Conditions for Concurrency.

Required facilities include any utility or amenity which is required to maintain the level of service (LOS) for current city residents and projected new residents of a given project. Required facilities for a proposed development shall be identified by the owner/developer and reviewed for concurrency by the city in compliance with the adopted comprehensive plan. Concurrency requirements for a proposed project will be met if any of the following four (4) conditions are met for each of the LOS requirements for required facilities:

*Condition 1:* Required facilities are in place at the time a development order is issued, or a development order is issued subject to the condition that the necessary facilities will be in place when the certificate of occupancy and/or occupational license is issued.

*Condition 2:* The required facilities are under construction at the time a development order is issued.

*Condition 3:* The required facilities are the subject of a binding contract executed for the construction of those facilities at the time a development order is issued.

*Condition 4:* The required facilities are included in the city's adopted budget or the current five-year capital improvements program or element or, for traffic circulation LOS, the current state government's five-year budget at the time the development order is issued, even though the facilities are not yet the subject of a binding contract for their construction.

**Subsection 4-2-2. Conditions for Suspension of Development Order.**

A development order issued with one (1) of the four (4) conditions shall be suspended and no further development shall be carried out under the following conditions:

- (A) The required facilities are removed from the city's adopted budget or the current five-year capital improvements program or element or, for traffic circulation LOS, the current state government's five-year budget.
- (B) The required facilities are withdrawn from annual funding priority because annual funding is insufficient to maintain the city's five-year capital improvement schedule or, for traffic circulation LOS, the state's five-year program.
- (C) Construction of the required facilities is not undertaken in accordance with the adopted city budget or capital improvements element or, for traffic circulation LOS, the current state government's five-year budget.
- (D) The required facilities are not constructed according to the binding contract upon which conditional concurrency approval was given.

**Subsection 4-2-3. Responsibility for Implementation.**

(A) Coordinating department: The community development department will coordinate the implementation strategy and annually provide the lead departments with the following: (1) Current population projections for a five-year period; (2) Building permit activity for the past five years and; (3) Additional information, as requested by the lead department.

(B) Lead department: The following departments will be responsible for the individual schedules of monitoring and reporting which are outlined in this ordinance:

<i>Lead Department</i>	<i>Monitoring and Reporting</i>
Utilities Department	Solid Waste, Potable Water, and Sewer Service
Community Services Department	Park Land and Recreation Facilities
Engineering Department	Traffic Circulation, Drainage and Bike Trails

(C) The community development department shall establish 2.15 as a "persons per unit" for residential structures. This standard shall be applied to building permit applications to assess the additional growth and its impact on adopted LOS for all facilities and services. Upon completion of the 1990 Census, this figure may be amended to the current census figure for persons per household.

(D) The community development department and utilities department shall establish a public service and facility requirement per square footage of commercial use. This standard shall be applied to building permit applications to assess the additional growth and its impact on adopted LOS for all facilities and services.

**Subsection 4-2-4. Implementation Strategy.**

The following implementation strategy is in place to ensure that the goals, objectives, policies and programs established in the capital improvements element will be achieved.

(A) Development Order Review—When a development order is applied for the application will outline the required facilities, as related to LOS, for the proposed development, and how these facilities shall be provided concurrently.

(B) Building Permit Review—When a building permit is applied for, the application will outline the required facilities, as related to LOS, for the proposed development, and how these facilities shall be provided concurrently.

(C) Annual Budget—The annual budget will identify projects which are targeted to maintain the LOS. Projects which are targeted for LOS maintenance but are unfunded or removed from the annual budget shall cause the revocation of any development order or building permit which was issued upon the construction of that project.

(D) Comprehensive Plan Amendments—The mandatory semiannual report to the department of community affairs concerning amendments to the comprehensive plan due to emergencies, annexation, developments of regional impact, and selected small developments will report on changes, if any, to adopted goals, objectives, policies and programs in the capital improvements element.

(E) Annual LOS Report—Each individual facility or service with an adopted LOS will be annually monitored to ensure that the LOS is maintained. The specific details for each monitoring schedule and report can be found in Specific Guidelines for Concurrency.

**Subsection 4-2-5. Monitoring.**

Monitoring for each LOS shall take place annually. Facility monitoring which is currently taking place may be adapted and used as the annual monitoring.

**Section 4-3. General Guidelines for Concurrency Management; Reporting to City Council; Reporting to the Florida Department of Community Affairs.**

**Subsection 4-3-1. Guidelines for Concurrency Management.**

(A) *Annual LOS report:* By January of each year the lead department shall write a report which addresses the following in terms of the LOS for their area of responsibility: (1) Adopted LOS v. current LOS; (2) current and/or potential LOS deficiencies; (3) current CIP and potential CIP options for maintaining LOS with five-year time frame; (4) available and/or potential funding sources; (5) current inventory of their facilities; (6) current population and five-year projection (by year); (7) comparison of previous year's building permit activity to past five years inventory; (8) potential developments, redevelopments or annexations which could have an impact on the current LOS and; (9) relationship to the goals, objectives and policies of the comprehensive plan.

(B) *Advisory board public hearing:* In February of each year, the advisory board will hold a public hearing at which they discuss the current and adopted LOS for their facilities. The annual LOS report shall be available to the board and the public at least five (5) days before the public hearing. If the current LOS is below the adopted LOS policy standards, measures must be addressed by the board which either: (1) Fund the necessary improvements to reestablish the adopted LOS within a two-year transition period; (2) adopt a lower LOS which would be consistent to the current LOS; or (3) cease issuing development orders which negatively impact the LOS until the adopted LOS is reestablished.

(C) *Public notice for board meeting:* Preparation for the public hearing will follow the advertising and public notice procedures which are currently followed for the advisory board's regular meetings.

(D) *Recommendation report:* The board shall make recommendations to city council regarding the maintenance of the LOS of their facilities and services. This report shall be drafted by the lead department based on the recommendations of the board.

(E) *Public notice for council meeting:* Preparation for city council's first reading and second reading/public hearing will follow the advertising and public notice procedures which are currently followed for city council's regular meetings. The lead department shall be responsible for transmitting to city council one week before the council's first reading: (1) the annual LOS report; (2) the recommendation report; and (3) a summary of the public input at the board's public hearing.

#### **Subsection 4-3-2. Reporting to City Council.**

(A) *City council first reading:* The lead department shall present their annual LOS report and the advisory board's recommendation report to city council at a public meeting in late March or as soon as possible after the board makes their findings and recommendations. The community development department and city attorney's office shall each have a representative at the public hearing to interpret the lead department's recommendations with regard to the comprehensive plan.

- (1) If the current LOS is below the adopted LOS, measures must be addressed by city council which either: (a) Fund the necessary improvements to reestablish the adopted LOS within a two-year transition period; (b) adopt a lower LOS which would be consistent to the current LOS; or (c) cease issuing development orders which negatively impact the LOS until the adopted LOS is reestablished.
- (2) At the end of the first reading, a date shall be set for a second reading/public hearing to finalize their position.

(B) *City council public hearing:* The annual LOS report and the board's recommendation report shall be presented by the lead department. At this time LOS deficiencies and mitigation options shall be discussed. Where necessary, potential changes to the CIP shall also be addressed.

- (1) If the current LOS is below the adopted LOS, measures must be adopted by city council which either: (a) Fund the necessary improvements to reestablish the

adopted LOS within a two-year transition period; (b) adopt a lower LOS which would be consistent to the current LOS; or (c) cease issuing development orders which negatively impact the LOS until the adopted LOS is reestablished.

- (2) At the conclusion of the public hearing, city council shall adopt an ordinance which: Adopts the recommendations of the board; adopts the recommendations of the board with additional conditions or; modifies the recommendation of the board. City council shall direct the community development department to notify the state of their actions.

**Subsection 4-3-3. Reporting to the Florida Department of Community Affairs.**

(A) *DCA report:* The community development director shall prepare a report to notify the Florida Department of Community Affairs (DCA) of the status of the LOS for their facilities and services. The report shall be based on the annual LOS report, the recommendation report and the formal action of the city council.

(B) *Notification:* The DCA report shall be forwarded to the state as required by the growth management legislation. Copies of the report shall be available to the public and city officials.

**Section 4-4. Specific Guidelines for Recreation Facilities and Park Lands Concurrency Management.**

**Subsection 4-4-1. Purpose.**

The purpose of this section is to provide for the adopted level of service standards for recreation facilities and park lands, as noted in the comprehensive plan (adopted in January 4, 1989) and required by Florida's Growth Management Legislation.

**Subsection 4-4-2. Definitions.**

(A) Recreation facilities which have adopted LOS include: Basketball courts; baseball fields; beach access points; boat ramps; bike trails (engineering department is responsible for providing bike trails); community centers; football fields; horseshoe pits; meeting rooms; pavilions; picnic areas; play areas; racquetball courts; shuffleboard courts; swimming pools; tennis courts; and volleyball courts.

(B) Neighborhood park land: Parks which serve a particular neighborhood by foot or bike.

(C) Community park land: Parks which serve more than one neighborhood.

(D) Public beaches shall be monitored regarding LOS standards, but are not included in park land calculations.

**Subsection 4-4-3. Responsibility for Implementation.**

(A) Community services shall be the lead department in all monitoring and reporting activities relating to park land and recreation facilities.

(B) The Parks and Recreation Advisory Board is the advisory board responsible for review of park land and recreation facility LOS with which they have historically been involved.

**Section 4-5. Specific Guidelines for Concurrency Management for Solid Waste, Potable Water, Sewer Service and Drainage.**

**Subsection 4-5-1. Purpose.**

The purpose of this section is to provide for the adopted level of service standards for: Solid waste; potable water; sewer service; and drainage, as adopted in the Comprehensive plan (adopted in January 4, 1989) and required by Florida's Growth Management Legislation.

**Subsection 4-5-2. Definitions.**

**Monitoring reports:** The monitoring reports required by the comprehensive plan shall utilize the same reports that are currently being used by the utilities department. Water management plans, which address compliance with the city's drainage requirements, shall continue to be reviewed and monitored by the engineering department.

**Subsection 4-5-3. Responsibility for Implementation.**

(A) The utilities department shall be the lead department in all monitoring and reporting activities relating to solid waste, potable water, and sewer service.

(B) The engineering department shall be the lead department in all monitoring and reporting activities relating to drainage.

(C) The planning advisory board will be the advisory board with responsibility for reviewing these LOS standards.

**Section 4-6. Specific Guidelines for Traffic Circulation Concurrency Management.**

**Subsection 4-6-1. Purpose.**

The purpose of this section is to provide for the adopted level of service standards for traffic circulation, as noted in the comprehensive plan (adopted in January 4, 1989) and required by Florida's Growth Management Legislation.

**Subsection 4-6-2. Definitions.**

(A) Arterial roads within the city which have an adopted LOS are: U.S. 41; Goodlette-Frank Road; and Golden Gate Parkway.

(B) Collector roads within the city which have an adopted LOS are all roads which the city is responsible for maintenance.

(C) Traffic counts shall be twenty-four-hour counts which are adjusted to annual peak hour/peak season.

(D) Mitigating action to maintain LOS concurrency shall be one of the following: The city may fund the improvements which are necessary to maintain or reestablish the adopted LOS; the city may adopt a lower LOS which is consistent with the current LOS or; the city may cease to issue development orders which are determined to have an impact on the affected roadway segment until such time as the adopted LOS is reestablished.

(E) A parallel facility or parallel roadway improvement is intended to capture traffic

from an affected road segment. Documentation must be available to substantiate the improvement which defines a positive relationship between the affected road segment and the proposed parallel facility or improvement.

(F) Building permits issued prior to the action by the city council to cease the issuance of development orders shall be held vested so long as the building permits remain otherwise valid.

**Subsection 4-6-3. Responsibility for Implementation.**

(A) The engineering department shall be the lead department in all monitoring and reporting activities relating to traffic circulation.

(B) The planning advisory board shall be the advisory board responsible for the review of LOS standards.

(C) Monitoring: The annual peak hour/peak season LOS will be compared against the most current Florida Department of Transportation (DOT) standard resulting in one of the following:

- (1) If the current LOS is measured at the adopted LOS or better, no mitigating action is required.
- (2) If the current LOS measured is nearing the next lower LOS, quarterly counts will be taken and analyzed for a peak hour/peak season count. If necessary, a detailed study of the capacity of the roadway segment, consistent with the 1985 DOT Highway Capacity Manual A, will be done before the initial quarterly count is taken.
  - (a) If the annual monitoring count is similar to the roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with the planning advisory board and the city council shall begin.
  - (b) If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity.
- (3) If the current LOS measured is at the next lower LOS, and had been at the adopted LOS the previous year, quarterly counts will be taken and analyzed for a peak hour/peak season count. If necessary, a detailed study of the capacity of the roadway segment, consistent with the 1985 DOT Highway Capacity Manual A, will be done before the initial quarterly count is taken.
  - (a) If the annual monitoring count is similar to the roadway capacity identified through this methodology, the quarterly counts will continue. Preliminary discussions with the planning advisory board and the city council shall begin.
  - (b) When the affected road segment has a direct impact on traffic circulation in the county, the lead department shall notify the county, in writing, of the annual traffic count and capacity study. All efforts should be made to coordinate alternatives to these impacts with the county.

- (c) If the adopted individual standard has increased capacity in comparison to the DOT standards, quarterly counts will be suspended until the annual count nears the adopted individual road capacity.
  - (d) If three consecutive counts, which may include the annual count, show the roadway to be below the adopted LOS, then the roadway segment enters a transitional period at the beginning of the next fiscal year. During this period, the roadway may operate at one level below the adopted LOS for two years. Development orders may still be issued, provided that the improvements necessary to elevate the LOS have been planned, funded and adopted as part of the first two-year period of the capital improvement program. Construction for these improvements, including parallel facilities or improvements, must begin in or before the second year of the transition period.
- (4) If the measured LOS is two levels below the adopted LOS, the city shall cease issuing development orders that would serve to increase the volume of traffic on the affected segment. The necessary comprehensive plan amendment shall be processed at this time.
- (a) No development orders negatively impacting the affected segment shall be issued until improvements are made to the existing roadway, or a parallel facility is constructed or improved to capture traffic from the affected segment.
  - (b) Development orders determined to have an impact on any affected segment will be those within the areas of significant influence shown on a map prepared by the lead department and approved by city council.
- (5) If the measured LOS is at "F," the city shall cease issuing development orders that would serve to increase the volume of traffic on the affected segment.

(D) A comprehensive plan amendment is required to: Change the LOS for any road segment; defer or delay construction, beyond the two-year transitional period, which is necessary to maintain or reestablish an adopted LOS.

**Subsection 4-6-4. Specific Guidelines for Traffic Concurrency Management.**

(A) *Annual LOS report:* Each year, after the annual traffic counts are completed and analyzed to peak hour/peak season, the lead department shall write a report which addresses the following in terms of the LOS for traffic circulation: (1) A listing of all roadway segments with their individual current and adopted LOS; (2) current and/or potential LOS deficiencies; (3) current CIP and potential CIP options for maintaining LOS with five-year time frame; (4) available and/or potential funding sources; (5) current inventory of traffic facilities which are intended to maintain LOS; (6) current population and five-year projection (by year); (7) comparison of previous year's building permit activity to past five years inventory; (8) potential developments, redevelopments or annexations which could have an impact on the current LOS; and (9) relationship to the goals, objectives and policies of the comprehensive plan.

(B) *Advisory board public hearing:* Each year, after the annual counts have been made and analyzed, the planning advisory board will hold a public hearing at which they discuss the current and adopted LOS for traffic circulation. The annual LOS report shall be available to the board and the public at least five (5) days before the public hearing.

- (1) If the current LOS for any roadway is below the adopted LOS, measures must be addressed by the board which either: (a) Fund the necessary improvements to reestablish the adopted LOS within a two-year transition period; (b) Adopt a lower LOS which would be consistent to the current LOS; or (c) Cease issuing development orders which negatively impact the LOS until the adopted LOS is reestablished.
- (2) The lead department shall construct a preliminary assessment of the areas surrounding the affected roadway segment. A preliminary determination of the area of significant influence surrounding the roadway segment will be made and depicted on a map. This assessment shall be transmitted to the advisory board.

(C) *Public notice for board meeting:* Preparation for the public hearing will follow the advertising and public notice procedures which are currently followed for the planning advisory board's regular meetings.

(D) *Recommendation report:* The board shall make recommendations to city council regarding the maintenance of the traffic circulation LOS. This report shall be drafted by the lead department based on the recommendations of the board.

(E) *Public notice for council meeting:* Preparation for city council's first reading and second reading/public hearing will follow the advertising and public notice procedures which are currently followed for city council's regular meetings. The lead department shall be responsible for transmitting to city council one week before the council's first reading: (1) the annual LOS report; (2) the recommendation report; (3) a summary of the public input at the board's public hearing and, if necessary; (4) the map and description of the areas of significant influence for roadway segments which are below the adopted LOS.

#### **Subsection 4-6-5. Reporting to City Council.**

(A) *City council first reading:* The lead department shall present their annual LOS report and the planning advisory board's recommendation report to city council at a public meeting in late March or as soon as possible after the board makes their findings and recommendations. The community development department and city attorney's office shall each have a representative at the public hearing to interpret the lead department's recommendations with regard to the comprehensive plan.

- (1) If the current LOS of any roadway segment is below the adopted LOS, measures must be addressed by city council which either: (a) Fund the necessary improvements to reestablish the adopted LOS within a two-year transition period; (b) adopt a lower LOS which would be consistent to the current LOS; or (c) cease

issuing development orders which negatively impact the LOS until the adopted LOS is reestablished.

- (2) At the end of the first reading, a date shall be set for a second reading/public hearing to finalize their position.

(B) *City council public hearing:* The annual LOS report and the board's recommendation report shall be presented by the lead department. At this time LOS deficiencies and mitigation options shall be discussed. Where necessary, potential changes to the CIP shall also be addressed.

- (1) If the current LOS for any roadway segment is below the adopted LOS, measures must be adopted by city council which either: (a) Fund the necessary improvements to reestablish the adopted LOS within a two-year transition period; (b) adopt a lower LOS which would be consistent to the current LOS; or (c) cease issuing development orders which negatively impact the LOS until the adopted LOS is reestablished. A comprehensive plan amendment shall be processed at this time.
- (2) At the conclusion of the public hearing, city council shall adopt an ordinance which: Adopts the recommendations of the board; adopts the recommendations of the board with additional conditions or; modifies the recommendation of the board. City council shall direct the community development department to notify the state of their actions.

## CHAPTER 5

### CONSTRUCTION AND REHABILITATION STANDARDS\*

#### **Section 5-1. Establishment of Minimum Building and Construction Standards.**

It is the intent of this section to provide for minimum standards governing the construction of dwellings, buildings and other structures within the City of Naples' jurisdiction. Such standards are necessary for the protection of the health, safety and general welfare of the citizens of Naples. It is further the intent in this section to include by reference those building or technical codes that are required to provide that protection. Copies of all referenced codes are on file in the office of the city clerk and shall be available for inspection during regular business hours.

In the implementation of this development code and any of the codes referenced below, the "most stringent code" rule shall apply.

#### **Section 5-2. Building Codes.**

As prescribed in the Code of Ordinances of the City of Naples, the following building and technical codes are adopted by reference. Unless otherwise noted, the administration of requirements of codes referenced in these sections remains with the building and zoning official.

##### **Subsection 5-2-1. Standard Building Code.**

(A) There is hereby adopted by reference the Standard Building Code, 1985 edition, published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, as the same may be amended from time to time. The Standard Building Code adopted herein is amended as provided in the following paragraph. There are hereby adopted Appendices A, B, C, D, E, F, H, I, L, M, and R of the 1985 edition of the Standard Building Code.

(B) The Standard Building Code, 1985 edition, adopted in this subsection, is hereby amended as follows. Alternate methods, signed and sealed by a professional engineer or architect, and relative to the below amendments to Sections 1302.3, 1401, 1405.1, 1701.1, and 1707.6 may be accepted by the building official.

- (1) *Appendix A, Section A101.4.2*, entitled "Inspector Qualifications," is amended to read as follows:

"The building official, with the approval of the chief appointing authority, may appoint such number of officers, inspectors, assistants, and other employees as shall be authorized from time to time. A person shall not be appointed as inspector of construction who has not had extensive experience as a building in-

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\***Cross references**—Construction of Standard Building Code, application of conflicting laws, § 2-2; board of appeals, § 3-21; code enforcement board, § 3-22; contractors examining board, § 3-23; contractor licensing, § 3-51 et seq.; building division fees, § 11-3.

spector, builder, engineer, architect, or a superintendent, foreman, or competent mechanic in charge of construction.”

- (2) *Appendix A, Section A103.2.5*, is amended by adding the following:

“Site drawings. Site plans must accompany all building plans and requests for permits. Except for one and two family dwellings, these plans must be prepared by a qualified architect or engineer, contain contour elevations, proposed drainage and first floor elevation above National Geodetic Vertical Data.”

- (3) *Appendix A, Section A103.7.4*, is hereby amended to read as follows:

“Schedule of Permit Fees. On all buildings, structures, or alterations requiring a building permit, as set forth in Section A103.7, a fee shall be paid as required at the time of filing the application in accordance with the schedule set out in Chapter 11 of this code.”

- (4) *Appendix A, Section A103.9.1*, entitled “Building Occupancy—When Required,” is amended by adding thereto the following:

“No certificate of occupancy shall be issued until all applicable city codes, regulations and departmental requirements have been met.”

- (5) *Chapter I, Section 105*, entitled “Board of Adjustments and Appeals,” is hereby deleted in its entirety.

- (6) *Chapter II, Section 202*, entitled “Definitions,” is amended by adding thereto the following:

“Residence: For the purpose of this code, a residence shall not house more than two (2) living units. Any structure constructed to house three (3) or more living units shall be considered as a commercial structure.”

- (7) *Appendix M* is amended in the following respect: In Table M2, delete the numeral “1” in the column entitled “Required Number of Reserved Spaces,” and replace the same with “0,” indicating zero. Delete reference to Table M3 and add the following language at the end of the section:

“Parking spaces shall be located so that adjacent landscaping (whether ground, shrubs or trees) will not create impediments or obstructions to the ease of loading and off-loading wheelchairs and similar equipment, nor shall such landscaping be allowed to interfere with or obstruct the safe and comfortable navigation and movement of such equipment. Curb approaches and curb cuts shall not be part of a reserved space; they shall, however, be placed as close to the reserved space as is practicable.

“All parking lots (whether now existing or hereafter constructed) used by any business, firm, or person required to be licensed to do business with the public shall be required to comply with the requirements of Appendix M, except that the

construction of building ramps, which shall not be construed to include curb cuts and approaches, shall not have retroactive application.”

(8) *Chapter XI, Section 1112.3.2*, is amended to read:

“Height of risers and width of treads shall not vary more than three-sixteenths ( $\frac{3}{16}$ ) inch in any one flight of stairs.”

(9) *Chapter XIII, Section 1302.3*, is amended by adding thereto the following:

“1302.3.3 The following minimum footings are hereby established for all buildings erected hereafter in the City of Naples.

“(a) Light frame construction—One story. Ten inches by sixteen inches continuous footing with two No. 5 reinforcing bars or on piers with sixteen-inch by sixteen-inch base with eight-inch by eight-inch riser not over eight feet on center

“(b) CBS construction—One story, to include frame with stucco, plaster or veneer. Ten inches by sixteen inches with two No. 5 reinforcing bars

“(c) Frame or CBS and frame—Two story. Twelve inches by twenty inches with three No. 5 reinforcing bars

“(d) Two story CBS. Twelve inches by twenty-four inches with three No. 5 reinforcing bars

“(e) All residential buildings of more than two units and commercial and industrial buildings. Such buildings require a registered architect or engineer who will be responsible for the design. Any structure constructed to house three (3) or more living units shall be considered as a commercial structure.

“(f) Integral slab and footing construction. Integral slab and footing construction shall have the following minimum dimensions and reinforcements: Twelve inches wide at bottom; sixteen inches below finished floor, or sixteen inches wide at bottom, twelve inches deep with three No. 5 bars; such subgrade footings shall project at least twelve inches below finished floor.

“(g) Support. All reinforcements shall be supported by wire.

“(h) Specially designed footings. All footings in areas where muck, marl, or other unstable conditions are likely to exist shall have specially designed footings by a registered architect or engineer.

“(i) One story, nonhabitable storage sheds of frame construction. Monolithic—Ten inches by fourteen inches with two No. 4 bars

“(j) “Continuous footing—Ten inches by sixteen inches with two No. 4 bars.”

(10) *Chapter XIV, Section 1401*, is amended by adding the following:

“1401.6. Tie or Perimeter Beams. Reinforced concrete tie beams around the perimeter are required in all masonry construction. In single story construction, the tie beams shall be at roof level. In multistory construction, the tie beams shall be at roof level and at each floor level above the ground floor. Width of tie beams shall equal the thickness of the wall below it. Tie beams shall be of the minimum

section and contain the minimum reinforcement for each type construction as follows:

"Width of tie beams shall equal the thickness of the wall on which poured. Depth for noncommercial construction shall be a minimum of ten inches depth and for commercial construction a minimum of twelve inches. Tie beams of ten inches depth shall contain a minimum of four No. 5 reinforcing bars and tie beams of twelve inches depth a minimum of four No. 5 reinforcing bars. Tie beams spanning wall openings over six feet for ten-inch beams and over nine feet for twelve-inch beams, or any span length supporting other than normal loads shall require increased sections and/or reinforcement. These increased sections and/or reinforcement shall be proportioned in conformance with the American Concrete Institute Building Code to carry design loads prescribed by the Standard Building Code. Increased tie beam sections to include size and placing of reinforcement shall be shown on plans submitted for obtaining the building permit.

#### MAXIMUM LENGTHS OF CLEAR SPANS OF TIE BEAMS

Typical Sizes	Number and Size of Reinforcing Bars or Equivalent Cross-Sectional Area of Total Steel			
	4 - #5 or 1.24 sq.in.	4 - #6 or 1.76 sq.in.	6 - #5 or 1.86 sq.in.	6 - #6 or 2.64 sq.in.
8" × 10"	8'3"	—	10'0"	13'3"
8" × 12"	9'0"	11'0"	11'3"	13'3"
8" × 15"	10'6"	12'3"	12'9"	15'3"
8" × 17"	—	—	—	16'0"

Note: Steel bars in table above are total number for the beam in both top and bottom and are equally divided, i.e., either two top and two bottom, or three top and three bottom. Cross-section area of round reinforced steel bars as follows:

#5—0.31 sq.in.  
#6—0.44 sq.in.  
#7—0.60 sq.in.

"Allowable clear span lengths for tie beams of section and reinforcement not listed above shall be designed by a registered architect or engineer and so indicated on the plans, or shall require approval of the building official.

"Even with adequate longitudinal steel for bending stresses in tie beams a beam seat of eight inches minimum is required."

- (11) *Chapter XIV, Section 1405*, entitled "Lateral Support," is amended by adding the following:

"(a) All commercial construction or noncommercial construction exceeding two (2) stories. Reinforced concrete pilasters are required in all masonry construc-

tion and shall be spaced not more than twelve (12) feet on centers. Minimum pilaster dimensions parallel to wall shall be sixteen (16) inches. Minimum pilaster dimension perpendicular to the wall shall equal the thickness of the wall. A minimum of four (4) No. 5 reinforcing bars shall be used as vertical reinforcement and shall extend from footing to top story tie beam.

Closed ties of No. 2 reinforcing bars on all vertical reinforcement are required and shall be placed a maximum of twelve (12) inches on centers.

Type concrete. All concrete used in tie beams and pilasters shall have a minimum compressive strength at twenty-eight (28) days of three thousand (3,000) p.s.i.

"(b) Exterior walls. All commercial construction or noncommercial construction exceeding two (2) stories, panels in masonry bearing walls shall not exceed one hundred forty-four (144) square feet of unsupported wall surface."

(12) *Chapter XIV, Section 1408.2*, is amended to read as follows:

"Where roof structures bear directly on continuous concrete tie beams, galvanized metal strap anchors of an approved design shall be used by embedding a minimum of eight (8) inches into the concrete, or hooking tightly around the bottom longitudinal reinforcing and extending a minimum of eight (8) inches above the concrete securely nailed to the roof structure."

(13) *Chapter XVII, Section 1701.1.2*, is amended to read as follows:

"All members shall be framed, anchored, tied and braced so as to develop the strength and rigidity necessary for the purposes for which they are used. All structural wood members or furring strips that are cut to permit passage of copper water pipes, thin-wall tubing, or nonmetallic electric cables shall be protected against puncture by driven nails. Such protection shall be a covering of the notch by a steel plate of at least twelve gauge thickness or approved equal which will be installed securely before the building finish is applied."

(14) *Chapter XVII, Section 1707.6.1*, entitled "Interior Nonbearing Partitions," is amended to read as follows:

"Framing for nonbearing partitions shall be of adequate size and spacing to support the finish applied thereto in accordance with the manufacturer's recommendations. (In nonbearing walls and partitions where studs are set with the long dimension parallel to the wall, such studs may be spaced not more than sixteen (16) inches on center.)"

(C) The Standard Building Code shall not be construed to repeal any portion of any ordinance relating to zoning, building, electricity, plumbing, elevators, fire prevention, gas, sanitation or health, or any matter or thing used in connection therewith. In the event that any regulation in an ordinance of the City of Naples shall relate to the same subject matter that is also regulated by the Standard Building Code but shall differ from

or conflict with the regulations of the latter, then the regulations as set forth in this code shall apply to and supersede the provisions of the Standard Building Code.

**Subsection 5-2-2. Standard Mechanical Code.**

(A) There is hereby adopted by reference the Standard Mechanical Code, 1985 edition, published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, as the same may be amended from time to time. There is also hereby adopted Appendix "A" of the 1985 edition of the Standard Mechanical Code.

(B) The Standard Mechanical Code, 1985 edition, adopted in this subsection is hereby amended as follows: Sections A105.4 and A107 of the Appendix "A" shall be deleted in their entirety.

(C) The Standard Mechanical Code, as adopted herein, shall not be construed to repeal any portion of any ordinance relating to zoning, building, electricity, plumbing, elevators, fire prevention, gas, sanitation, or health, or any matter or thing used in connection therewith. In the event that any regulations in any ordinance of the City of Naples, heretofore or hereafter adopted, shall relate to the same subject matter that is also regulated by the Standard Mechanical Code but shall differ from or conflict with the regulations of the Standard Mechanical Code, then the regulations as set forth in this code shall apply and supersede the provisions of the Standard Mechanical Code.

**Subsection 5-2-3. Standard Plumbing Code.**

(A) There is hereby adopted by reference the Standard Plumbing Code, 1985 edition, published by the Southern Building Code Congress International, Inc., Birmingham, Alabama, as the same may be amended from time to time. There are also hereby adopted Appendices A, B, C, D, E, F, G, and I of the 1985 edition of the Standard Plumbing Code.

(B) The Standard Plumbing Code, 1985 edition, adopted in this subsection is hereby amended as follows:

- (1) *Appendix A, Section A101.4.2*, entitled "Inspector Qualifications," is hereby amended to read as follows:

"The building official, with the approval of the chief appointing authority of the governing body, may appoint such number of officers, inspectors, assistants, and other employees as shall be authorized from time to time. No person shall be appointed as inspector of plumbing who has not had extensive experience as a plumbing inspector, journeyman plumber, master plumber, or competent person knowledgeable in plumbing construction."

- (2) *Chapter IV*, entitled "General Regulations," is amended by adding thereto a new section, as follows:

"Section 404.6. Depth of Piping.

"All water, gas and fuel oil or gasoline piping shall be buried a minimum of sixteen (16) inches below finished grade.

"Underground gasoline and fuel oil tanks and gas tanks shall not be placed closer than five (5) feet to any part of any building, nor shall underground gasoline and fuel oil tanks be placed closer than five (5) feet to any property line."

- (3) Chapter VIII, Section 801.4, "Grease Interceptors," is amended to read as follows:

"A grease interceptor shall be installed, and regularly maintained, in the waste line leading from sinks, drains, or other fixtures in the following establishments: Restaurants, clubs, or other establishments where grease can be introduced into the drainage system in quantities that can affect line stoppage or hinder sewage disposal."

- (4) Section 902.1, entitled "Design," is amended to read as follows:

"Each sink, regardless of type, and each bathtub shall be provided with an overflow. For each such fixture and for any other fixture which is provided with an overflow, the waste shall be so arranged that the standing water in the fixture cannot rise in the overflow when the stopper is closed or remain in the overflow when the fixture is empty."

- (5) Chapter IX, Section 910.2, entitled "Construction," is amended to read as follows:

"Floors under shower compartments shall be laid on a smooth and structurally sound base and shall be lined and made watertight with sheet lead, copper or other acceptable materials. Shower compartments located in basements, cellars or in other rooms in which the floor has been laid directly on the ground surface need not be lined if recessed a minimum of four (4) inches beneath the finished floor."

- (6) Chapter XII, Section 1210.1.1, entitled "Materials," is amended to read as follows:

"Aboveground materials for water distribution pipes and tubing shall be brass, copper water tube minimum grade "L", stainless steel water tube minimum grade "H", cast iron pressure pipe, galvanized steel, chlorinated polyvinyl chloride (CPVC) or polybutylene (PB) plastic pipe or tubing to be installed with approved fittings; except that changes in direction in copper tube (ASTM B88) may be made with bends having a radius of not less than four (4) diameters of the tube, providing that such bends are made by use of forming equipment which does not deform or create a loss in cross-sectional area of the tube."

- (7) Chapter XII, Section 1211.4, entitled "Minimum Pressure," is amended to read as follows:

"All buildings over four (4) stories in height shall provide mechanical means to ensure minimum, fairly constant water service pressure, at the point of outlet discharge of not less than 25 p.s.i. for all fixtures. In determining the minimum pressure, allowance shall be made for the pressure drop due to friction loss in the

piping system during maximum demand periods, as well as head, meter, and other losses in the system."

- (8) *Chapter XII, Section 1212*, entitled "Hot Water Distribution," is amended by adding thereto the following:

"All hot water heaters placed overhead or above first floor level shall have an approved pan with four-inch sides under them, with a minimum drain line of one inch leading to outside of building or safe waste to a fixture or floor drain. Pressure relief valves shall be piped to a safe waste or outside in such a manner as not to create a hazard. All hot water heaters shall be readily accessible for replacement or repairs."

- (9) *Chapter XII, Section 1213.7*, entitled "Safety Pans and Relief Valve Waste," *Sections 1213.7.1 and 1213.7.2*, are amended to read as follows:

"Section 1213.7.1. When water heaters or hot water storage tanks are installed in such areas that leakage could cause water damage to the building or injury to the building occupants, the tank or heater shall rest in a galvanized steel or other metal pan of equal corrosive resistance having a thickness at least equal to twenty-four (24) gauge galvanized sheet steel.

"Section 1213.7.2. Safety pans shall be no less than four (4) inches deep and shall be of sufficient size and shape to receive all drippings or condensate from the tank or heater and the discharge from the relief valve or valves. The pan shall be drained by an indirect waste pipe no less than one inch in diameter or the diameter of the outlet of the required relief valve(s), whichever is larger."

(C) The Standard Plumbing Code, as adopted herein, shall not be construed to repeal any portion of any ordinance relating to zoning, building, electricity, plumbing, elevators, fire prevention, gas, sanitation, or health, or any matter or thing used in connection therewith. In the event that any regulations in any ordinance of the City of Naples, heretofore or hereafter adopted, shall relate to the same subject matter that is also regulated by the Standard Plumbing Code but shall differ from or conflict with the regulations of the Standard Plumbing Code, then the regulations as set forth in this code shall apply and supersede the provisions of the Standard Plumbing Code.

#### **Subsection 5-2-4. National Electrical Code.**

(A) The National Electrical Code, 1987 edition, published by the National Fire Protection Association, Quincy, Massachusetts, is hereby adopted as the regulation governing installation, maintenance and construction of all electrical equipment, wiring, work and materials used in installing, maintaining, and/or extending a system of electrical wiring for light, heat or power and all appurtenances, apparatus or equipment used in connection therewith inside or attached to any buildings, structures, lot or premises within the city. It shall be unlawful to install or construct any wiring or electrical equipment in any

buildings or structures in the city in violation of regulations and standards set out in the National Electrical Code.

- (B) Special rules and regulations governing electrical wiring in the city.
- (1) Plans and specifications completely descriptive of all proposed electrical work shall be submitted to the electrical inspector at the same time application is made for a building permit. Plans shall be mechanically reproduced plans on substantial paper or cloth, drawn to scale, except that an isometric or riser diagram need not be to scale. Plans for new construction requiring a service of 400 amps or more on residential and 400 amps or more on commercial or industrial shall be prepared by, and each sheet shall bear the impress seal of, a Florida registered professional engineer and shall conform with the laws of the State of Florida. The plans shall show the size of service and maximum fault current and interrupting capacity of main and subfeeder breakers or fuses, wires and conduit, the location of service switches and center or centers of distribution, and the arrangement of circuits showing the number of outlets connected thereto. The electrical inspector shall examine all plans and if the proposed electrical work shown thereon complies with the electrical code, he shall approve the plans for permit issuance. It shall be the duty of the architect, engineer or builder to obtain meter and conduit locations from all utility companies for all types of service before construction is commenced, and to so indicate on the drawings.
  - (2) All services shall be run in galvanized, rigid, threaded conduit, except as otherwise permitted herein. Underground services may be run in approved nonmetallic raceways, a minimum of Schedule 40 or equal, encased in a concrete envelopment not less than three (3) inches thick on all sides of the raceways or multiples thereof, or direct burial shall maintain a minimum depth of twenty-four (24) inches. Underground services may be run in approved nonmetallic raceways of the heavy wall type (Schedule 80 PVC) without encasement in concrete, if encasement in concrete is provided at railroads, street or driveway crossings, and shall maintain a minimum cover of twenty-four (24) inches.
  - (3) All service masts extending through a roof or otherwise above the roof to the required ten-foot clearance shall be a minimum of two-inch galvanized or sheradized rigid conduit.
  - (4) All temporary services to be approved type switch with utility power outlet and grounded. Minimum of one 50-amp, three-wire, 220V receptacle. Minimum of one two-wire duplex receptacle with ground, weatherproof, ground fault protected.
  - (5) The master services for buildings in all commercial zone districts which permit retail sales must provide at least 100 ampere, three-wire, 120 to 240 volt single phase current for each store.
  - (6) The subfeeds to each separate unit within the buildings referenced above must provide at least a 100 ampere, three wire, 110 to 220 volt single phase current to each separate unit of space.
  - (7) No aluminum wire smaller than No. 6 will be allowed.

- (8) On all alteration work, if service and/or equipment are found without ground, the electrical contractor must install grounds as required elsewhere in this section.
- (9) Approved rigid metal conduit or surface metal raceways shall be required for light, heat and power in the wiring of apartment buildings for three families or more, in churches, schools, hotels, theaters, public buildings, commercial buildings, manufacturing establishments, except when another wiring method is specially permitted by the electrical inspector.
- (10) The use of nonmetallic sheathed cable shall be restricted to residences of no more than two (2) occupancies.
- (11) Armored cable (BX) shall not be used due to the climate conditions.
- (12) Non-metallic tubing shall be permitted as outlined in Article 331, 347 and 351 of the 1987 edition of the National Electric Code, with the following exceptions:
  - (a) ENMT shall not be used in conjunction with steel or metallic framing studs.
  - (b) ENMT shall not be embedded in concrete.
  - (c) ENMT shall not be used for direct earth burial.

**Subsection 5-2-5. Fire Prevention Code.**

(A) There is hereby adopted by reference that certain code known as the Fire Prevention Code, recommended by the National Fire Protection Association, being more particularly described as the National Fire Codes, 1985 edition, Volumes 1—8, containing the Fire Prevention Code, N.F.P.A. 1-1982.

(B) Special requirements.

- (1) New construction shall be equipped with automatic fire sprinkler systems installed according to the N.F.P.A. 13 or 13D in the following classifications of occupied structures: Assembly, educational, health care, detention and correctional, mercantile, residential, business, industrial and storage with the exception of the following:
  - (a) Those detached structures less than two hundred ten (210) square feet.
  - (b) Structures built on single family residential lots (i.e., single family house, garage, shed).
  - (c) Detached one story unenclosed covered vehicle storage areas.
- (2) The city fire department will conduct an inspection of all properties to determine what existing structures in the city may require retrofitting for a fire sprinkler system.

(C) The National Fire Code, 1985 edition, or the Fire Prevention Code, N.F.P.A. 1-1982, shall not be construed to repeal any portion of the ordinance of the City of Naples relating to fire protection. In the event that any regulation in the ordinance of the city shall relate to the same subject matter also regulated by the National Fire Code, 1985 edition, or Fire Prevention Code, N.F.P.A. 1-1982, but shall differ from or conflict with the latter, then the regulations as set forth in the ordinances of the City of Naples shall apply

and shall supersede the provisions of the National Fire Code, 1985 edition, and the Fire Prevention Code, N.F.P.A. 1-1982.

**Subsection 5-2-6. State of Florida Accessibility Code.**

The State of Florida Accessibility Code, Chapter 553, 1981 edition, is hereby adopted by reference by the city.

**Subsection 5-2-7. Life Safety Code.**

The Life Safety Code, N.F.P.A. 101, 1981 edition, is hereby adopted by reference as the life safety code of the city. Responsibility for implementation of the Life Safety Code remains with the City of Naples Fire Marshal.

**Section 5-3. Miscellaneous Requirements for Building.**

**Subsection 5-3-1. Time Limitations on Building Permits.**

(A) Building permits shall expire and become null and void if work authorized by such permit is not commenced within six (6) months from the date of the issuance of the permit, or if the work is not completed within eighteen (18) months from the date of issuance of the permit, unless a time schedule has been submitted and approved by the building official, predicated upon customary time for construction of like buildings, prior to the issuance of the building permit, indicating completion of construction in excess of eighteen (18) months, or unless the contractor furnishes the building official satisfactory evidence in writing that the delay is occasioned due to unavailability of construction supplies or materials, and every effort has been made to obtain substitute materials equal to those called for in the specifications, or due to delay in delivery of construction supplies or materials, or due to fire, weather conditions, civil commotion or strike. Increased costs of building materials or supplies or financial hardship shall not be considered by the building official as cause for continuation of the permit.

(B) If construction has commenced within six (6) months from the date of issuance of the permit, and is subsequently abandoned or suspended for reasons other than those enumerated in the above paragraph, the permit shall expire and become null and void unless good cause is shown at a hearing before the city council as to reasons for the suspension or abandonment of said project. If the council finds that good cause has been shown for the suspension or abandonment of said project, the contractor shall be allowed to continue said construction under the original permit.

(C) If the permit becomes null and void or expires, a new permit covering the proposed construction shall be obtained before proceeding with said construction in accordance with the building and zoning regulations in existence at the time application is made for a new permit.

(D) Any building permit issued prior to the effective date hereof shall expire and become null and void eighteen (18) months from the date of issuance thereof unless construction is delayed for reasons enumerated in the above paragraphs and the con-

tractor so notifies the building official in writing in accordance with the above paragraphs; provided, for any construction presently under way requiring in excess of eighteen (18) months to complete, a schedule may be submitted for approval within thirty (30) days from the effective date hereof.

**Subsection 5-3-2. Survey of Building Foundations Prior to Completion of Construction.**

(A) It is the duty of the permit holder to submit to the building official, within twenty-one (21) calendar days of the foundation inspection, a survey map depicting the foundation or pilings or similar element of the building that identifies the location of the outer walls of the building as installed and the location of such foundation or pilings, precisely dimensioned in relation to each and every relevant property line of the property upon which such structure is being constructed. The survey shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(B) Any work done within the twenty-one day calendar period and prior to the submission of a survey required hereby shall be at the permit holder's risk. The building official shall review the survey, supplemental drawing, and certification provided for hereby and approve same if all setback requirements can be met. Deficiencies or encroachments detected by such review shall be corrected by the permit holder forthwith and prior to further progression work being permitted to proceed. Failure to submit the survey, supplemental drawing, and certification required hereby or failure to make such corrections shall be cause to issue a stop-work order for the project.

(C) Fences, storage sheds, screen enclosures and similar structures as determined by the building official shall be exempt from the provisions of this subsection.

**Subsection 5-3-3. Commercial and Industrial Construction; Prerequisites as to Supervision, Performance and Permits.**

All commercial or industrial construction in the city limits of Naples, Florida, shall be performed and supervised by a licensed general building contractor. No permit shall be issued by the building department for any commercial or industrial construction, unless the plans have been drawn or approved by a registered architect or civil engineer.

**Subsection 5-3-4. Unlicensed Builders, Permit Restrictions; Liability Insurance Required of Owner Constructing Residence; Seeking Permit by Agent.**

(A) No permit shall be issued by the building department to an unlicensed builder for the construction of more than one (1) residence which shall be under one (1) ownership during the period of a calendar year.

(B) All owners constructing their own residence shall carry public liability insurance as required for general contractors and shall file a certificate of insurance with the city building department.

(C) Whenever a licensed builder or contractor desires to designate an agent to apply for and receive a building permit, said designation shall be by power of attorney, and a separate power of attorney shall be required for each specific project or permit request.

**Subsection 5-3-5. Sidewalk and Driveway Plans Attached to Application Prerequisite to Issuance of Building Permit.**

No building permit shall be issued for any building in the city unless there is attached to the application for such building permit a plot plan showing location of driveways, sidewalks, if required by ordinance, and parking strip.

**Subsection 5-3-6. Subdivision Developers Exempt from Permit Fees for Certain Work.**

No building permit fee shall be charged by the city building department to any developer of subdivisions for any work done in connection with street improvements, water lines, or other public improvements that will revert to the city upon completion of the project.

**Subsection 5-3-7. Minimum Distance Between Floors and Crown of Street.**

No building permit for a house shall be issued unless the plans show that the finished floor is a minimum of eighteen (18) inches above the crown of the finished street, or the elevation and design of the structural members meets the minimum requirements of the federal flood insurance program, whichever is greater.

**Subsection 5-3-8. Storage Tanks for Flammable Liquids.**

(A) Any application for a permit to install a storage tank for flammable liquids shall be referred to the city fire marshal for his review and recommendation. The approval of the building administrator and the city manager shall be required prior to the issuance of any such permit.

(B) Such tank shall be installed in accordance with the National Fire Protection Association Codes and Standards, Volume No. 3., and the State Fire Marshal's Rules and Regulations, as may be amended from time to time.

(C) The total capacity for the storage of flammable liquids in underground tanks shall be limited to thirty-two thousand (32,000) gallons at any one filling station or service station location.

**Section 5-4. Housing Code.**

**Subsection 5-4-1. General Provisions.**

(A) *Buildings affected.* Every portion of a building or premises used or intended to be used as a dwelling shall comply with the provisions of this section irrespective of when such building shall have been constructed, altered or repaired; and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building

or premises, for the construction or repair of the building or for the installation or repair of equipment or facilities prior to the effective date of this section.

(B) *Conflicts resolved; provision for higher standard to prevail.* In any case where a provision of this section is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or other code provision of this city existing on the effective date of this section, the provision which establishes the higher standard for the promotion and protection for the health and safety of the people shall prevail. In any case, when a provision of this section is found to be in conflict with a provision of any other ordinance or code provision of this city existing on the effective date of this section, and such provision in conflict with this housing code establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this housing code shall be deemed to prevail and such other ordinances or code provision providing such lower standard are hereby declared to be repealed to the extent that may be found in conflict with this housing code and to be repealed to the extent necessary to give this housing code full force and effect.

(C) *Occupancy prohibited in noncomplying/noncertified dwellings.* No owner or operator shall occupy or let to another for occupancy any dwelling, dwelling unit or rooming unit which does not comply with the provisions of this section. No person shall occupy as owner-occupant or let to another for occupancy, any vacant dwelling, dwelling unit, apartment or any space designated or intended to be used for the purpose of living, sleeping, cooking, or eating therein which does not comply with the requirements of this code and for which a valid certificate of occupancy has not been issued.

(D) *Penalty for violation of section.* Penalty for failure to comply with an order issued under the provisions of this section shall be subject to penalty as provided in Chapter 3 of this code.

#### **Subsection 5-4-2. Definitions.**

For the purpose of this section, the following terms, words, phrases and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit" and "premises" are used in this section, they shall be construed as though they were followed by the words "or any part thereof."

*Agent:* A representative of an owner who performs services for the owner with respect to the management or maintenance of real estate of the owner.

*Basement:* A portion of a dwelling located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

*Building code:* The Standard Building Code, as adopted by the City of Naples.

*Cellar:* A portion of any dwelling having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

*City:* The City of Naples, Florida.

*Dwelling, single family:* A detached residential dwelling unit, other than a mobile home or temporary housing, designed for or occupied by one (1) family only.

*Dwelling, two-family:* A detached residential structure containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

*Dwelling, multiple family:* A residential structure designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

*Dwelling unit:* One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or 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, and containing independent living, sleeping, cooking and eating facilities.

*Enforcing official:* The city manager or his delegate is the enforcing official.

*Extermination:* The control and elimination of insects, rodents, or other pests by eliminating their harborage places by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination method approved by the enforcing official.

*Family:* One or more persons occupying a single dwelling unit as a single, nonprofit, housekeeping unit, provided that unless all members are related by blood or marriage, no such family shall contain over five (5) persons.

*Garbage:* The animal and vegetable waste resulting from the handling, preparation and cooking of food.

*Habitable room:* A room or enclosed space used or intended to be used for living, sleeping, cooking or eating purposes excluding bathrooms, water closet compartments, laundries, foyers, communicating corridors, stairways, closets and storage space.

*Infestation:* The presence, within or around a dwelling, of any insects, rodents or other pests.

*Kitchen:* A habitable space, forty (40) square feet or more in floor area, with a minimum horizontal dimension of five (5) feet, provided with a kitchen sink and adequate space and utility connections for cooking and refrigeration equipment, and used for cooking, food preparation and storage of food.

*Kitchenette:* Space less than forty (40) square feet in area, provided with the same facilities as required for a kitchen and used for cooking, food preparation and storage of food.

*Occupant:* Any person, including an owner or operator, living and sleeping in a dwelling unit or rooming unit.

*Openable area:* The part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

*Operator:* Any person having charge, care, management or control of any dwelling or part of it in which dwelling units or rooming units are let.

*Owner:* Any person who, alone, jointly or severally with others, holds legal or equitable title to any dwelling, rooming house, dwelling unit or rooming unit.

*Person:* Any individual, or any entity, partnership, association, corporation, company or organization of any kind.

*Plumbing:* Water heating facilities, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and other supplied fixtures, together with all connections to water or sewer lines.

*Premises:* A lot, plot or parcel of land, including the buildings and structures thereon.

*Rooming house:* Any dwelling or that part thereof containing one (1) or more rooming units.

*Rooming unit:* Any room or group of rooms forming a single unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and which is let.

*Rubbish:* Combustible and noncombustible waste materials except garbage.

*Supplied:* Installed, furnished or provided by the owner or operator at his expense.

*Temporary housing:* A tent, trailer or other structure used for human shelter which is designed to be transportable and is not attached to the ground, to another structure or to any utilities system on the same premises for more than three (3) days in any sixty-day period.

*Yard:* All ground, lawn, court, walk, driveway or other open space constituting part of the same premises as a dwelling.

#### **Subsection 5-4-3. Enforcing Official—Designation; Powers and Duties.**

(A) The city manager or official of the city designated by the city manager shall be the enforcing official. The enforcing official shall be charged with the duty of administering the applicable housing standards and securing compliance therewith. In furtherance of this responsibility, the enforcing official shall:

- (1) Make such inspections as may be necessary to effectuate the purposes and intent of this housing code and to initiate appropriate action to bring about compliance with this section, if such inspections disclose any instances of noncompliance.

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- (2) Investigate thoroughly complaints of alleged housing violations or other unsafe or unsanitary conditions and to indicate clearly in writing as a public record in his office the disposition made of such complaints. Only matters or conditions pertinent to the housing code of the City of Naples shall be considered or reported by the enforcing official in his inspection record.
- (3) Order in writing as set out below the remedying of all conditions in violation of this section found to exist in or on any premises; state in the violation order a reasonable time limit for compliance therewith, and where necessary, order the vacating of premises found unfit for human habitation.
- (4) Request the city attorney to take appropriate legal action upon failure of the responsible party to comply with such violation order in the time specified therein.
- (5) Cooperate in studies of housing conditions in the city and to report at regular intervals to the city manager evidences of compliance and noncompliance with this section.

(B) The enforcing officer or his agent is authorized and directed to enter and inspect dwellings, dwelling units, rooming houses and rooming units at reasonable times during business hours to determine their condition in order to safeguard the health, safety and welfare of the public or upon receipt of complaints or when he has cause to believe a violation of this housing code exists. Written notice stating intent to inspect shall be issued at least seventy-two (72) hours before inspection. The owner or occupant of every dwelling, dwelling unit, rooming house, or rooming unit or the person in charge thereof shall give the enforcing officer free access for purposes of inspection.

(C) Whenever the enforcing official determines that a violation of this housing code exists, he shall take action as follows:

- (1) Give written notice of the violation to the person or persons responsible therefor. Copies of such written notice shall be transmitted to the city manager and city attorney.
- (2) The notice shall include:
  - (a) A description of the location of the structure involved, either by street address or legal description;
  - (b) A statement indicating the nature of the violation and the reason or reasons why the notice of violation is issued;
  - (c) A specification of the section or sections of this section upon which the notice of violation is based;
  - (d) If repairs or alterations will bring the structure into compliance with this section, a statement of the nature and extent of such repairs or alterations necessary to comply with this section;
  - (e) If repairs or alterations are necessary for compliance, a specification of time for performing such repairs, such time not to be less than ten (10) or more than ninety (90) days;

- (f) If the violation is of such character that repairs or alterations cannot bring the structure into compliance, a statement of this effect and an order for vacating of the premises indicating fully the reasons therefor;
  - (g) The name or names of persons upon whom the notice of violation is served as stated in (3) of this section;
  - (h) A statement advising that upon the owner's failure to comply with the notice, the city may perform or cause to be performed the repairs, alterations, demolition or vacation of the premises involved and that the expense of such performance by the city shall be and the same shall constitute a lien against the property involved;
  - (i) A statement advising of the procedures available for review of the action of the enforcing official as set out in this section.
- (3) The written notice of violation referred to in (1) and (2) above shall in all cases be served upon the owner or his agent or the operator, as well as upon the occupant of the premises, if the premises are not occupied by the owner. Such service shall be deemed complete if personally delivered and if the same cannot be delivered personally within the city, then service shall be deemed complete upon sending same by certified mail, return receipt requested, to the last known address of the owner as shown on the tax rolls of the city, and by posting a copy of such notice in a conspicuous place on the premises.
  - (4) The enforcing official shall endorse on the copies of the written notice forwarded to the city manager, the city attorney, and the affected departments of the city the manner of service of the notice or notices as is hereby required.
  - (5) When any written notice of violation shall become an order, either because no petition for review of the decision of the enforcing official has been taken or because such petition for review has been taken and the decision of the enforcing official has not been reversed, then such order shall be executed by the enforcing official.
  - (6) Said notice shall be served on the owner or his agent not less than five (5) days prior to the date set for the hearing in the same manner as set forth in this section.

**Subsection 5-4.4. General Requirements for Structures.**

(A) *Installation and maintenance of supplied facilities.* Every supplied facility, equipment or utility which is required under this section shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(B) *Foundations and structural members.* Foundation and structural members shall provide a safe, firm and substantial base and support for the structure.

(C) *Horizontals.* No floor, ceiling, roof, beam or other essentially horizontal component of a building shall sag in excess of two (2) percent of its span.

(D) *Verticals.* No wall or other vertical structural member shall list, lean or buckle to such an extent that a plumb line passing through the center of the topmost portion or level of such wall or structure falls outside the middle half of its base; provided that the enforcing official may waive this requirement, if, in his opinion, the building is not rendered unsafe or dangerous to its occupants.

(E) *Exterior walls.* Exterior walls shall be reasonably free from all cracks or holes through which rodents, insects or the weather elements can enter the building, and all exterior surfacing material shall be kept securely fastened and in place.

(F) *Interior walls and ceilings.* Each interior wall or ceiling shall be structurally sound.

(G) *Floors.* All floors shall be structurally sound, reasonably level and free of holes and cracks which would permit the entrance of weather elements or rodents.

(H) *Openings.* All windows, doors and openings to the outside shall be so constructed and maintained in such a condition as to exclude weather elements, rodents and insects from entering the building.

(I) *Roof.* The roof shall be constructed and maintained so as not to leak.

(J) *Stairways, steps and porches.* Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair. Railings shall be provided on open portions of stairs, balconies, landings and stairwells.

(K) *Accessory buildings.* Accessory buildings and other appurtenances, situated on the same premises with a dwelling or used as an accessory to any living unit, or any other structure, used in any part for human habitation, shall be kept in good condition and in a good state of repair in accordance with the provisions of this article.

(L) *Mechanical or electrical installations.* Water heaters, furnaces, electrical distribution panels and other critical mechanical or electrical installations shall be prohibited below the first floor level.

#### **Subsection 5-4-5. Requirements for Premises—Habitable Rooms.**

(A) *Dwellings and dwelling units.* Every dwelling unit shall contain at least one hundred fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable floor area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.

(B) *Drainage and pest control.* All yards and premises shall be maintained so as to prevent the harborage or breeding of insects, rodents or vermin; and yards and premises appurtenant to a dwelling, dwelling unit, rooming house or rooming unit shall be sloped

or graded so as to provide for disposal of surface water and to prevent the accumulation of surface water on the premises to such extent as may be reasonably possible.

(C) *Habitable rooms, floor area.* Every habitable room, except a kitchen or kitchenette, shall contain at least seventy (70) square feet of floor area.

(D) *Sleeping room space requirements.* In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(E) *Sleeping use restrictions.* Every habitable room used for sleeping purposes shall have a minimum width of seven (7) feet. No room that is not a habitable room shall be used for sleeping purposes.

(F) *Cellars.* No cellar space shall be used as a dwelling unit or habitable room.

(G) *Basements.* Basements may be used as habitable rooms provided that:

- (1) The floor and walls are substantially watertight.
- (2) The total window area, total openable area and ceiling height are equal to those required for habitable rooms.
- (3) The required minimum area of every habitable room is entirely above the grade adjoining such window area, not including stairwells and access ways.

(H) *Subdivision of habitable rooms.* No habitable rooms shall be divided in any manner into space intended for living, sleeping, eating or cooking purposes by a permanent partition of any type above four (4) feet in height, unless each such subdivided part complies with the requirements for a habitable room.

(I) *Minimum height.* Every habitable room shall be not less than seven (7) feet in height from the floor to the ceiling throughout one-half the area of such room. Any portion of a room having a ceiling height of less than seven (7) feet shall not be considered in computing the total floor space for a habitable room.

(J) *Information required upon request.* Every owner or landlord of residential property shall be required to furnish to the City of Naples upon written request from the city manager and within ten (10) days, the following information to be submitted in writing under oath:

- (1) The number of occupants residing in each dwelling unit;
- (2) The number of square feet of habitable floor area in each dwelling unit.

#### **Subsection 5-4-6. Requirements for Artificial Lighting.**

(A) *Electric connections required.* Every dwelling, dwelling unit, rooming house or rooming unit shall be properly connected to and wired for electric power.

(B) *Outlets and fixtures for habitable rooms.* Every habitable room shall contain at least two (2) floor type or wall type double convenience electrical outlets located on different walls, or one such convenience electrical outlet and one supplied ceiling-type electric light fixture.

(C) *Outlets and fixtures for other areas.* Every water closet compartment, bathroom, laundry room, furnace room, and hall shall contain at least one supplied ceiling type or wall type electric light fixture.

(D) *Installation and maintenance.* Every electrical outlet and all fixtures, whether supplied by owner or operator or furnished by occupant, shall be properly installed and maintained in safe working condition.

(E) *Illumination, in general.* All habitable rooms, toilets, bathrooms and other rooms used at night shall be supplied with at least one electrical light fixture.

(F) *Common areas.* All halls, corridors, stairways, lobbies, foyers and other common or public areas used, or intended to be used, by more than one family, or by one family and some other person or persons, shall have supplied electric light fixtures providing three (3) foot candles of artificial or artificial and natural illumination over the entire useable floor area and stairway area and so illuminated at all times, except that in a two-family dwelling an adequate lighting system which may be turned on when needed for shared areas by conveniently located light switches, available to the occupant of either unit, shall be permitted.

#### **Subsection 5-4-7. Requirements for Ventilation and Natural Lighting.**

(A) *Lighting and ventilating.* Every habitable room shall have at least one window skylight opening directly to the outdoors which can be easily opened, or some other device such as forced air blowers or air conditioning facilities in the building which will adequately light and ventilate the room.

(B) *Minimum total window area.* Except where forced air blowers or air conditioning facilities which will adequately ventilate the rooms are used, the minimum total window area for every habitable room shall be at least ten (10) percent of the total floor area of such room; if the only window in a room is of the skylight type, the minimum total window area shall be fifteen (15) percent of the total floor area of such room, except where other adequate means of artificial lighting are provided. A window facing a wall or any abutting structure within three (3) feet of such window, or opening into a room other than an unenclosed porch shall not be counted in computing the required window area.

(C) *Minimum total openable window area.* The minimum total openable window area in every habitable room shall be equal to forty-five (45) percent of the minimum total window area as required in this section.

(D) *Bathrooms and water closets.* Every bathroom or water closet room shall have ventilation equal to at least an opening of three (3) square feet or such other device as would adequately ventilate the room.

(E) *Ventilation of common areas.* Common hallways and stairways in two-family dwellings, multifamily dwelling or rooming houses shall be adequately ventilated.

**Subsection 5-4-8. Requirements for Heating and Cooking Installation.**

(A) *Adequacy of heating facilities.* Every dwelling, dwelling unit, rooming house or rooming unit shall have heating facilities which are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments within its walls to a temperature of at least sixty-five (65) degrees Fahrenheit.

(B) *Care, use and operation of heating facilities.* Every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall be responsible for the exercise of reasonable care, proper use and proper operation of heating facilities.

(C) *Installation, maintenance and operation.* Every heating, cooking, and water heating device located or installed in a dwelling, dwelling unit, rooming house or rooming unit shall be so installed, maintained and operated as to be free from fire, health and accident hazards.

(D) *Chimneys and flues constructions and maintenance.* Every chimney and flue and every supplied smoke or vent pipe shall be adequately supported, reasonably clean, and maintained in a reasonably good state of repair, free from cracks or openings which would permit leakage of gases within the dwelling, dwelling unit, rooming house or rooming unit.

(E) *Equipment burning solid fuels.* All heating and cooking equipment burning solid fuel shall be rigidly connected to a chimney or approved flue.

(F) *Proximity to combustible materials.* Where heat producing equipment is installed on or adjacent to combustible materials, the location, insulation, clearance, and the control of the equipment shall be such that the temperature on the surface of the combustible materials will not exceed a safe temperature.

(G) *Equipment burning liquefied petroleum or gaseous fuels.* Heating and cooking equipment burning liquefied petroleum or gaseous fuels shall conform to the regulations entitled, Installation of Consumers Gas Piping and Gas Appliances, National Fire Protection Association, pamphlet No. 54.

(H) *Equipment burning oil or kerosene.* Heating or cooking equipment burning oil or kerosene shall conform to the regulations established in the Fire Prevention Code, 1965 edition, prepared by the American Insurance Association, successor to the National Board of Fire Underwriters, and the requirements of the Installation of Oil Burning Equipment, National Board of Fire Underwriters, pamphlet No. 31.

(I) *Portable equipment.* Portable heating equipment employing a flame and portable heating equipment using gasoline or kerosene do not meet the standards of this housing code and are prohibited.

**Subsection 5-4-9. Requirements for Plumbing.**

(A) *Water supply.* Every dwelling, dwelling unit and rooming house shall be supplied with connections to and piped for running water drawn from a source approved by the state board of health and sufficient in quantity and pressure to provide an adequate, safe, and sanitary water supply to every fixture connected with the water supply.

(B) *Plumbing fixtures.*

- (1) Dwellings and dwelling units. Each dwelling or dwelling unit shall contain not less than one kitchen sink, one bathroom lavatory basin, one bathtub or shower bath, and one flush water closet.
- (2) Rooming houses. There shall be at least one flush water closet, one bathroom lavatory basin, and one bathtub or shower bath within every rooming house for each eight (8) persons or fraction thereof, including members of the operator's family whenever they share the use of these facilities, except that in a rooming house where rooming units are let only to males, flush urinals may be substituted for not more than one-half ( $\frac{1}{2}$ ) the required number of flush water closets.

(C) *Water connections.*

- (1) Sinks, basins, bathtubs and showers. Every kitchen sink, bathroom lavatory basin, and bathtub or shower bath required under this housing code shall be properly connected with hot water and cold water supply lines.
- (2) Hot water facilities. Hot water heating facilities shall be installed to supply hot water to every kitchen sink, bathroom lavatory basin and bathtub or shower bath required under this housing code, and such hot water heating facilities shall be installed, maintained, and operated at all times so as to be free from fire, health, and accident hazards.

(D) *Sewerage.*

- (1) Connections. All plumbing fixtures required by this housing code shall be properly connected to the city sanitary sewer system or to some other sewage disposal system approved by the state board of health.
- (2) Facilities prohibited. Water closets outside the dwelling and privies are hereby declared to be a public nuisance and shall be eliminated.

(E) *Privacy.* Every flush water closet, flush urinal, bathroom lavatory basin, and bathtub or shower bath shall be so located as to provide accessibility and privacy for use.

(F) *Floors.* Every bathroom, flush water closet room and shower room floor shall be so constructed or surfaced as to be reasonably impervious to water and capable of being kept in a clean and sanitary condition at all times.

**Subsection 5-4-10. Requirements for Cooking and Refrigeration.**

(A) *Mechanical or ice refrigeration required.* Every dwelling unit shall be supplied with either a mechanical or ice refrigerator in clean, sanitary and proper working condition and having a minimum capacity of four (4) cubic feet for food storage or shall have

adequate space provided and proper utility connections supplied so the occupant can install his own refrigeration unit.

(B) *Gas refrigeration; thermostat.* All gas refrigeration units shall be equipped with a thermostatically controlled valve which automatically shuts off the supply of gas if the flame is extinguished.

(C) *Cooking.*

- (1) Dwelling units, requirements. Every dwelling unit shall have supplied cooking facilities or shall have supplied appropriate space and utility connections for the installation of cooking equipment thereon by the occupant.
- (2) Construction, installation and maintenance. Every piece of cooking equipment shall be so constructed, installed and maintained that it will function safely and effectively.
- (3) Prohibition of portable and gasoline units. Within a dwelling, dwelling unit, or rooming house, portable cooking equipment employing flame is prohibited, and the use of gasoline as fuel for cooking is prohibited.
- (4) Rooming units, prohibition. The cooking of food in rooming units is prohibited.

**Subsection 5-4-11. Requirements for Garbage and Trash.**

(A) *Garbage.* Every dwelling, dwelling unit and rooming house shall have adequate garbage storage facilities which shall comply with existing city ordinances.

(B) *Trash.* Facilities for the storage of trash and rubbish shall comply with existing city ordinances.

**Subsection 5-4-12. Requirements for Screening.**

(A) *Screens or screen doors required.* All openings to the outdoors used or intended to be used for ventilation except forced air exhaust systems with self-closing devices, shall be supplied with screens or screen doors.

(B) *Standards for screening material.* Screening material shall be sixteen (16) mesh or finer and shall be installed and maintained free from loose frames or edges and breaks or tears.

(C) *Standards for window screens.* Window screens shall be provided with properly fitted frames which may be removed from the window opening and may be securely latched from the inside.

**Subsection 5-4-13. Responsibilities of Owners, Operators and Occupants.**

(A) *Owners and operators.* In addition to the responsibilities specified or implied in other subsections of this section, each owner and operator of any dwelling, dwelling unit, rooming house or rooming unit shall comply with the following responsibilities:

- (1) Every owner or operator of a dwelling containing two (2) or more dwelling units or of a rooming house shall be responsible for maintaining in a clean and sanitary

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condition the shared or public areas of the dwelling or rooming house and its premises.

- (2) Whenever infestation is caused by failure of the owner or operator to maintain a dwelling, dwelling unit, rooming house or rooming unit in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner or operator.
- (3) Every owner or operator shall advise the occupant in writing either by insertion in the lease between the parties or otherwise of the maximum number of occupants permitted in the premises under this section.

(B) *Occupants.* In addition to the responsibilities specified or implied in other subsections of this section, each occupant of a dwelling, dwelling unit, rooming house or rooming unit shall comply with the following responsibilities:

- (1) Every occupant of a dwelling, dwelling unit or rooming house shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit or rooming house and premises thereof which he occupies or controls and shall be responsible for his own misuse of areas and facilities available in common.
- (2) The occupant of every dwelling, dwelling unit or rooming house shall be responsible for the storage of garbage in a clean and sanitary manner by placing it in the facilities required by this section.
- (3) Except as provided above, every occupant of a dwelling shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises and every occupant of a dwelling unit in a multiple dwelling shall be responsible for such extermination whenever his dwelling unit is the only one infested.
- (4) Every occupant of a dwelling or dwelling unit shall keep all plumbing fixtures in a clean and sanitary condition and every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall be responsible for the exercise of reasonable care in the operation of all plumbing fixtures therein.
- (5) Every occupant of a dwelling, dwelling unit, rooming house or rooming unit which is let or rented from another shall be responsible for the exercise of reasonable care and the proper use of the dwelling, dwelling unit, rooming house or rooming unit and its component parts, supplied facilities, equipment and furnishings and fixtures.

(C) *Contracts.* A contract effective as between owner and operator, operator and occupant, or owner and occupant, with regard to compliance hereunder shall not relieve any party of his direct responsibility under this section.

(D) *Access for repairs.* Every occupant of a dwelling, dwelling unit or rooming unit shall grant to the owner or operator thereof, or his agent or employees, or any person with whom the enforcing official has contracted for repairs under this article, free access to it at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this section.

**Subsection 5-4.14. Dwellings Unfit for Human Occupancy.**

(A) *Designated.* Under this section and under other applicable ordinances of the City of Naples, any dwelling or dwelling unit which shall be found to have any of the following defects may be condemned as unfit for human habitation and may be so designated and placarded by the enforcing official:

- (1) One which is so damaged, decayed, dilapidated, unsanitary or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.
- (2) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health and safety of the occupants or the public.
- (3) One which because of its general condition or location is unsanitary or otherwise dangerous to the health or safety of the occupants or to the public.
- (4) One where the owner or occupant has failed to comply with a notice or notices from the enforcing official issued and served in accordance with subsection 5-4-3(C) and the time allowed therein within which to request a hearing before the appeals board has expired.

(B) *Vacating condemned units.* Any dwelling, dwelling unit, rooming house or rooming unit condemned as unfit for human habitation, and so designated by the enforcing official, shall be vacated within a reasonable time, which shall not be less than ten (10) days, as ordered by the enforcing official.

(C) *Re-occupancy of condemned unit.* No dwelling, dwelling unit, rooming house, or rooming unit which has been condemned and placarded as unfit for human habitation shall again be used for human occupancy until written approval is secured from and such placard is removed by the enforcing official. The enforcing official shall remove the placard whenever the defects upon which the condemnation and placarding action were based have been eliminated. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in this section.

(D) *Hearings on condemned units.* Any person affected by any notice or order relating to the condemning and placarding of a dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter before the appeals board under the procedure set forth in section 3-21 of this code.

(E) *Emergency cases.* In cases where it reasonably appears that there is imminent peril to life and health of persons because of the violation of the provisions of this section, the enforcing official shall immediately notify the appeals board in writing of the facts and circumstances involved, and if the said board concurs that there are such conditions existing that constitute imminent peril to life and health, then the enforcing official shall immediately cause the repair, vacation or demolition of the dwelling unit. No lien may be assessed against the property as a result of work performed by the city or caused to be performed by the city pursuant to the emergency provision.

**Section 5-5. Transportation Systems.****Subsection 5-5-1. Roads.**

Although thoroughfares such as, but not limited to, streets, avenues and lanes shall have a minimum width of sixty (60) feet and no such thoroughfare shall be approved of less than such width; provided, however, that the city council may require a greater width in its discretion.

**Subsection 5-5-2. Standard Street Specifications.****(A) General specifications.**

- (1) Except as herein modified, the following sections of the Standard Specifications of the Florida State Road Department, 1959, are hereby adopted:

Section 504: Base Materials

Section 200: Prime Coat

Section 210: Bituminous Surface Treatment

Section 234: Asphaltic Concrete Surface Courses (Alternate Section 233)

Pavement widths and cross sections.

In general, all arterial pavements, not curbed, shall be not less than twenty-four (24) feet. All curb and gutter sections shall not be less than thirty-two (32) feet from face to face of curb, except where a curb return is placed for a side street. All other pavements shall be not less than eighteen (18) feet. Pavement crowns shall be parabolic and shall have a total fall, from crown to edge, of not less than three-eighths ( $\frac{3}{8}$ ) inch per foot.

- (2) **Clean-up.** Upon completion of any paving project, the shoulders, ditches, slopes and grade shall be dressed to the typical cross section. Any debris shall be burned or other disposition made in an approved manner. All spilled bituminous material shall be cleaned up and the entire roadway left in a neat and acceptable condition. Loose or excess cover material shall be broomed from the roadway to prevent interference with free run-off of surface water.

**(B) Specifications.**

- (1) **Clearing and grubbing.** Before beginning any grading operation, all trees, stumps, major roots and other debris shall be cleared for the entire right-of-way, except that live and desirable trees may be left where there will be no interference with paving, ditches, or utility installations, either overhead or underground.

All stumps and major roots shall be removed to a depth of not less than two (2) feet below the surface of the proposed pavement. Stump holes shall be filled with clean sand prior to general grading to assure maximum compaction during construction.

Debris shall be burned on, or hauled from, the site. In no event will such debris be permitted to remain on adjacent property, either with or without permission of the property owner.

- (2) *Grading.* Prior to any paving operation, the street shall be rough graded to the approximate cross section for the entire width of the street, so that a minimum amount of materials need to be shifted in final dressing. If such rough grading is part of the paving contract, a price per cubic yard or per lineal foot of street will be set up in the contract. When such contract price is on a cubic yard basis, the quantity moved will be calculated by the average end area method based on original and final cross sections. Final cross sections shall be taken on completion of the final dressing. Payment will be made for excavation only. In calculating final grading quantities, allowance will be made for materials removed for subgrade in cut sections only. Excavation shall be used to make required fill. Where such excavation is in excess of the required fill, all excess materials will be wasted in areas designated by the engineer, within a free haul limit of three thousand (3,000) feet unless otherwise provided in the contract. If required fill is in excess of the required excavation, borrow areas shall be provided, by the owner, within the free haul limit or a separate price shall be established for hauled fill. Any unsuitable subgrade material shall be removed and replaced with suitable material. Such removal and replacement shall be considered an extra item unless set up in the contract.
- (3) *Subgrading.* After the rough grading has been performed as specified, either in this or a previous contract, the subgrade shall be prepared true to line and cross section so that base material shall meet the required thickness when compacted and shaped to the approved grade and cross section. Special care shall be taken to insure full thickness of the base for the entire width of the pavement. Subgrade shall be prepared sufficiently in advance to permit checking by the engineer. The contractor shall be solely responsible for compaction of the subgrade and no allowance for extra base material shall be made where settlement of subgrade occurs.
- (4) *Base courses.* Type 1 shall be eight (8) inches of compacted material, as hereinafter specified, and shall be used on all arterial or through streets as determined by the city council, and on all streets in industrial and commercial zones. Type 2 shall be six (6) inches of compacted material, as hereinafter specified and shall be the minimum requirement for streets serving, generally, limited or local area traffic.
- (5) *Surface courses.* Type "A" shall be asphaltic concrete conforming with Florida Specifications, section 233 or 234, and shall not be less than one and one-fourth (1¼) inches when properly compacted. Type "B" shall be double application surface treatment, Type 1-B, Florida Specifications. Type "C" shall be single application surface treatment, Class 1-B, Florida Specifications. Surface courses, Type "A" shall be used on all eight (8) inch bases. Type "B" on six-inch bases, where all sanitary and storm drainage installations are in place. Type "C" shall apply where, as determined by the city council, the surface is of a temporary nature, pending installations of sanitary or storm sewers or other underground utilities.
- (6) *Construction of base courses.* After subgrade has been prepared, as specified, base course material meeting Florida Specifications, Section 504, shall be spread and

finished in conformance with the following: Material. The contractor or supplier shall, when required, furnish certified test reports from a recognized testing laboratory, giving physical and chemical analysis of the base material and shall designate the source of the materials proposed for use. During the course of construction the city may require additional tests if any visible variation occurs. The contractor shall not change such source of material without the written consent of the city.

- (7) *Spreading.* No base material shall be dumped directly on the subgrade except at the beginning of the work or where it is impractical to dump on previously spread material. If necessary to travel over the prepared subgrade prior to or during laying of the base course, sufficient labor and/or equipment shall be available to fill any ruts or to level any unevenness resulting from such travel, sufficiently in advance of spreading base material to permit proper inspection.
- (8) *Compaction.* Six-inch base material shall be deposited in one layer and shall be compacted with a three-wheel power roller having a gross weight of not less than five (5) tons and a wheel weight of not less than one hundred thirty (130) pounds per inch of total wheel width. Eight-inch base course may be spread and compacted in two (2) layers of five (5) inches and three (3) inches each, using a five (5) ton, three-wheeled roller as above, or may be spread in one layer using a three-wheeled roller having a gross weight of not less than seven (7) tons with a weight of one hundred eighty (180) pounds per inch of total wheel width. After the base material has been placed as required, the material shall be compacted by blading, scarifying, wetting and rolling until an approved density has been reached. Where eight-inch base is placed in two (2) courses, scarifying shall be to a depth of not less than four (4) inches on the final course to avoid lamination in the finished base. The operation described above shall result in a uniformly bonded surface, free from scabs or lamination. Should such scabs or lamination occur, the base shall be re-scarified and re-worked until the condition is corrected.
- (9) *Checking.* Prior to application of any bituminous materials, the base shall be checked for grade, cross section and thickness. Where excessive deviations occur, the base shall be reworked by scarifying, adding additional materials, blading, rolling and rebonding until such unsatisfactory condition is corrected. In general: Deficiency in thickness shall be interpreted as anything in excess of one-fourth ( $\frac{1}{4}$ ) inch for the entire work or of one-half ( $\frac{1}{2}$ ) inch in isolated or limited areas. Deviations from straight edge laid parallel with the center line or from cross section template shall not be more than one-thirty-second ( $\frac{1}{32}$ ) inch per foot from point to point of contact. Deviation from grade shall not exceed .05 foot and in no case shall such deviation vary from one extreme to the other within less than one hundred (100) feet from low to high.
- (10) *Testing.* The cost of boring, sampling and testing shall be considered a part of, and shall be included in, the unit price for pavement in place.
- (11) *Other base types.* Portland cement stabilized or bituminous place mixed base course will be considered upon submission of engineering design and specifications.

- (12) *Priming.* After the base has been prepared and approved in accordance with foregoing specifications, a prime coat of cut-back asphalt, grade RC-1S, shall be applied at the rate of not less than 0.1 gallon or more than 0.15 gallon per square yard. In the event additional prime should be required, extra material will be paid for at the delivered price per gallon. Prior to application of prime coat, the base shall be cleaned by brooming or other approved method, until free from objectionable sand, dust or foreign material. The surface shall be brought to as approved moisture content by wetting (or if too wet, permitted to dry). No prime shall be applied until the air temperature is at least sixty-five (65) degrees Fahrenheit and is rising and shall not be applied when the air temperature is seventy (70) degrees Fahrenheit and falling. Prime shall be heated and applied at one hundred (100) degrees to one hundred fifty (150) degrees Fahrenheit. Prime shall be left uncovered, if practical, for a period of not less than two (2) hours, or until such time as is evident that optimum penetration of the base has occurred. After such time has expired, the prime shall be converted uniformly with a light application of clean dry sand and the base opened to traffic. Prime shall be cured for a period sufficient to permit evaporation of volatile content. This period will depend on weather and traffic conditions. A rubber tired traffic roller or other controlled traffic may be used to speed up the curing process. During the curing time the contractor shall immediately recover, with sand, any spots that tend to bleed with or pick up under traffic. A prime coat will be required on all limerock shell or similar bases, regardless of type of surfacing to be applied.
- (13) *Bituminous surfaces.* Prior to placement or application of any surface course, the primed base shall be cleaned by brooming or other approved method until it is free from dust, sand, scabs or foreign materials that would prevent adherence to the primed base. No bituminous material shall be applied unless all equipment, operators, tools and labor are available, on the site, to insure continuity of operation. The work shall be under the direction of a qualified and experienced foreman or superintendent whose only duty will be in such capacity. There shall be immediately available sufficient barricades, lights and signs to control traffic and to protect the work. If deemed necessary by the city, flagmen or watchmen may be required to safeguard both the work and the public. All liquid or semi-solid bituminous material shall be applied with an approved mechanical pressure distributor capable of making application for the entire width of the base, up to twenty-four (24) feet. For widths over twenty-four (24) feet, application may be made in two (2) widths. In such case, care shall be exercised to secure full coverage and to avoid excessive center or joint lap. The distributor shall be equipped with tachometer, pump pressure gauge and shall provide an accurate method for checking quantity applied. In Type "B" pavement, the second application shall be applied, if possible, before voids in the first application become choked with sand or dirt.
- (14) *Alley requirements.* Paved alleys, in commercial areas, shall be not less than seventeen (17) feet in width and shall have a base thickness of not less than six

(6) inches as hereinbefore specified for Type 2 base, but shall have type "A" asphaltic concrete surface. Alleys in residential areas shall be considered separately and shall be improved to an extent consistent with the type and volume of traffic anticipated. Where less than six-inch base is used, it shall be at such elevation as will permit addition of base material and surfacing when and if the need develops.

**Subsection 5-5-3. Requirements for Paving Contractors.**

(A) Before beginning any bituminous application, the contractor shall have on the site all equipment, tools, labor and operators necessary for sweeping, wetting, applying, covering, brooming and rolling to insure continuity of operation and shall have sufficient barricades to control traffic and to protect the work. The work shall be under the direction of a qualified superintendent who shall have full authority to receive and execute the instructions of the engineer, and whose decisions will be binding on the contractor.

(B) All street paving shall be done during working hours of the city (Monday through Friday). Any work done at times other than during regular working hours shall require a special permit.

**Subsection 5-5-4. Pavement in Subdivisions, Width; Grading; Application of Provisions.**

All pavement constructed for use in subdivisions of the city shall be at least eighteen (18) feet in width. Such street shall be graded according to profiles and standard cross section, including paving and parkway planting, to be furnished by the city engineer. This section shall not apply to existing streets now maintained by the city, each shall be considered separately when presented to the council.

**Subsection 5-5-5. Driveways.**

(A) *Permit for construction, etc., driveways, curbs, gutters and change of grade—Required; public thoroughfares defined.*

- (1) It shall be unlawful for any person to:
  - (a) Construct or remove driveways within the thoroughfares of the city;
  - (b) Construct or remove, or change or alter, curb and gutter or sidewalks within the thoroughfares of the city;
  - (c) Change existing grades on city owned or controlled property including all public easements;

without first obtaining a permit from the city and paying the fee for such permit as provided in Chapter 11.

- (2) Public thoroughfares for the purposes of this paragraph shall include, but not be restricted to, thoroughfares, alleys, rights-of-way, and walks.

(B) *Inspection of work and approval of grades and elevations by city manager.* Inspection of work done on city property or on property which the city controls will be under the

supervision of the city manager or his representative. After the necessary grades and elevations have been set by the contractor, the final approval of same shall be made by the city manager or his representative and no work is to be started until said grades and elevations have been so established and so approved.

(C) *Regulations pertaining to driveway installation and correction of existing driveways for drainage purposes.*

- (1) The building department shall issue permits for driveway construction based on proper elevation for drainage purposes, as provided in this section.
- (2) The director of public works shall provide technical assistance where needed.
- (3) On new construction, necessary swale section and culverts shall be provided by the owner or his contractor.
- (4) Where proper installation of a driveway in a developed area would cause a drainage hardship to that property due to improperly constructed driveways at lower elevation, the city manager may authorize the reconstruction of existing driveways and provide ditch or swale construction for proper drainage. Such action shall be taken in accordance with the following considerations and requirements:
  - (a) Size of the project within the city's ability to perform the necessary work within a reasonable period of time and within its budgeting limitations.
  - (b) The city is to provide labor and materials for ditch or swale construction and bear the cost of culvert pipe and necessary back fill and compaction over driveways.
  - (c) Replacement of driveway base and wearing surface materials shall be the responsibility of the property owner.
  - (d) Replacement of sod shall be the responsibility of the property owner.
- (5) The cost of any required engineering shall be paid by the property owner.
- (6) Necessary work for the rebuilding of all existing driveways and installation of drainage structures (where needed) in existing developed areas shall be done on a project basis as funds may be budgeted or in connection with a street reconstruction or resurfacing contract.

**Cross reference**—Development and design standards for driveways, § 8-4.

**Subsection 5-5-6. Sidewalks.**

(A) *Construction on certain streets.* This paragraph applies to all building permits and lands so improved, upon all lots and lands fronting on Fifth Avenue South from the State Highway Bridge over Gordon's River west to the Gulf of Mexico and also upon all lots and lands on Third Street South from the intersection of Fifth Avenue South thence running south to the canal south of Fourteenth Avenue South.

- (1) All property owners constructing any building, buildings or improvements requiring a building permit, on the land or lands facing upon the streets described above shall, at the time of applying for building permits, show in the plans therefor the construction of sidewalks in front of the lots so improved, and shall

at the time of building such improvements, construct such sidewalks, in conformity with the requirements of the city and such plans so approved on issuance of the building permit.

- (2) No certificate of occupancy shall be given or issued to the owner or builder under any permit, until the sidewalks are completed and approved by the building inspector of the city when such are required.
- (3) Any violation of this section shall be punishable by the penalties set forth in the building code of the city, and no permit for occupancy shall be issued to any person violating or failing to comply with the terms of this chapter, and no permit to operate any business shall be given to the occupant of any such premises while any default or violation thereof is in effect.

(B) *Sidewalk construction specifications.* All sidewalks in the city shall be constructed according to the following specifications:

- (1) *Subgrade.* The subgrade for all sidewalks shall be leveled and wet, with the finished form to conform with the standard cross sections on file at the city hall. Forms shall be approved by the city manager or his duly authorized representative before the place of concrete.
  - (2) *Concrete.* Ready-mixed concrete shall be mixed and delivered in accordance with the requirements set forth in the "Standard Specifications for Ready-Mixed Concrete (A.S.T.M. Serial Designation C94-44)." For job mixed concrete, the mixer shall be rotated at a speed recommended by the manufacturer and mixing shall be continued for at least one minute after all materials are in the mixers. A longer mixing period may be required for mixers larger than one cubic yard capacity.
  - (3) *Tests.* The city official in charge may require a reasonable number of compression tests to be made during the progress of the work. Should the average test of such cylinder fall below two thousand (2,000) p.s.i., the official shall have the right to order a change in mixture or in the water content for the remaining portion of the job.
  - (4) *Placing.*
    - (a) Concrete shall be placed without segregation or loss of materials.
    - (b) A relief shall be made at intervals of five (5) feet on five-foot sidewalks with expansion joints at a distance of thirty (30) feet.
    - (c) Where a sidewalk is eight (8) feet wide, the reliefs shall be eight (8) feet apart with an expansion joint each thirty-two (32) feet.
    - (d) Depth of concrete to be four (4) inches, except that alley intersections and driveways to be six (6) inches with wire mesh.
    - (e) Provided where steel forms are used, one-half ( $\frac{1}{2}$ ) inch precast expansion joints shall be at intervals of fifty (50) feet.
  - (5) *Finish.* The finish shall be sand or semi-smooth with no troweling required.
- Cross reference**—Construction and design standards for sidewalks, § 8-5.

**Subsection 5-5-7. Sidewalks and Bike Paths.**

The standards, guidelines and policy as administered by the City of Naples Engineering Department, is hereby adopted by reference by the city.

**Section 5-6. Utilities.****Subsection 5-6-1. Definitions.**

For the purpose of this section, the following words and phrases shall have the meaning respectively ascribed to them as follows:

*Single family residence:* The term single family residence is defined as any single family dwelling and is interchangeable with the word household. Where both a single family residence and a guest house occupy the same premises, each of them would constitute a separate living unit. In the case of a duplex, each unit shall be regarded as a single family dwelling.

*Multifamily residence:* All places of dwelling other than single family residences and duplexes having three (3) or more living units.

*Living unit:* Any place of abode which is suitable for permanent or transient family or individual residential use. Each such living unit shall be considered as single and separate for the purpose of this section.

*Business and institutional:* Any commercial, industrial and institutional enterprise, including sanatorium domiciliary houses, resident schools, hotels, motels and all other uses. The term "commercial" as used herein shall mean an establishment dealing in wholesale or retail trades or services, including but not limited to hotels, motels, apartment houses, rooming houses and trailers, renting furnished or unfurnished, offices, stores, restaurants, churches, schools and other facilities which hold themselves out to the public as places of business.

*System development charge:* An equitable and proportionate charge made at the time service is requested to cover the cost of capital improvements for master pumping stations, master force mains, treatment and effluent disposal facilities required to provide service to new connections to the sewer system by new users.

*System connection charge:* An equitable and proportionate charge made at the time service is requested to cover the cost of sewer connection lines furnished by the system needed to serve an area. (This charge shall not be applicable where the developer installs the connection lines at this own expense or where the cost of the connection lines are paid for by the assessment method.)

*Equivalent unit:* A living accommodation for a single family, whether a single family residence or a residence in a multifamily building.

**Subsection 5-6-2. Water and Sewer Service Areas; Applications for City Service; Regulations.**

(A) *Service area.* The City of Naples hereby limits its water and sewer service to those properties in the city's corporate limits and those properties included in its service areas pursuant to Chapter 180, Florida Statutes, as established from time to time hereunder. All ordinances establishing or amending such service areas shall be kept by the city clerk in such a manner as to be readily available to the public for a determination of which properties are so included. The city manager is hereby directed to have prepared and filed with the city clerk maps, as amended from time to time as provided hereunder, reflecting the city's water and sewer service areas.

(B) *Application for city service.*

- (1) Any person desiring to have real property owned by him included within the city's service areas may make request therefor by filing with the city clerk, during the month of January and July of each year, an application setting forth:
  - (a) The name and address of the applicant;
  - (b) The legal description of the property to be included;
  - (c) The service requested;
  - (d) The proposed development of the property;
  - (e) A statement as to the anticipated development schedule of the property;
  - (f) A statement that the applicant will, if the application is granted, comply with all rules, regulations and ordinances of the city governing water and sewer service.
- (2) Said application shall be made under oath and accompanied by a deposit of two hundred fifty dollars (\$250.00) for each service (water or sewer) requested, to cover all costs including engineering, advertising and administrative costs. Any balance remaining after payment of all costs related thereto shall be refunded to applicant. Any additional costs shall be paid by the applicant.
- (3) At the first regular city council meeting of February and August each year, the applications shall be placed before the city council for adoption of appropriate resolutions calling public hearings thereon. The resolutions shall recite:
  - (a) The names and addresses of the applicants;
  - (b) The general location of the properties requested to be included;
  - (c) The service requested;
  - (d) The time, date and place of the public hearing thereon, which shall be within thirty (30) days after the passage of the resolution;
  - (e) A statement that all objections must be made in writing and filed with the city clerk within fifteen (15) days of the passage of the resolution.
- (4) Each resolution shall be published in its entirety under the heading "Notice of Public Hearing—Service Area Resolution," said publication being made in a

newspaper of general circulation in the city no later than five (5) days after passage of the resolution.

- (5) At the public hearing the city council shall hear all interested persons and determine whether to propose for adoption ordinances amending the respective water or sewer service areas so as to include the properties in the applications. In its deliberations at the hearing, and at all subsequent proceedings, the city council shall consider:
  - (a) The present capacity and planned future capacity of the system, whether water or sewer, and the impact of the proposal thereon.
  - (b) The compactness, and contiguity to the existing service area, of the property requested to be included.
  - (c) The anticipated development schedule as to the property.
  - (d) The cost, if any, to the city.
- (6) Should the city council determine to propose such ordinances, it shall proceed in accordance with Section 180.04, Florida Statutes. Otherwise, it may, by motion passed, determine not to so proceed, and such shall be a denial of the applications. The initial determination to propose such an ordinance hereunder shall not be binding on the city council, and any such proposed ordinance may be rejected in accordance with the normal procedures governing ordinances of the City of Naples. Failure of the proposed ordinance to pass shall be a denial of the application.
- (7) All denials hereunder shall be in final accordance with Section 180.04, Florida Statutes; provided, any applicant may refile his application during any filing period.

(C) *Effect of zoning changes on service; required notice.* Should the zoning on any property included within the service area or areas of the city, after January 1, 1978, be amended so as to increase the potential water or sewer use, and such amendment was not made by the City of Naples, the city reserves the right to refuse service, whether water or sewer, thereto, until the city council has fully reviewed the effect of the zoning change on the service to be supplied. Should the city determine that it no longer deems it appropriate to provide service considering the change, it may delete such affected property by ordinance. Each property owner obtaining such zoning amendment is hereby required to advise, in writing, the Naples City Manager of such change prior to seeking service. Unimproved properties included prior to January 1, 1978, have been anticipated for reasonable development and thus an increase in water use. The city, however, reserves the right to review the impact of such new development upon service capacity where the permitted existing service exceeds 3.25 equivalent residential units per gross acre.

(D) *Removal of Property from Service Area upon Change in Factual Circumstances.* Should a change in factual circumstances affecting any of the criteria of the hearing procedures occur, the city may, after consideration of said circumstances at a public hearing upon reasonable notice by publication, initiate steps to remove affected properties from the water and/or sewer service areas of the city when the city council deems it necessary to do so. Such removal shall be accomplished by the normal procedures governing ordinances of the City of Naples.

(E) *Compliance with rules.* All water and/or sewer service users are required to comply with all rules, regulations and ordinances of the city governing such use.

(F) *Responsibility of city.* The city shall not be responsible for anything other than a good faith effort to provide reasonable water and sewer service. All water service is subject to the continuing availability of raw water supply, and water and sewer service is subject to the availability of the respective treatment plant capacity and all requirements of law.

(G) *Service not guaranteed.* Inclusion within the service areas of the city does not guarantee water or sewer service. In the event that service or service capacity is not available for any reason, the property affected may be removed by ordinance from the service area without any liability attaching to the city.

**Subsection 5-6-3. Sewer and Sewage Disposal.**

(A) *Permit required.* It shall be unlawful for any person to tap, cut, or in any way use a line, branch or part of the sanitary sewer system of the City of Naples without a written permit issued by a duly appointed representative of the City of Naples.

- (1) Application for permit to connect with city sewer mains must be made by the property owner, or a contractor acting as the owner's agent.
- (2) All work shall be done by a duly licensed plumber of the city.
- (3) Where the city has provided sewer lines, the abutting property owners who own property upon which a building is currently located shall make application to the city for the connection of their present sewer facilities and shall connect with the city sewer lines within ninety (90) days after the city has provided the sewer facilities. Failure of abutting property owners to connect within ninety (90) days will be considered a public nuisance and unlawful. Each day after the ninety (90) days have passed without the property owner having made connection to the city sewer shall be considered a separate violation of this section and a separate offense against the city.
- (4) Where the property owner with a currently existing building on the lot does not make application for sewer connection and connect to the sewer line within ninety (90) days, the city may make the connection on behalf of the abutting property owner and record the said charge against the abutting property owner and enforce payment as provided by law.
- (5) When a building permit is requested for any new building on any lot abutting an existing sewer line, the building plans must show proper sewer connections for the property or a building permit will not be issued.

(B) *Sewer main extensions.* The city manager, or his designee, may approve new sewer main extension applications; provided, however, that in the event unusual circumstances exist with regard to an application which the city manager, or his designee, determines should be reviewed by the city council, such application shall be submitted to the city council for approval.

(C) *Owner's responsibility for sewer lines.*

- (1) All house sewers from the property line to the building are the property and responsibility of the property owner and must be cleaned and maintained by him.

- (2) All stoppage in house sewers from sewer main to property line, except those caused by broken pipe or roots from trees, are the responsibility of the property owner and must be cleaned by him.
  - (3) No stoppage complaint will be accepted for investigation by the sewer department, unless all pipes, drains and sewer between the sewer main and the building have been examined by a licensed plumber who has certified to the sewer department that stoppage is caused by broken pipe or roots between property line and sewer main.
  - (4) Where stoppage between the sewer main and the property lines is caused by broken pipe or roots, the utilities department will clean and repair that section between the property line and the sewer main.
- (D) *Specifications for sewer lines.*
- (1) *Size.* The minimum allowable size for any private line, running into the city sewer shall be not less than four (4) inches in diameter, and any service line with three (3) or more four-inch connections on it shall be not less than six (6) inches in diameter. In no case shall there be more than one hundred twenty (120) fixture units connected to a four-inch private sewer line. A line servicing any apartment, hotel, place of amusement or place of public gathering must be of a special design and approved by the city building department.
  - (2) *Grade.* All service lines must be laid on a straight grade not to exceed two (2) percent and must be void of any dips or turns.
  - (3) *Material.* All lines must be laid out of a vitrified clay, cement asbestos, or cast iron pipe.
  - (4) *Joints.* All joints must be of a hot bitumastic, lead, leadite, mechanical, gasket or polyvinyl chloride compression type.
  - (5) *Cover.* Vitrified clay or cement asbestos pipe must have a minimum cover of fifteen (15) inches. Cast iron pipe must be used in any place that is subject to vehicular traffic.
- (E) *Specifications for sewer mains.*
- (1) *Construction.* All sewer mains and appurtenances thereto shall be laid to line and grade as per instructions and/or plans of the city engineering department.
  - (2) *Materials.* Extra strength pipe for sewers shall be vitrified, salt-glazed, clay pipe conforming to the latest revision of ASTM Specification C-700.
    - (a) All fittings installed in vitrified clay gravity sewer lines shall be vitrified, salt-glazed clay fittings conforming to the same specification and of the same strength as the sewer line.
    - (b) All vitrified clay pipe and fittings shall have factory-fabricated jointing connections conforming to the latest revision of ASTM Specification C-425.
    - (c) PVC pipe shall meet the requirements of ASTM D3034 for SDR 35 and PVC shall be colored green when available for in-ground identification as sewer pipe. Provisions must be made for contraction and expansion at each joint

with a rubber ring. Joints shall be treated in accordance with ASTM D3212, "Joints for Drain and Sewer Plastic Pipe using Flexible Elastomeric Seals." The pipe shall conform to the requirements of ASTM D244 and D2412 for drop impact and stiffness, respectively. PVC pipe shall be manufactured by Johns-Manville, James B. Clow, or approved equal, and installed in accordance with Uni-Bell specifications. The maximum allowable vertical deflection of the installed PVC pipe shall be five (5) percent of the inside diameter. Deflection compliance testing shall be measured in accordance with Uni-Bell specifications.

- (3) *Force mains.* Force mains shall be constructed of Class 51 (minimum) ductile iron pipe or C-900 PVC pipe Class 150 (minimum) with ductile iron pipe equivalent outside diameters. PVC pipe shall be installed with magnetic locator tape and in accordance with appropriate Uni-Bell specifications. It shall be colored green if available. Class 51 ductile iron or DR-14 PVC pipe with ductile iron pipe equivalent outside diameters shall be used under roadways, in cases of adverse bedding conditions or other situations as specified by the city engineer.
  - (4) *Inspection.* All material and workmanship shall be approved by the water and sewage committee and the city engineering department before acceptance by the city.
  - (5) *Discharge into floodwaters.* New or replacement sanitary sewage systems to be designed to minimize or eliminate discharges from the systems into floodwaters.
- (F) *Pretreatment of industrial wastewater.*
- (1) This section requires pretreatment of wastewater by industrial users discharging into the wastewater treatment systems of the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403).
  - (2) The objectives of this section are:
    - (a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
    - (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system or the atmosphere or otherwise be incompatible with the system;
    - (c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
    - (d) To provide for equitable distribution of the cost of the municipal wastewater system.
  - (3) This section shall apply to the City of Naples and to persons outside the city who are, by contract or agreement with the city, users of the city's wastewater treatment system.

- (4) **Administration.** The City of Naples utility engineer is hereby authorized to draft regulations which provide definitions, discharge prohibitions, categorical pretreatment standards, modifications of such standards, specific pollutant limitations, application of state requirements, right of revision by the city, prohibition of excessive discharge through dilution, protection from accidental discharge, written notice to users and employees of users fees, permits for wastewater contributors, application forms for permits, permit modifications, conditions for permit users, permit duration and transfer, recording requirements for permittees, including final compliance and periodic compliance reports, monitoring requirements and facilities, inspection and sampling, pretreatment requirements, confidentiality of information, enforcement by suspending wastewater treatment services or permits, revocation of permits, notification of violations, show cause hearings, and legal action for appropriate legal or equitable relief in the circuit court of Collier County, civil penalties and costs for violations and falsifying information.

**Cross reference**—Rates and charges for sewer service, § 11-1-3.

**Subsection 5-6-4. Water Service.**

(A) *Authorization.* The city may lay water mains and provide water service to customers within the city limits of Naples and outside the city limits of Naples. All items in this subsection apply to water sold both within and without the city limits except where a specific item identifies the area referred to as being limited to within the city or outside the city.

(B) *Street areas designated and reserved.* Street areas shall be and are hereby designated and reserved for water wells, pumps and appurtenances, electric power line and supply mains, viz:

For main series or battery of wells, pumps, power line and raw water main—The middle ten (10) feet of Seventh Street within state field limits, except intersections of cross streets.

For auxiliary or supplement wells, pumps and appurtenances—The east curb space on Sixth Street, and the west curb space on Eighth Street, within field limits.

(C) *Street improvements not to interfere.* Future improvement of such streets, in grading, surfacing, curbing or sidewalks, and installation of other utilities, shall be so done or made as not to interfere with or obstruct the water supply facilities provided for in this section.

(D) *Private systems.*

- (1) It shall be unlawful for any person to connect directly or indirectly any private water supply or system or pipes or connections thereof, with any part or pipes or other connection to the city water system which will permit directly or indirectly

any intermingling of water from any other source with that of the city water system.

- (2) Any person having or desiring to have a private system whereby either private or city water may be used shall first apply for a permit and should it be determined that by use of such system it shall be impossible to commingle the two (2) systems, a permit may be issued by the water committee in their discretion permitting this to be done.
- (3) This paragraph is declared to be a health measure to protect the lives of all persons using city water and a liberal construction and strict enforcement of its provisions is necessary and mandatory.

**Cross reference**—Wells, § 5-8.

(E) *Fluoridation.* The utilities department of the city is herewith directed to proceed with the fluoridation of the water supply as directed by the county health department.

(F) *Water main installation specifications.* All water main installations within the city distribution system shall be in accordance with section 20-68 of the Naples Code of Ordinances and the following specifications:

- (1) Any changes must be approved by the water department in writing.
- (2) Plans and specifications as shown in installation guide, Johns-Manville, shall govern as far as applicable the installation of all asbestos-cement water pipe. Thrust blocks shall comply with this guide. Class 150 pipe shall be used on all water mains. Cement-asbestos pipe and couplings shall conform to AWWA specification C-400-53T, be Underwriter Laboratory approved, and shall be steam cured. Above eight-inch shall be full inside diameter. Couplings shall be sleeve type and shall be sealed by means of a rubber sealing ring, fitting into a groove.
- (3) Profile drawing on grade and line shall be approved by the engineering department and copy shall be on file with the water department before work starts. Any soil condition other than sand shall be shown on profile sheet. Profile sheet shall have existing grade and finished grade shown.
- (4) A plus or minus one and one-half (1½) inch in elevation of finished pipe will be allowed. Work on streets and roads must be carried out with a minimum of damage to street surface and to bordering palms or other shrubbery. Contractor will repair street crossings to satisfaction of city street department and replace any damaged plantings.
- (5) The contractor shall remove any water which enters the excavation during the progress of work and shall protect the construction against damage by water pumping, bailing or draining.
- (6) All pipe fittings shall be cast-iron Class D, and shall conform to AWWA Standard Specifications for cast iron water fittings.
- (7) All valves shall be AWWA Standard, iron body, bronze mounted, double disc gate valves, hub or ring tite ends, non-rising stems and square operating nut.
- (8) Hydrants shall be R.D. Wood Co., four-inch by two and one-half inch, Steamer and Double Mathew Modernized Fire Hydrants open to left DF 100, or any other

AWWA improved fire hydrant with revolving head connected to the hydrant barrel by a swivel joint.

- (9) Particular attention is directed to backfilling. No pipe shall be covered until pipe has been properly bedded and tamped. Couplings will remain uncovered so far as practicable until approved by the water department.
- (10) Tie-in to city water system must be done under supervision of water department. No water shall be turned off or on unless supervised by the water department.
- (11) Pipe must be subjected to one hundred twenty-five (125) pounds pressure for a period of thirty (30) minutes. The city may, when pipe is received from a manufacturer who has not previously supplied the city, require the pipe to be subjected to a pressure of one hundred seventy-five (175) pounds for a period of thirty (30) minutes. Any defect shall be repaired and retested. The contractor will chlorinate water mains under the supervision of the water department. Pipe must pass AWWA leakage tests.
- (12) Valves shall be located no further from fitting than one standard MOA length, unless approval is given by the water department.
- (13) Drains at end of lines. Flush valves or fire hydrants to be placed at main ends if practical.
- (14) Any conditions not complied with in these specifications shall be cause for rejection of water lines.
- (15) Final approval of lines must be in writing.
- (16) Fire hydrant valves shall be clamped to fitting in main.
- (17) New or replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

(G) *Water main extensions.* The city manager, or his designee, may approve new water main extension application; provided, however, that in the event unusual circumstances exist with regard to an application which the city manager, or his designee, determines should be reviewed by the city council, such application shall be submitted to the city council for approval.

**Cross reference**—Rates and charges for water service, § 11-1-4.

#### **Subsection 5-6-5. Waste Water.**

(A) *Purpose; objectives.* These regulations set forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Naples and enable the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977, as amended, and the general pretreatment regulations (40 CFR, Part 403).

The objectives of these regulations are:

- (1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

- (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system or which will interfere with the operation of the system or contaminate the resulting sludge;
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- (4) To provide for equitable distribution of the cost of the municipal wastewater system.

These regulations provide for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement activities, require user reporting, assume that existing customers' capacity will not be pre-empted, and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

These regulations shall apply to the City of Naples and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided herein, the city manager of Naples shall administer, implement, and enforce the provisions of these regulations.

(B) *Definitions.* Unless the context specifically indicates otherwise, the following terms and phrases, as used in these regulations, shall have the meanings hereinafter designated:

*Act or the act.* The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

*Approval authority.* The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state of NPDES state without an approved state pretreatment program.

*Authorized representative of industrial user.* An authorized representative of an industrial user may be:

- (1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation.
- (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.
- (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

*Biochemical oxygen demand (BOD).* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

*Building drain.* That part of the piping of a building which collects wastewater inside the walls of the building and conveys it to outside the building wall.

*Building sewer.* The extension from the building drain to the public sewer system or other place of disposal, also called house connection.

*Categorical standards.* National categorical pretreatment standards or pretreatment standard.

*Chemical oxygen demand (COD).* A measure of oxygen equivalent to that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant.

*City.* The City of Naples, Florida, or its city council.

*City council.* The duly elected officials of the City of Naples, Florida.

*City manager.* The person designated by the city council to administer all city activities.

*Control authority.* The term "control authority" shall refer to the "approval authority," defined hereinabove; or the city manager if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

*Cooling water.* The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

*Customer.* Every person who is responsible for contracting (expressly or implicitly) with the city in obtaining, having or using sewer connections with, or sewer taps to, the sewer system of the city and in obtaining, having, or using water and other related services furnished by the city for the purpose of disposing of wastewater and sewage through said system. Said terms shall include the occupants of each unit of a multiple-family dwelling unit building as a separate and distinct customer.

*Direct discharge.* The discharge of treated or untreated wastewater directly to the waters of the State of Florida.

*Easement.* An acquired legal right for the specific use of land owned by others.

*Environmental protection agency or EPA.* The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

*Floatable oil.* Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

*Flush toilet.* The common sanitary flush commode in general use for the disposal of human excrement.

*Garbage.* The animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

*Grab sample.* A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

*Health officer.* The Collier County Environmental Health Officer.

*Holding tank waste.* Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

*Indirect discharge.* The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the act (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

*Industrial user.* A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

*Industrial waste surcharge.* The charge made in excess of the normal sewer service charge for all wastewater over and above normal wastewater.

*Industrial wastes.* The wastewater from industrial processes as distinct from domestic or sanitary wastes.

*Infiltration/inflow.* Groundwater and surface water which leaks into the sewers through cracked pipes, joints, manholes or other openings.

*Interference.* The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the act (33 U.S.C. 1345), or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

*National categorical pretreatment standard or pretreatment standard.* Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

*National pollution discharge elimination system or NPDES permit.* A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

*National prohibitive discharge standard or prohibitive discharge standard.* Any regulation developed under the authority of Section 307(b) of the Act and 40 CFR, Section 403.5.

*Natural outlet.* Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

*New source.* Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the "Federal Register." Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

*Normal wastewater.* Wastewater discharged into the sanitary sewers in which the average concentration of total suspended solids and BOD is not more than two hundred fifty (250) mg/l, total phosphorus is not more than fifteen (15) mg/l, total Kjeldahl nitrogen is not more than thirty (30) mg/l; and total flow is not more than twenty-five thousand (25,000) gallons per day.

*Person.* Any individual, partnership, co-partnership, firm, company, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

*pH.* The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

*Pit privy.* Shored, vertical pit in the earth completely covered with a flytight slab on which is securely located a flytight riser covered with hinged flytight seat and lid.

*Pollutant.* Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into water.

*Pollution.* The manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

*POTW treatment plant.* That portion of the POTW designed to provide treatment to wastewater.

*Pretreatment or treatment.* The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or by process changes or other means, except as prohibited by 40 CFR, Section Part 403.6(d).

*Pretreatment requirements.* Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

*Properly shredded garbage.* The waste from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely

under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

*Publicly owned treatment works (POTW).* A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of these regulations, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, sewage contributors to the city's POTW.

*Public sewer.* A common sewer controlled by a governmental agency or public utility.

*Sanitary sewer.* A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

*Septic tank.* A subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes together with:

- (1) A sewer line constructed with solid pipe, with the joints sealed, connecting the impervious tank with a plumbing stub-out; and
- (2) A subsurface system of trenches, piping and other materials constructed to drain the clarified discharge from the tank and distribute it underground to be absorbed or filtered.

*Sewage.* The spent water of the community. The equivalent term is "wastewater."

*Sewer.* A pipe or conduit that carries wastewater.

*Shall.* Is mandatory; *may* is permissive.

*Significant industrial user.* Any individual user of the city's wastewater disposal system who:

- (1) Has a discharge flow of twenty-five thousand (25,000) gallons or more per average work day; or
- (2) Has a flow greater than five (5) percent of the flow in the city's wastewater treatment system; or
- (3) Has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act or Florida Statutes and rules; or
- (4) Is found by the city, the state control agency, or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contribution industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

*Slug.* Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15)

minutes more than five (5) times the average twenty-four-hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater facilities.

*Standard industrial classification (SIC).* A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

*State.* The State of Florida.

*Storm drain.* Sometimes termed storm sewer, it shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

*Stormwater.* Any flow occurring during or following any form or natural precipitation and resulting therefrom.

*Suspended solids.* Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater," and referred to as nonfilterable residue.

*Toxic pollutant.* Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency (EPA) under the provision of CWA 307(1) or other acts.

*Unpolluted water.* Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

*User.* Any person who contributes, causes or permits the contribution of wastewater into city POTW.

*Wastewater.* The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water and stormwater that may be present.

*Wastewater facilities.* The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

*Watercourse.* A natural or artificial channel for the passage of water either continuously or intermittently.

*Waters of the state.* All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

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(C) *Abbreviations.* The following abbreviations shall have the designated meanings:

BOD	Biochemical oxygen demand.
CFR	Code of Federal Regulations.
COD	Chemical oxygen demand.
EPA	Environmental Protection Agency.
DER	Florida Department of Environmental Regulation.
l	Liter.
mg	Milligrams.
mg/l	Milligrams per liter.
NPDES	National pollutant discharge elimination system.
POTW	Publicly owned treatment works.
SIC	Standard industrial classification.
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
TSS	Total suspended solids.
USC	United States Code.

(D) *Use of public sewers required.*

- (1) All premises shall be provided, by the owner thereof, with at least one toilet. All toilets shall be kept clean and in a sanitary working condition.
- (2) No person shall dispose of human excrement except in a toilet.
- (3) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provision of these regulations.
- (4) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (5) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the city jurisdiction and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner(s) expense to install suitable toilet facilities therein.
- (6) All sinks, dishwashing machines, lavatories, basins, shower baths, bathtubs, laundry tubs, washing machines, and similar plumbing fixtures or appliances shall be connected to a public sewer; provided, that where no sewer is available, septic tanks or other private subsurface disposal facilities, approved by the health officer and mayor and council, may be used.
- (7) Customer shall be notified when sewer is available.
  - (a) Sewerage shall be considered available to an existing single family dwelling when the dwelling can be connected by gravity flow to a line in any public right-of-way or easement which passes the property at any point.
  - (b) Sewerage shall be considered available to any new single family dwelling when the dwelling can be connected by the installation of two hundred (200) linear feet of gravity flow line from the nearest point of the property.

- (8) Sewerage charges shall be in effect upon notification of the availability of sewer service.
- (E) *Private wastewater disposal.*
  - (1) Where a public sanitary sewer is not available under the provisions of this subsection, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this subsection. No person shall construct a septic tank or other wastewater disposal facility without prior approval from the city manager's office. The availability of sewer is defined in the above section.
  - (2) Septic tanks shall be constructed, repaired, altered, enlarged and maintained in accordance with plans and specifications approved by the health officer.
  - (3) No person shall construct, repair, alter or enlarge any septic tank unless he receives approval by the city manager or his designee and shall hold a valid permit for such work issued by the health officer.
  - (4) The type, capacities, location, and layout of a private wastewater disposal system shall comply with all regulations of the Department of Environmental Regulation and the State of Florida. No septic tank shall be permitted to discharge to any natural outlet.
  - (5) No septic tank or other subsurface disposal facility shall be installed where a public sewer is accessible to the premises involved.
  - (6) At such time as a public sewer becomes available to a property served by a private wastewater disposal system that has failed, a direct connection shall be made to the public sewer within thirty (30) days after notice. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall then be cleaned of sludge and filled with suitable materials.
  - (7) The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.
  - (8) Every flush toilet shall be connected to a public sewer where available or to a septic tank. Flush toilets shall be provided at all times with sufficient running water under pressure to flush the toilet clean after each use.
  - (9) No pit privy shall be installed.
  - (10) Discharge of septic tanks into sewer system:
    - (a) *Restricted.* It shall be unlawful to empty, dump, throw or otherwise discharge, into any manhole, catch basin or other opening, into the city sewer system, or any system connected with and discharging into the sewer system, the contents of any septic tank, sludge, sewage or other similar matter or material, except as provided in the paragraph below.
    - (b) *Permits.* The city manager or his designee is hereby authorized to grant permits to discharge the contents of septic tanks (from domestic sources only) at locations specified by him and under his supervision. Such permits may be revoked at any time if, in the opinion of the city manager, continued dumping

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of such matter into the sewers will be injurious to the sewer system or treatment or treatment processes.

- (c) *Charges.* A charge shall be made for the privilege of dumping contents of septic tanks, as provided in separate rules. A record shall be kept of such dumpings and statements shall be payable within ten (10) days after retention. Failure to pay the amounts due within such ten-day period shall be cause for revoking the permit.
- (11) Any premises that has a septic tank, privy or any other sewage, industrial waste or liquid waste disposal system, located thereon that does not function in a sanitary manner shall be corrected within thirty (30) days from the receipt of written notification from the health officer that said system is not functioning in a sanitary manner, and order that said system be corrected.
- (12) Premises with private water systems shall not be connected with the public sewerage system unless approved by the city council.
- (13) No statement contained in this subsection shall be construed to interfere with any additional requirements that may be imposed by the health officer.
- (F) *Building sewers and connections.*
- (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city manager or his designee.
- (2) The owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the city manager or his designee. A permit and inspection fee as specified elsewhere shall be paid at the time the application is filed.
- (3) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (4) A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building [sewer] may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection aforementioned.
- (5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city manager or his designee, to meet all requirements of these regulations.
- (6) The size, slope, alignment, materials of construction of building sewer, and the methods to be used in construction shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city.

In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

- (7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (8) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer unless such connection is approved for purposes of disposal of polluted surface drains.
- (9) The applicant for the building sewer permit shall notify the city manager or his designee when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the city manager or his representative.
- (10) All excavations for building sewer installations shall be adequately guarded with barricades and lights in compliance with all OSHA requirements so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
- (11) The city council will define the availability of sewers and costs associated with sewer permits or construction.
- (12) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedure and materials must be approved by the city manager or his designee before installation.
- (13) If any house sewer permits entrance of infiltration or inflow, the city manager or his designee may:
  - (a) Require the owner to repair the house sewer.
  - (b) Charge the owner a sewer rate that reflects the additional cost of sewage treatment from the owner's property.
  - (c) Require the owner to disconnect his sewer from the city's sewer system.
- (14) Where sewer service is unavailable, all costs associated with permit, construction and extension shall be the responsibility of the permit applicant.
- (G) *Restricted use of public sewers.*
  - (1) No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, swimming pool drains and filter discharge, or cooling water to any sewer.

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- (2) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - (b) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
  - (c) Any waters or wastes having a pH lower than 5.5 or greater than 9.0, or having any other corrosive property capable of causing damage or hazard to structure, equipment, and personnel of the wastewater works.
  - (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (3) The following described substances, materials, water or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The city manager or his designee may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the city manager or his designee will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the city manager or his designee are as follows:
- (a) Wastewater having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius) or which will cause the temperature at the influent to a treatment plant to exceed one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius).
  - (b) Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.

- (c) Wastewater containing more than one hundred (100) milligrams per liter of oils, fat or grease.
  - (d) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
  - (e) Any wastewaters having an excess of: (Limits in parts per million or milligrams per liter) Silver, 0.10; Barium, 5.0; Tin, 1.0; Iron, 2.0; Phenol, 0.2; Arsenic, 0.05; Boron, 1.0; Manganese, 1.0; Lead, 0.1; Mercury, 0.005; Nickel, 0.4; Zinc, 1.0; Copper, 0.1; Cadmium, 0.02; Total Chrome, 1.8; Selenium, 0.02; Chlorides, 250; and any substance or combination thereof that reduces the BOD by ten (10) per cent will be considered as a toxic material. In addition, the limits for the following are: Antimony, 0.0; Beryllium, 0.0; Bismuth, 0.0; Cobalt, 0.0; Cyanide, 0.0; Molybdenum, 0.0; Rhenium, 0.0; Tellurium, 0.0; Uranyl ion, 0.0; Strontium, 0.0; herbicides, 0.0; fungicides, 0.0; and pesticides, 0.0.
  - (f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the city manager or his designee.
  - (g) Any radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established in compliance with applicable state or federal regulations.
  - (h) Quantities of flow, concentrations, or both which constitute a "slug" as defined in this section.
  - (i) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employees, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
  - (j) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form solids which interfere with the collection system, or create a condition deleterious to structure and treatment processes.
  - (k) Wastewater containing constituents in concentrations which are in excess of the concentrations set for normal wastewater (250 mg/l BOD5 and TSS, 30 mg/l TKN, 15 mg/l phosphorous.)
- (4) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above and which, in the judgment of the city manager or his designee, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:
- (a) Reject the wastes.

- (b) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (c) Require control over the quantities and rates of discharge.
- (d) Require surcharge payment to cover added cost of handling and treating the waters.

When considering the above alternatives, the city manager or his designee shall give consideration to the economic impact of each alternative on the discharger. If pretreatment or equalization of waste flows is permitted, the design and installation of the plants and equipment shall be subject to the review and approval of the city manager or his designee.

- (5) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city manager or his designee, they are necessary for the proper handling of liquid wastes containing floatable grease in excess amounts, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city manager or his designee and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the city manager or his designee. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.
- (6) Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- (7) Any industry discharging to the city sewer system more than fifty thousand (50,000) gallons per day or any discharger so designated as a potential problem discharger by the city manager or his designee shall comply with the following:
  - (a) In order to provide for accurate sampling and measurement of industrial wastes, each designated discharge shall provide and maintain, on each of its industrial waste outlet sewers, a large manhole or sampling chamber to be located outside or near its plant boundary line. If inside the plant fence, there shall be a gate near the sampling chamber with a key furnished to the city. There shall be ample room provided in each sampling chamber to enable convenient inspection and sampling by the city, or its agent.
  - (b) Each sampling chamber shall contain a Parshall flume, accurate weir, or similar device, with a recording and totalizing register for measurement of the liquid quantity; or the metered water supply to the industrial plant may be used as the liquid quantity where it is substantiated that the metered water supply and waste quantities are approximately the same, or where a measurable adjustment can be made in the metered supply to determine the

liquid quantity. The measuring, totalizing, recording devices are to be supplied, installed, and maintained by the owner.

- (c) Samples shall be taken every hour, properly refrigerated and composited in proportion to the flow for a representative twenty-four-hour sample. Such sampling shall be repeated on as many days as necessary to ensure representative quantities for the entire reporting period. Industrial plants with wide fluctuations in quantities of wastes will require an automatic sampler paced automatically by the flow-measuring device. Minimum requirements for representative quantities shall include reevaluation during each quarterly period. The determination of representative quantities shall include not less than three (3) consecutive days of twenty-four-hour composite samplings taken during periods of normal operation, together with acceptable flow measurements. The frequency of sampling, sampling chamber, metering device, sampling methods, and analysis of samples shall be subject, at any time, to inspection and verification by the city. Sampling and measuring facilities shall be such as to provide safe access for authorized personnel of the city for making such inspection and verification. Plans for sampling chambers, with their location shown on a site plan, shall be submitted to the city.
- (d) The owner of each facility discharging industrial wastes shall submit monthly to the city, on forms supplied by the city, a certified statement of the quantities of its wastes discharged into the sewers and sewerage works of the city or into any sewer connected therewith. Copies of pertinent water bills shall be submitted with the above statement. Such documents shall be filed with the city not later than the tenth day of the following month. A separate statement shall be filed for each industrial plant. The total quantities of wastes to be measured and certified by the owner shall be:
  - 1. Liquid in gallons;
  - 2. Five-day BOD in pounds;
  - 3. Suspended solids in pounds, on a dry solids basis;
  - 4. Total phosphorus in pounds;
  - 5. Total Kjeldahl nitrogen in pounds; and
  - 6. COD in pounds.
- (8) No person shall discharge or cause to be discharged any sanitary wastewater into the storm sewer system without exception.
- (9) Cooling and/or condensing water may be discharged to the storm sewer system only if an NPDES permit is obtained from the FDER.
- (10) The industrial users may be required to provide information needed to determine compliance with these regulations. These requirements may include:
  - (a) Wastewaters discharge peak rate and volume over a specified time period.
  - (b) Chemical analyses of wastewaters.
  - (c) Information on raw materials, processes, and products affecting wastewater volume and quality.

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- (d) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
  - (e) A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
  - (f) Details of wastewater pretreatment facilities.
  - (g) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- (11) No statement contained in this subsection shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength of character may be accepted by the city for treatment. However, there shall be no agreements made that would violate any state or federal standard.
- (12) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in these regulations shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the city manager or his designee.

(H) *Malicious damage.* No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct and shall be responsible for any loss of revenue or monetary expenditures needed for repairs brought about by their actions.

(I) *Powers and authority of inspectors.*

- (1) Duly authorized employees of the city bearing proper credentials and identification shall be admitted with permission from proper authorities to all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the sewer system in accordance with the provisions of these regulations.
- (2) While performing the necessary work on private properties referred to herein, the authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the employees, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demand for personal injury or property damage asserted against the company, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by these regulations.
- (3) Duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purposes of, but not limited to, inspection, observation,

measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(J) *Compliance with regulatory requirements.*

- (1) *Generally.* The provisions of these regulations shall not be deemed as alleviating compliance with applicable state and federal regulations. Specific user charge and industrial cost recovery requirements, promulgated pursuant to Public Law 92-500, shall be considered as a part of these regulations upon official adoption. All nonresidential users will be required to comply with pretreatment standards as outlined in Title 40 of the Code of Federal Regulations, Part 403.
- (2) *Federal categorical pretreatment standards—Status.* Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under these regulations for sources in that subcategory, shall immediately supersede the limitations imposed under these regulations. The administrator shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.
- (3) *Modification of federal categorical pretreatment standards.* Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five (95) percent of the samples taken when measured according to the procedures set forth in Section 402.7(CX2) of (Title 40 of the Code of Federal Regulations, Part 403), "General Pretreatment Regulations for Existing and New Sources of Pollution," promulgated pursuant to the Act. The city may then modify pollutant discharge limitations in the federal pretreatment standards if the requirements contained in 40 CFR Part 403, Section 403.7 are fulfilled and prior approval from the approval authority is obtained.
- (4) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in these regulations.
- (5) *City's right of revision.* The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this subsection.
- (6) *Excessive discharge.* No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the

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federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state, unless specifically allowed in the categorical pretreatment standards established by EPA.

- (7) *Accidental discharges.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by these regulations. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan four (4) months after the sewer use ordinance is enacted. No user who commences contribution to the POTW after the effective date of these regulations shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of these regulations. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.
- (a) *Written notice.* Within five (5) days following an accidental discharge, the user shall submit to the city manager or his designee a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
- (b) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
- (K) *Violations.*
- (1) Violation of these regulations shall be a misdemeanor punishable under the laws of the State of Florida.
- (2) The city may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to

the environment, causes interference to the POTW or causes the city to violate any condition of this NPDES permit.

- (3) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including initiation of legal action by the city attorney and immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within fifteen (15) calendar days of the date of occurrence.
- (4) Any user who violates the following conditions of these regulations, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this subsection:
  - (a) Failure of a user to report factually the wastewater constituents and characteristics of his discharge.
  - (b) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics.
  - (c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
  - (d) Violation of conditions of the permit.
- (5) Whenever the city finds that any user has violated or is violating these regulations, wastewater contribution permit, or any prohibition, limitation or requirements contained herein, the city may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for satisfactory correction thereof shall be submitted to the city by the user.

Each quarter, the city will publish in the local newspapers the list of violators of these regulations for that quarter.

- (6) In the event of violation of these regulations, the health officer or authorized employees may verbally instruct the owner as to the necessary corrective action. If the owner fails to carry out verbal instructions in a timely manner or if a serious violation or hazard to public health exists, the health officer may issue to the owner a written order stating the nature of the violation, the corrective action and the time limit for completing the corrective action. This time limit will be not less than twenty-four (24) hours nor more than six (6) months depending upon the type and severity of the violation. The offender shall, within the period of time stated in such notice, permanently cease all violations. The record of the mailing

of said notice or order shall be prima facie evidence thereof and failure of said owner or owners to receive same shall in no way affect the validity of any proceedings conducted pursuant to these regulations.

- (7) If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of these regulations, federal or state pretreatment requirements, or any order of the city, the city's attorney may commence an action for appropriate legal and/or equitable relief in the appropriate court.
- (8) Any user who is found to have violated an order of the health officer or who willfully or negligently failed to comply with any provision of these regulations, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorneys' fees and other expenses of litigation by appropriate suit at law against the person found to have violated these regulations or the orders, rules, regulations and permits issued hereunder.
- (9) Any person who knowingly makes any false statements, representation or certification in any application, record, plan or other document filed or required to be maintained pursuant to these regulations, or wastewater contribution permits, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these regulations shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for not more than six (6) months, or by both.
- (10) A person violating any provisions of this section 5-6-5(K) authorizing the aforementioned action by the health officer shall be charged the normal and usual charges for discontinuance and disconnection of said water and sewer services and the usual charges for recommencing said water and sewer services.

(L) *Service charges and fees.*

- (1) *Purpose.* It is the purpose of this section 5-6-5(L) to provide for the recovery of costs from users of the city's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.
- (2) *Service charges.* It is hereby determined necessary to fix and collect sewer service charges from customers. Such charges shall be published separate from these regulations and the revenue received shall be used for operation, maintenance, debt retirement and other authorized expenses.
- (3) *Fees.* The city may adopt charges and fees which may include:
  - (a) Fees for reimbursement of costs of setting up and operating the city's pretreatment program.
  - (b) Fees for monitoring, inspection and surveillance procedures.

- (c) Fees for reviewing accidental discharge procedures and construction.
- (d) Fees for permit applications.
- (e) Fees for filing appeals.
- (f) Fees for consistent removal (by the city) of pollutants otherwise subject to federal pretreatment standards.
- (g) Other fees as the city may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by these regulations and are separate from all other fees chargeable by the city.

(M) *Authority to disconnect service.* The city reserves the right to terminate water and wastewater disposal services and disconnect a customer from the system when:

- (1) Acids or chemicals damaging to sewer lines or treatment process are released into the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater; or
- (2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or
- (3) The customer:
  - (a) Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;
  - (b) Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment systems;
  - (c) Fails to pay monthly bills for water and sanitary sewer services when due; or
  - (d) Repeats a discharge of prohibited wastes into public sewers.

(N) *Compliance by dischargers.* It shall be unlawful to discharge without a city permit to the POTW any wastewater except as authorized by the city manager or his designee in accordance with the provisions of these regulations.

(O) *Wastewater contribution permits.*

- (1) All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW.
- (2) All existing significant users connected to or contributing to the POTW shall obtain a wastewater contribution permit within one hundred eighty (180) days after the effective date of these regulations.
- (3) Applications.
  - (a) Users required to obtain a wastewater contribution permit shall complete and file with the city, an application in the form prescribed by the city, and

accompanied by a fee as set by the city from time to time. Existing users shall apply for a wastewater contribution permit within thirty (30) days after the effective date of these regulations, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

1. Name, address, and location (if different from the address).
2. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
3. Wastewater constituents and characteristics including but not limited to those mentioned in subsection 5-6-5(G) of these regulations as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the act and contained in 40 CFR, Part 136, as amended.
4. Time and duration of contribution.
5. Average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.
7. Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.
8. Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
9. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards.

The following conditions shall apply to this schedule:

- a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

- b. No increment referred to in the above section shall exceed nine (9) months.
  - c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city manager or his designee including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the city manager or his designee.
10. Each product produced by type, amount, process or processes and rate of production.
  11. Type and amount of raw materials processed (average and maximum per day).
  12. Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system.
  13. Any other information as may be deemed by the city to be necessary to evaluate the permit application.
- (4) The city will evaluate the data furnished by the user and may require additional information. After evaluation any acceptance of the data furnished, the city may issue a wastewater contribution permit subject to terms and conditions provided herein.
  - (5) Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be advised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by subsection 5-6-5(O)(3), the user shall apply for a wastewater contribution permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the city manager or his designee within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by subsections 5-6-5(O)(3)(a)8. and 5-6-5(O)(3)(a)9.
  - (6) Wastewater discharge permits shall be expressly subject to all provisions of these regulations and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:
    - (a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
    - (b) Limits on the average and maximum wastewater constituents and characteristics.

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- (c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
  - (d) Requirements for installation and maintenance of inspection and sampling facilities.
  - (e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
  - (f) Compliance schedules.
  - (g) Requirements for submission of technical reports or discharge reports (see subsection 5-6-5(O)(9)).
  - (h) Requirements for maintaining and retaining plan records relating to wastewater discharge as specified by the city, and affording city access thereto.
  - (i) Requirements for notification of the city of any new introduction of wastewater constituents being introduced into the wastewater treatment system.
  - (j) Requirements for notification of slug discharges as per subsection 5-6-5(G).
  - (k) Other conditions as deemed appropriate by the city to ensure compliance with these regulations.
- (7) Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements as identified in this article are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (8) Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.
- (9) Reporting requirements for permittee:
- (a) *Compliance date report.* Within ninety (90) days following a date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the city manager or his designee a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The

report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified by a qualified professional.

(b) *Periodic compliance reports:*

1. Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the city manager or his designee during each quarterly period, unless required more frequently in the pretreatment standard or by the city manager or his designee, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported. At the discretion of the city manager or his designee and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the city manager or his designee may agree to alter the months during which the above reports are to be submitted.
2. The city manager or his designee may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (b)1. of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass, where requested by the city manager or his designee, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with procedures established by the approval authority pursuant to Section 304(g) of the act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the city manager or his designee. Sampling shall be performed in accordance with the techniques approved by the approval authority (DER).

*(Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977," and amend-*

ments thereto, or with any other sampling and analytical procedures approved by the city manager or his designee.)

- (10) Monitoring facilities.
- (a) The city shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
  - (b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
  - (c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the city.
- (11) Inspection and sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of these regulations is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority and (where the NPDES state is the approval authority), EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (12) Pretreatment.
- (a) Users shall provide necessary wastewater treatment as required to comply with these regulations and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facil-

ities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of these regulations. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

- (b) The city shall annually publish in the largest daily newspaper a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months.
  - (c) All records relating to compliance with pretreatment standards will be made available to officials of the EPA or approval authority upon request.
- (P) *Sewerage system capital improvement accounts.*
- (1) *Two accounts established.* The city hereby establishes two (2) separate accounts into which deposits required for accumulation of the equivalent future value of the grant amount shall be made:
    - (a) The Sewerage System Capital Improvement Account—Source Wastewater System Development Charges; and
    - (b) The Sewerage System Capital Improvement Account—Other Sources.

The Sewerage System Capital Improvement Account—Source Wastewater System Development Charges shall be segregated from any other source of money, in order that the city can monitor and maintain its compliance with the "Dunedin decision."

- (2) *Time and number of required deposits.* Deposits to the sewerage system capital improvement accounts shall commence not later than the end of each one-year period, beginning with the date of initiation of operation of the complete grant-funded treatment works. Beneficial occupancy shall be deemed the date of initiation of operation of the complete grant-funded treatment works. The number of annual deposits shall be thirty (30) which is the design life of the treatment works as calculated by the city's utilities consulting engineers. Deposits into the sewerage system capital improvement accounts shall be made annually or, at the discretion of the city's finance director, more frequently. Deposits shall be made not later than on the last business day preceding the anniversary date of beneficial occupancy. The city does not have any plans at present for early termination of deposits into the sewerage system capital improvement accounts. The city may, however, make prepayments into these funds upon the recommendation of the city's finance director and the approval of the city manager. The aggregate amount of the annual deposits into the sewerage system capital improvement

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accounts shall be determined by the following formula:

$$D = G \times \frac{i(1+i)^{DL}}{(1+i)^{DL} - 1}$$

Where:

- D = required annual deposit;  
 G = grant amount actually received by city;  
 i = 0.078;  
 DL = 30 years.

The sources of revenue for the required deposits shall be as follows:

- (a) Wastewater system development charges (to the extent permitted by law).
- (b) Current year surpluses from the revenue fund.
- (c) Prior year surpluses from the revenue fund.

If the above sources of revenue are collectively insufficient to make the annual deposit, then the wastewater user charges shall be increased to provide the remaining source of funds necessary for such annual deposits above those required by the city's revenue rate covenant to cover any bonded indebtedness deficiencies in debt service.

Deposits into the sewerage system capital improvement accounts shall be invested in accordance with the city's normal practice for investment of funds but shall be accounted for separately.

- (3) *Purposes of accounts generally.* Accrued moneys in the sewerage system capital improvement accounts shall be expended for any permissible purpose, including, but not limited to, the following:
  - (a) Capacity expansion of any wastewater system facility.
  - (b) Replacement of any wastewater system component which has reached the end of its design life.
  - (c) Repair and/or replacement of a treatment plant, pumping stations or major transmission facilities, in the event that these items are undertaken as part of capacity expansion or upgrade necessary to meet more stringent effluent limitations required by a regulatory agency or are necessitated as the result of a manmade or natural disaster.

(Q) *Annual certification for compliance with Florida Administrative Code.* The city shall engage a certified public accounting firm to prepare and submit annually to the Florida Department of Environmental Regulation a certification that the revenue generation system has been maintained in accordance with Chapter 17-50, Florida Administrative Code.

**Section 5-7. Water Conservation and Shortages.****Subsection 5-7-1. Definitions.**

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

*District:* The South Florida Water Management District.

*Person:* Any person, firm, partnership, association, corporation, company, or organization of any kind.

*Water resource:* Any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

*Water shortage:* Occurs when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

*Water shortage emergency:* That situation when the powers which can be exercised under part II of Chapter 40E-21 of the Florida Administrative Code are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

**Subsection 5-7-2. Applicability.**

This section shall be in full force and effect throughout the City of Naples. The provisions of this section shall apply to all persons using the water resource, whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies. This section shall not apply to persons using treated effluent or salt water. This section shall apply to all such persons using the water resource within the geographical areas subject to the water shortage or water shortage emergency as determined by the district.

**Cross reference**—Resource protection standards for water resources, § 10-6.

**Subsection 5-7-3. Chapter 40E-21, Florida Administrative Code, Adopted by Reference.**

Chapter 40E-21, Florida Administrative Code, as same may be amended from time to time, is incorporated herein by reference as a part of this section.

**Subsection 5-7-4. Declaration of Water Shortage; Water Shortage Emergency.**

The declaration of a water shortage or water shortage emergency within all or any part of the City of Naples by the governing board or the executive director of the district shall invoke the provisions of this section. The district shall determine the appropriate phase of water shortage or water shortage emergency and the duration of the water

shortage or water shortage emergency. Upon such declaration, all water use restrictions or other measures contained in Chapter 40E-21, Florida Administrative Code, which chapter constitutes the Water Shortage Plan, shall be subject to enforcement action pursuant to subsections 5-7-5 and 5-7-6 of this section. Any violation of the provisions of Chapter 40E-21, Florida Administrative Code as same may be amended from time to time, or any order issued pursuant thereto, shall be a violation of this section.

**Subsection 5-7-5. Enforcement.**

Every police officer of the city in the service areas governed by this section shall, in connection with all other duties imposed by law, diligently enforce the provisions of this section. In addition, the city manager may also delegate enforcement responsibility for this section to agencies and departments of city government in accordance with state and local law.

**Subsection 5-7-6. Penalties.**

Violation of any provision of this section shall be subject to the following penalties:

- (1) First violation: Twenty-five dollar (\$25.00) fine.
- (2) Second and subsequent violations: Fine not to exceed three hundred dollars (\$300.00) and/or imprisonment in the county jail not to exceed sixty (60) days.

Each day of violation of this section shall constitute a separate offense. The city, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action to enforce the provisions of this section.

**Subsection 5-7-7. Acceptance of Water Service Deemed Acceptance of Section Provisions.**

No water service shall be furnished to any person by a public or private utility unless such person agrees to accept all the provisions of this section. The acceptance of water service shall be in itself the acceptance of the provisions thereof.

**Subsection 5-7-8. Water Use Regulations; Mechanical Failure; Inadequate Facilities.**

(A) The following rules and regulations are hereby established governing the use of potable water from the city's water system for lawn sprinkling within the City of Naples, and authorizing the city manager to implement said rules and regulations whenever he is advised by the city's consulting engineer and the director of public works that a mechanical failure exists or facilities are inadequate to meet demands, which necessitates the implementation of said rules and regulations. Said implementation shall be predicated upon a finding by the city manager that said mechanical failure or inadequate facilities may affect the health, safety, welfare or comfort of the citizens of the City of Naples.

- (1) Lawn sprinkling shall be permitted on each Tuesday, Thursday and Saturday in the following areas, and shall be prohibited on all other days:

Area west of 3rd Street, north of 14th Avenue South and south of South Golf Drive;

Eastern Shore, Golden Shores, Oyster Bay and Royal Harbor;

All of Gulfshore Boulevard, north of South Golf Drive, west of the Moorings Bay.

- (2) Lawn sprinkling shall be permitted on each Wednesday, Friday and Sunday in the following areas, and shall be prohibited on all other days:

Area south of 14th Avenue South, west of Naples Bay;

Aqualane Shores and Port Royal;

Area north of 14th Avenue South, east of 3rd Street and east of the Moorings Bay.

(B) The city manager is hereby authorized and directed to continue said rules and regulations in effect and to enforce the same until such time as the condition which caused the implementation thereof ceases to exist.

(C) The city manager is hereby authorized, at his discretion, to allow exceptions to the provisions hereof in cases where the application of this section would create a hardship; provided, however, that the applicant for such exception shall submit in writing an explanation of said hardship and shall agree in writing to comply with the conditions and restrictions set by the city manager for said applicant.

(D) The city manager may reduce, by means of an orifice, water service to any property for a period of thirty (30) days for each violation of the provisions hereof. Full service will be restored upon payment of seventy-five dollars (\$75.00).

**Subsection 5-7-9. Requirement for Connection to Water Reuse System.**

(A) *Generally.* When an application is received for connection to the city's water or sewer systems involving a parcel of land ten (10) acres or more in size and where the city offers to extend the city's water reuse transmission lines to the parcel for purposes of irrigation, the parcel shall be required to connect to the reuse system as a condition of connection to either the city's potable water or sewer system.

(B) *Cross-connections.* No cross-connection between the water reuse system and any potable water system shall be permitted. Cross-connections between the water reuse system and other sources of irrigation water, including but not limited to, surface water and wells, shall be subject to approval by the city of the construction plans for such connection.

**Section 5-8. Wells.**

**Subsection 5-8-1. Definitions.**

*Well:* The word "well" as used in this section shall mean an opened end casing driven, drilled or jetted below the ground surface to a pocket of water.

*Sand point well:* A "sand point well" as used in this section shall be defined as a well with a well point having a perforated casing with outer screen of small enough mesh to restrict flow of sand but admit water under suction.

**Subsection 5-8-2. Drilling; Permit Required.**

It shall be unlawful for any person to sink, strike, or drill any well or sand point well within the limits of the city without first securing a permit therefor, to be issued in writing by the city manager, after being approved by the water superintendent, and the building inspector, in accordance with the provisions of this section, and under such laws, regulations, and charges as he may prescribe.

**Subsection 5-8-3. Depth Limited.**

(A) *Wells.* Except where permitted by council action, it shall be unlawful to strike, dig, or drill a well within the city limits, having a depth greater than fifty (50) feet, measured from the ground surface to the bottom of the well. It is the intent of this subsection to prohibit the construction of wells within the city limits which would penetrate the underground aquifer from which the municipal supply is derived. Since the depth from ground surface to the top of this aquifer varies somewhat in different areas of the city, the fixture of fifty (50) feet represents an average value, and is subject to reasonable interpretation by the city manager at the time the permit is requested, based upon records and information available in the files of the city and water department. His decision in every case shall be final.

(B) *Sand point wells.* It shall be unlawful to strike, dig or drill a sand point well within the city limits having a depth greater than thirty-five (35) feet measured from the ground surface to the well point.

**Subsection 5-8-4. Number Limited.**

(A) *Number of wells per square feet.* The drilling of more than one well on a ten thousand (10,000) square foot parcel of land is hereby prohibited; one well may be drilled where a building lot does not have ten thousand (10,000) square feet.

(B) *Number of sand point wells per square feet.* In the well field area defined in this section, there may be drilled one sand point well for every five thousand (5,000) square feet, or fraction thereof, of any parcel of land. One sand point well for every five thousand (5,000) square feet or fraction thereof of any parcel of land may be drilled in any other area of the city where sand point wells are desired or preferred instead of wells. In no case shall sand point wells be used to supplement or add to the number of wells permitted on any parcel of land as permitted in paragraph (A) of this subsection.

**Subsection 5-8-5. Maximum Diameter Permitted.**

No well shall be drilled with a larger dimension than two (2) inches, except by council action.

**Subsection 5-8-6. Sanitary Code to be Followed; Location of Septic Tanks.**

Wells shall be drilled according to Florida State Sanitary Code, Chapter V, page 3(1). Septic tanks shall be located as far as possible from a spring or well and at a lower elevation. No part of a septic tank and the drain field therefrom shall be located under any building, nor within five (5) feet thereof, nor within fifty (50) feet of any water supply, well, sand point well or cistern.

**Subsection 5-8-7. Submission of Plans.**

Each applicant for a permit to drill a well or a sand point well shall submit a plot plan showing existing buildings, septic tank or tanks, and well location or sand point well location.

**Subsection 5-8-8. Well Drilling Contractors.**

(A) No license shall be issued to a well driller unless such well driller exhibits workmen's compensation and public liability insurance, in the amount of bodily injury liability of fifty thousand dollars (\$50,000.00) to one hundred thousand dollars (\$100,000.00), and property damage liability, except auto, of five thousand dollars (\$5,000.00) to twenty-five thousand dollars (\$25,000.00).

(B) Each and every well driller shall keep a log of all wells and sand point wells drilled within the city. At the completion of each and every well and sand point well, a log of same shall be filed with the superintendent of water plant.

**Cross reference**—Contractor licensing, § 3-51 et seq.

**Subsection 5-8-9. Connection with Waterworks System Prohibited.**

It shall be unlawful for any person to make any connection into any water lines connected with the supply system of the city, either upon public or private property, or for any other person having interest in any property within the city to permit to be constructed upon such property any such connections between the water lines of the waterworks system of the city, and any well or sand point well.

Such connections as may exist between either wells or sand point wells and water lines which are a part of the water supply system of the city, either upon public or private property, are hereby declared to be a nuisance to the public, on the ground of their possible contamination of the water supply of the city, and are hereby required to be permanently disconnected and removed from such water supply system.

**Subsection 5-8-10. City Employees to Have Access to Wells.**

The city, through its officers, agents and employees, shall have, at all times, the right of access to any property upon which a well or sand point well is located, for the purpose of inspecting same, or otherwise regulating the operation of the well or sand point well under the terms of this chapter.

**Subsection 5-8-11. Right of City to Cap.**

The city reserves the right at all times and is hereby given the authority to cap and completely stop the flow or delivery of water from any well or sand point well within the

city limits, whether dug or drilled, under the terms of this section or otherwise, whenever, in the opinion of the city, through its employees, officials, engineers, or consultants, the same is necessary in order to preserve and conserve the quality or the quantity of the water supply of the city.

**Subsection 5-8-12. Penalty for Violation of Section.**

Any well driller violating any of the provisions of this section shall have his license to drill wells within the city limits revoked for a period of six (6) months. A second violation of any of the provisions of this section by a well driller shall be grounds for a permanent revocation of his well drilling license within the city. This penalty of license revocation shall be in addition to the general penalty provided elsewhere in this code.

**Section 5-9. Storm Water Management.**

The standards, guidelines and policy as administered by the City of Naples Engineering and Utilities Departments, is hereby adopted by reference by the city.

**Section 5-10. Seawalls and Revetments.**

**Subsection 5-10-1. Definitions.**

As used in this section, the following words shall have the following meanings:

*City:* The incorporated area of Naples, Florida.

*Failed seawall or revetment:* A seawall or revetment that has failed structurally or that has moved from its original position or that does not serve to stabilize the position of the shoreline.

*Revetment:* A sloping structure which serves to separate real property and/or any improvements thereon from any natural or manmade body of water.

*Seawall:* Any solid upright structure which serves to separate real property and/or any improvements thereon from any natural or manmade body of water.

**Subsection 5-10-2. Failed Seawall or Revetment, Failure to Remove Same, Declared Unlawful and Public Nuisance.**

(A) It is hereby declared unlawful and a public nuisance for any property owner in the city to permit, or to fail to repair or reconstruct, any failed seawall or revetment upon his property. It is further declared unlawful and a public nuisance for any property owner to fail to remove from his property or an adjacent body of water the debris and rubble of any failed seawall or revetment.

(B) In no case will a failed revetment be replaced with a vertical seawall. Revetments being more environmentally sound and desirable than vertical seawalls, the City of Naples encourages individual property owners to replace failed seawalls with revetments, if such a replacement can be effected without disturbing the structural integrity of neighboring/adjacent shorelines.

(C) Seawalls and revetments located seaward of the coastal construction setback line or the city's most restrictive setback line, as defined in this code, are controlled by subsection 10-3-2(A) of this code and by the Division of Beaches and Shores, Florida Department of Natural Resources (Chapter 16B-33, Florida Administrative Code). Replacement of a failed seawall or revetment that is located seaward of the coastal construction setback

line necessitates submission of a permit application to the Florida Department of Natural Resources and a variance petition to the City of Naples.

**Subsection 5-10-3. Enforcement Jurisdiction; Noncompliance.**

(A) *Code enforcement board.* The City of Naples Code Enforcement Board shall have jurisdiction to enforce the provisions of this section; however, the jurisdiction of the code enforcement board shall not be exclusive.

(B) *Other lawful actions by city.* The City of Naples may take any other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any failure or refusal to comply with any of the provisions of this section. Such other lawful action shall include, but shall not be limited to, an equitable action for injunctive relief or action at law for damages or foreclosures of liens. Nothing contained in this section shall be construed to limit or otherwise adversely affect an adjoining property owner's right to seek redress for damages resulting from a failed seawall or revetment.

**Subsection 5-10-4. Technical Specifications for Seawalls and Revetments.**

(A) *Adopted by reference.* There is attached to Ordinance No. 87-5221 and incorporated by reference herein a document entitled "City of Naples Seawall and Revetment Regulations—Technical Specification," consisting of pages one through fifteen (15) inclusive of design figures. All seawalls and revetments constructed, reconstructed, repaired, altered, projected or prolonged in the city after the effective date of Ordinance No. 87-5221 must meet or exceed these technical specifications as follows:

- (1) Minor repairs to the seawall or revetment which do not necessitate physical alteration to the existing structural support system are exempt from the technical specifications.
- (2) Major repairs to the seawall or revetment which necessitate physical replacement of any portion of the structural support system shall require compliance with all applicable provisions of the technical specifications for that portion of the seawall or revetment. Any portion of a seawall which still has useful life may be utilized, regardless of its compliance with these technical specifications, upon certification by a licensed engineer and submission of said certification.
- (3) Reconstruction of any seawall or revetment requiring the complete reinstallation of the sheet pile portion of the structural support system, or any new seawall or revetment section installed adjacent to or independently from any existing seawall or revetment shall require complete conformance with all sections of the technical specifications for that portion of seawall or revetment.

(B) *Noncompliance; violation.* Failure to comply with these technical specifications shall constitute a violation of this section.

(C) *Alternative technologies; requirements.* Alternate technologies, such as sand/sediment-filled cylindrical bags, may be appropriate for some applications. Proposing such devices/technologies is not prohibited, but the engineering documentation accompanying

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such proposals must substantiate their equivalency to the standard seawall and/or revetment designs specified in this section.

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**CHAPTER 6****SUBDIVISION STANDARDS\*****Section 6-1. Intent and Purpose.**

It is the intent in this section to provide for minimum standards governing subdivisions. Such standards are necessary for the protection of health, safety and general welfare of the citizens of Naples. It is further the intent in this section to include by reference those regulations and minimum standards required to provide that protection.

Copies of all referenced codes are on file in the office of the city clerk and shall be available for inspection during regular office hours.

In the implementation of this development code and any of the codes referenced below, the "most stringent code" rule shall apply.

**Section 6-2. Subdivision Code Adopted.**

There is hereby adopted by reference: Code of Ordinances, City of Naples, Florida: Chapter 20: Subdivision and Minimum Standards.

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\*Cross reference—Procedure for subdivision of lands, § 3-86.

**CHAPTER 7****ESTABLISHMENT OF ZONING DISTRICTS****Section 7-1. Establishment of Zoning Districts: Provisions for Official Zoning Map or Atlas.****Subsection 7-1-1. Establishment of Districts.**

The incorporated land and water area of the City of Naples, Florida, is hereby divided into zones or districts as set out in this section and as shown on the official zoning map or atlas. The official zoning map or atlas, together with all explanatory matter thereon, is hereby adopted and incorporated by reference, and declared to be a part of this code.

**Subsection 7-1-2. Atlas or Zoning Map.**

The official zoning map or atlas, the latter comprised of individual map sheets, shall bear the date of its adoption and the signature of the mayor, attested to by the city clerk. The boundaries of each district shall be shown on the official zoning map or atlas and the district symbol or symbols as set out in this code shall be used to designate each district.

**Subsection 7-1-3. Zoning District Boundary Changes.**

After the amendment has been approved by the city council, changes in district boundaries shall be entered on the official zoning map or on the appropriate map sheet or sheets of the official zoning atlas promptly. An entry shall be made on the official zoning map or atlas sheet(s) stating the date, change, and brief description or nature of change signed by the mayor and attested to by the city clerk.

**Subsection 7-1-4. Authority as to Current Zoning Status.**

Regardless of the existence of purported copies of the official zoning map or atlas which may from time to time be made or published, the official zoning map or atlas shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the city, and shall supersede and replace any and all previously adopted zoning maps or atlases. The city clerk shall be custodian of the official zoning map or atlas.

**Cross reference**—Supplemental standards applicable to all districts, § 9-1.

**Section 7-2. Interpretation of District Boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map or atlas, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of public or private rights-of-way shall be construed to follow such center lines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines as they exist at the time of the establishment of the district boundary.

- (3) Boundaries indicated as approximately following city limits shall be construed as following city limits as they existed at the time of the establishment of the district boundary.
- (4) Boundaries indicated as following a shore line shall be construed to follow such shore line, and in the event of change in the shore line, shall be construed as moving with the actual shore line.
- (5) Submerged lands, including waters over such submerged land, unless specifically zoned otherwise, are to be construed as being zoned the same as the abutting upland.
- (6) Boundaries indicated as parallel to or extensions of features indicated in items (1) through (5) above shall be so construed. Distances not specifically indicated on the official zoning map or atlas shall be determined by the scale of the map or atlas.
- (7) Where the street or property layout existing on the ground is at variance with that shown on the official zoning map or atlas, or in other circumstances not covered by items (1) through (6) above, the zoning administrator shall interpret the district boundaries.

### **Section 7-3. Application of District Regulations.**

The following regulations apply except as hereinafter provided:

#### **Subsection 7-3-1. Conformity with Zoning Regulations.**

No building, structure, land or water shall hereafter be used or occupied, and no building or structure or part thereof shall be hereafter erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all applicable zoning regulations.

#### **Subsection 7-3-2. Limitations on Buildings.**

No building or other structure shall hereafter be erected or altered:

- (1) To exceed the height.
- (2) To accommodate or house a greater number of families.
- (3) To have lesser yards, or other open spaces than therein required, or in any other manner be contrary to the provisions of this ordinance.

#### **Subsection 7-3-3. Requirements for Each Building.**

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking or loading space required for any other building.

#### **Subsection 7-3-4. Yard and Lot Area—Reduction Prohibited.**

No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the

effective date of this ordinance shall meet at least minimum requirements established by this ordinance.

**Subsection 7-3-5. Waterfront Lots—Determination of Required Yards.**

On waterfront lots, the shoreline (see definitions) shall be construed to be the property line for the purpose of determining minimum required waterfront yards. The coastal area setback line, if greater, shall take precedence over setbacks listed in individual districts.

**Subsection 7-3-6. Property in Two Zoning Districts.**

When a parcel of property is crossed by a zoning district boundary and thus lies in two (2) zoning districts, any development must conform to the most restrictive lot area, lot width, building setback and similar regulations if the proposed development crosses the zone line.

**Subsection 7-3-7. Minimum Regulations.**

Within each district, the regulations set by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

**Subsection 7-3-8. Private Covenants.**

All requirements of this ordinance must be complied with regardless of the existence of valid private covenants, agreements or restrictions on the use of lands or structures, but this ordinance does not nullify such private covenants, agreements, or restrictions as may have been lawfully established.

**Cross reference**—Supplemental standards for zoning districts, § 9-1 et seq.

**Section 7-4. Zoning Districts.**

**Subsection 7-4-1. "RE" Rural Estates District.**

- (A) *District purpose:* This district is intended to apply to an area of low density, single family residences in a semi-rural environment and permits all necessary residential activities as well as the keeping of limited agricultural animals as specified below.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered, or used, or land or water used, in whole or in part, for other than the following:
- (1) Single family residences.
  - (2) Accessory structures which are incidental to and customarily associated with the uses permitted in this district.
  - (3) Keeping of animals of the equine class, not to exceed two (2) per acre. Any roofed structure for the shelter and feeding of such animals shall be no less than twenty (20) feet from any lot line and at least one hundred (100) feet from any existing residence located on adjacent property. No open feed lot for animals shall be permitted.
  - (4) Keeping of fowl or poultry not to exceed twenty-five (25) in total number, provided such fowl or poultry are kept in an enclosure located thirty (30) feet or more from

- any lot line and at least one hundred (100) feet from any existing residence located on adjacent property.
- (5) Keeping of bees, not to exceed five (5) hives, provided such hives are located thirty (30) feet or more from any lot line and at least one hundred (100) feet from any existing residence located on adjacent property.
- (C) *Conditional uses:* None.
- (D) *Minimum lot area:* Two and one-quarter (2<sup>1</sup>/<sub>4</sub>) acres.
- (E) *Minimum lot width:* One hundred fifty (150) feet.
- (F) *Minimum yards:*
- (1) Front yard—Seventy-five (75) feet.
  - (2) Side yard—Fifteen (15) feet.
  - (3) Rear yard—Seventy-five (75) feet.
- (G) *Minimum floor area:*
- (1) One story—One thousand (1,000) square feet.
  - (2) Two-story—One thousand two hundred fifty (1,250) square feet.
- (H) *Maximum height:* No more than two (2) stories, up to a maximum height of thirty (30) feet.
- (I) *Minimum off-street parking:* Two (2) spaces per residence, located within the permitted building area.
- (J) *Maximum lot coverage by all buildings:* None, except all buildings must meet minimum setback requirements.

**Subsection 7-4-2. "R1-E" Residence District.**

- (A) *District purpose:* This is Naples' residential estate district. Larger lots and larger homes are required in this district than in any other.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
- (1) Single family residences.
  - (2) Accessory structures which are incidental to and customarily associated with the use permitted in this district.
- (C) *Conditional uses:* None.
- (D) *Minimum lot area:* Sixty-seven thousand five hundred (67,500) square feet.
- (E) *Minimum lot width:* One hundred fifty (150) feet.
- (F) *Minimum yards:*
- (1) Front yard—Fifty (50) feet.
  - (2) Side yard—Fifteen (15) feet.

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- (3) Rear yard—Thirty-five (35) feet.
  - (a) Rear yards abutting a public alley may be reduced to fifteen (15) feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding one hundred (100) square feet in area.
  - (b) Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than fifteen (15) feet to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.
- (G) *Minimum floor area:*
  - (1) One story—Two thousand (2,000) square feet.
  - (2) Two-story—Two thousand five hundred (2,500) square feet.
- (H) *Maximum height:* No more than two (2) stories; up to a maximum height of thirty (30) feet.
- (I) *Minimum off-street parking:* Two (2) spaces per residence, located within the permitted building area.
- (J) *Maximum lot coverage by all buildings:* None, except all buildings must meet minimum setback requirements.

**Subsection 7-4-3. "R1-15" Residence District.**

- (A) *District purpose:* This is a single family residence district.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
  - (1) Single family residences.
  - (2) Accessory structures which are incidental to and customarily associated with the uses permitted in this district.
- (C) *Conditional uses:* None.
- (D) *Minimum lot area:* Fifteen thousand (15,000) square feet.
- (E) *Minimum lot width:* One hundred (100) feet.
- (F) *Minimum yards:*
  - (1) Front yard—Forty (40) feet.
  - (2) Side yard—One story—Ten (10) feet.  
Two-story—Fifteen (15) feet.
  - (3) Rear yard—Thirty (30) feet.
    - (a) Rear yards abutting a public alley may be reduced to fifteen (15) feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding one hundred (100) square feet in area.
    - (b) Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than fifteen (15) feet

to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.

- (4) On lots which front on more than one street, one of the front yards may be reduced to thirty-five (35) feet. The property owner may choose which setback to reduce, subject to the approval of the zoning administrator.
- (G) *Minimum floor area:*
- (1) One story—One thousand four hundred (1,400) square feet.
  - (2) Two-story—Two thousand (2,000) square feet.
- (H) *Maximum height:* No more than two (2) stories; up to a maximum height of thirty (30) feet.
- (I) *Minimum off-street parking:* Two (2) spaces per residence, located within the permitted building area.
- (J) *Maximum lot coverage by all buildings:* None, except all buildings must meet minimum setback requirements.

**Subsection 7-4.4. "R1-10" Residence District.**

- (A) *District purpose:* This is a single family residence district.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
- (1) Single family residences.
  - (2) Accessory structures which are incidental to and customarily associated with the uses permitted in this district.
- (C) *Conditional uses:* None.
- (D) *Minimum lot area:* Ten thousand (10,000) square feet.
- (E) *Minimum lot width:*
- (1) Corner lots—Eighty-seven and one-half (87½) feet.
  - (2) Interior lots—Seventy-five (75) feet.
- (F) *Minimum yards:*
- (1) Front yard—Thirty (30) feet.
  - (2) Side yard—One Story—Seven and one-half (7½) feet.  
Two story—Ten (10) feet.
  - (3) Rear yard—Twenty-five (25) feet.
    - (a) Rear yards abutting a public alley may be reduced to fifteen (15) feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding one hundred (100) square feet in area.
    - (b) Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than fifteen (15) feet

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to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.

- (4) On lots which front on more than one street, one of the front yards may be reduced to twenty-five (25) feet. The property owner may choose which setback to reduce, subject to the approval of the zoning administrator.
- (G) *Minimum floor area:*
- (1) One story—One thousand two hundred (1,200) square feet.
  - (2) Two-story—One thousand six hundred (1,600) square feet.
- (H) *Maximum height:* No more than two (2) stories; up to a maximum height of thirty (30) feet.
- (I) *Minimum off-street parking:* One (1) space per residence, located within the permitted building area.
- (J) *Maximum lot coverage by all buildings:* None, except all buildings must meet minimum setback requirements.

**Subsection 7-4-5. "R1-7.5" Residence District.**

- (A) *District purpose:* This is a single family residence district.
- (B) *Uses permitted:* No building or structure or part thereof shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
- (1) Single family residences.
  - (2) Accessory structures which are incidental to and customarily associated with the uses permitted in this district.
- (C) *Conditional uses:* None.
- (D) *Minimum lot area:* Seven thousand five hundred (7,500) square feet.
- (E) *Minimum lot width:*
- (1) Corner lot—Seventy-five (75) feet.
  - (2) Interior lot—Sixty (60) feet.
- (F) *Minimum yards:*
- (1) Front yard—Twenty-five (25) feet.
  - (2) Side yard—Seven and one-half (7½) feet.
  - (3) Rear yard—Twenty (20) feet.
    - (a) Rear yards abutting a public alley may be reduced to fifteen (15) feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding one hundred (100) square feet in area.
    - (b) Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than fifteen (15) feet

to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.

- (4) On lots which front on more than one street, one of the front yards may be reduced to twenty (20) feet. The property owner may choose which setback to reduce, subject to the approval of the zoning administrator.

(G) *Minimum floor area:*

- (1) One story—One thousand (1,000) square feet.
- (2) Two-story—One thousand two hundred fifty (1,250) square feet.

(H) *Maximum height:* No more than two (2) stories; up to a maximum height of thirty (30) feet.

(I) *Minimum off-street parking:* One (1) space per residence, located within the permitted building area.

(J) *Maximum lot coverage by all buildings:* None, except all buildings must meet minimum setback requirements.

**Subsection 7-4-6. "R3-6" Multifamily District.**

(A) *District purpose:* This district provides for single family and low profile multifamily residences.

(B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered, or used, or land or water used, in whole or in part, for other than the following:

- (1) Single family residences.
- (2) Multifamily residences.
- (3) Accessory structures which are incidental to and customarily associated with the above permitted uses in this district.

(C) *Conditional uses:*

- (1) Child care centers.
- (2) Cluster homes.
- (3) Nursing, rest, or group homes.
- (4) Recreation areas or facilities that are a part of one of the above permitted uses.

(D) *Minimum lot area:* Six thousand (6,000) square feet.

(E) *Minimum lot width:* Sixty (60) feet.

(F) *Minimum yards:*

(1) Single family dwellings:

Front yard—Twenty-five (25) feet.

Side yard—One story—Seven and one-half (7½) feet.

Two-story—Ten (10) feet.

Rear yard—Twenty (20) feet.

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## (2) Multifamily dwellings:

Front yard—Thirty-five (35) feet.

Side yard—Fifteen (15) feet.

Rear yard—Thirty (30) feet.

(G) *Minimum floor area:*

## (1) Single family dwellings

One story—One thousand (1,000) square feet.

Two story—One thousand two hundred fifty (1,250) square feet.

## (2) Multifamily dwellings—Seven hundred fifty (750) square feet.

(H) *Maximum height:* Thirty (30) feet.(I) *Minimum off-street parking:* One and one-half (1½) spaces per dwelling unit. See Chapter 8 for other uses.(J) *Maximum lot coverage by all buildings:* None for individual single family residences constructed on individual parcels of land, except said residences must meet minimum setback requirements. All other buildings: Twenty-five (25) percent.**Subsection 7-4-7. "R3-12" Multifamily District.**(A) *District purpose:* This residential district is designed to accommodate a mixture of single family homes and one, two-, and three-story apartments.(B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:

(1) Single family residences.

(2) Multifamily residences.

(3) Accessory structures which are incidental to and customarily associated with the above permitted uses in this district.

(C) *Conditional uses:*

(1) Child care centers.

(2) Nursing or rest homes.

(3) Parking lots (noncommercial; no meters or on-site parking fee collection).

(4) Recreation areas or facilities that are part of one of the above permitted uses.

(D) *Minimum lot area:* Six thousand (6,000) square feet.(E) *Minimum lot width:* Forty (40) feet.(F) *Minimum yards:*

(1) Front yard—Twenty-five (25) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements

- (2) Side yard—One story—Seven and one-half (7½) feet.  
Two-story—Ten (10) feet.  
Three-story—Twelve and one-half (12½) feet.
- (3) Rear yard—Twenty (20) feet.
- (G) *Minimum floor area:*
  - (1) One-family dwellings:
    - One story—One thousand (1,000) square feet.
    - Two-story—One thousand two hundred fifty (1,250) square feet.
  - (2) Two-family dwellings—One thousand (1,000) square feet per dwelling unit.
  - (3) Three- or more family dwellings—Six hundred (600) square feet per dwelling unit.
  - (4) Manager's apartment—Six hundred (600) square feet per dwelling unit.
- (H) *Maximum height:* Thirty (30) feet; except that the development on any "R3-12" zoned property adjacent to, or across the street from, any "R1" zoned property shall be limited to two (2) stories in height.
- (I) *Minimum off-street parking:* One and one-half (1½) spaces per dwelling unit. See Chapter 8, [section 8-3,] Parking Requirements, for other uses.
- (J) *Maximum lot coverage by all buildings:* None for individual single family residences constructed on individual parcels of land, except said residences must meet minimum setback requirements. All other buildings: Twenty-five (25) percent.

**Subsection 7-4-8. "R3T-12" Multifamily District.**

- (A) *District purpose:* This is a low-rise apartment district, in which the dwelling units are primarily intended to serve residents. A limited number of transient lodging facilities may be permitted if controlled as to number, area, location, relation to the neighborhood, and compatibility with permitted uses.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
  - (1) Single family residences.
  - (2) Multifamily residences.
  - (3) Accessory structures which are incidental to and customarily associated with the above permitted uses in this district.
- (C) *Conditional uses:*
  - (1) Child care centers.
  - (2) Nursing, rest, or group homes.
  - (3) Parking lots (noncommercial; no meters or on-site parking fee collection).
  - (4) Recreation areas or facilities that are a part of one of the above permitted uses.
  - (5) Transient lodging facilities.
- (D) *Minimum lot area:* Fifteen thousand (15,000) square feet.

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- (E) *Minimum lot width:* One hundred (100) feet.
- (F) *Minimum yards:*
- (1) Front yard—Twenty-five (25) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements
  - (2) Side yard—One story—Seven and one-half (7½) feet.  
Two-story—Ten (10) feet.  
Three-story—Twelve and one-half (12½) feet.
  - (3) Rear yard—Twenty (20) feet.
- (G) *Minimum floor area:*
- (1) One-family dwellings:
    - One story—One thousand (1,000) square feet.
    - Two-story—One thousand two hundred fifty (1,250) square feet.
  - (2) Two-family dwellings—One thousand (1,000) square feet per dwelling unit.
  - (3) Three- or more family dwellings—Six hundred (600) square feet per dwelling unit.
  - (4) Manager's apartment—Six hundred (600) square feet per dwelling unit.
  - (5) Transient lodging facilities:
    - Dwelling units without cooking facilities—Three hundred (300) square feet.
    - Dwelling units with cooking facilities—Four hundred (400) square feet.
- (H) *Maximum height:* Thirty (30) feet, except that the development on any "R3T-12" zoned property adjacent to, or across the street from, any "R1" zoned property shall be limited to two (2) stories in height
- (I) *Minimum off-street parking:* One and one-half (1½) spaces per dwelling unit or transient lodging unit. See Chapter 8, [section 8-3,] Parking Requirements, for other uses.
- (J) *Maximum lot coverage by all buildings:* None for individual single family residences constructed on individual parcels of land, except said residences must meet minimum setback requirements. All other buildings: Twenty-five (25) percent.

**Subsection 7-4-9. "R3-15" Multifamily District.**

- (A) *District purpose:* This is a high-rise apartment district.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
- (1) Single family residences.
  - (2) Multifamily residences.
  - (3) Accessory structures which are incidental to and customarily associated with the above permitted uses in this district.
- (C) *Conditional uses:*
- (1) Child care centers.

- (2) Nursing, rest, or group homes.
  - (3) Parking lots (noncommercial; no meters or on-site parking fee collection).
  - (4) Recreation areas or facilities that are a part of one of the above permitted uses.
- (D) *Minimum lot area:* Fifteen thousand (15,000) square feet.
- (E) *Minimum lot width:* One hundred (100) feet.
- (F) *Minimum yards:*
- (1) Front yard—Twenty-five (25) feet, plus one foot for each one foot of building height over thirty (30) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Fifteen (15) feet, plus one foot for each one foot of building height over thirty (30) feet.
  - (3) Rear yard—Twenty-five (25) feet, plus one foot for each one foot of building height over thirty (30) feet.
- (G) *Minimum floor area:*
- (1) One-family dwellings:
    - One story—One thousand (1,000) square feet.
    - Two-story—One thousand two hundred fifty (1,250) square feet.
  - (2) Two- or more family dwellings—One thousand (1,000) square feet per dwelling unit.
  - (3) Manager's apartment—Six hundred (600) square feet per dwelling.
- (H) *Maximum height:* Sixty (60) feet, plus an additional twelve (12) feet if at least seventy-five (75) percent of the ground floor is devoted to automobile parking, and if there are no dwelling units located on the ground floor, except one (1) manager's dwelling unit.
- (I) *Minimum off-street parking:* Two (2) spaces per dwelling unit. (See Chapter 8, [section 8-3,] Parking Requirements, for other uses.)
- (J) *Maximum lot coverage by all buildings:* See Chapter 9 for regulations for multifamily residences. None for individual single family residences constructed on individual parcels of land except said residences must meet minimum setback requirements. All other buildings: Twenty-five (25) percent.

**Subsection 7-4-10. "R3T-18" Multifamily District.**

- (A) *District purpose:* This is an apartment district, with limited transient lodging uses permitted, in which the city's tallest buildings are permitted.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
  - (1) Single family residences.
  - (2) Multifamily residences.

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- (3) Accessory structures which are incidental to and customarily associated with the above permitted uses in this district.
- (C) *Conditional uses:*
- (1) Child care centers.
  - (2) Nursing, rest, or group homes.
  - (3) Parking lots (noncommercial; no meters or on-site parking fee collection).
  - (4) Recreation areas or facilities that are a part of one of the above permitted uses.
  - (5) Restaurants, conventional, and/or cocktail lounges which do not include dancing or staged entertainment; do not have exterior advertising or identification; and which are an integral part of and a subordinate use in a multi-family complex or transient lodging facility.
  - (6) Transient lodging facilities.
- (D) *Minimum lot area:* Twenty-five thousand (25,000) square feet.
- (E) *Minimum lot width:* One hundred fifty (150) feet.
- (F) *Minimum yards:*
- (1) Front yard—Thirty (30) feet, plus one foot for each two (2) feet of building height over forty-five (45) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Fifteen (15) feet, plus one foot for each two (2) feet of building height over forty-five (45) feet.
  - (3) Rear yard—Twenty-five (25) feet, plus one foot for each two (2) feet of building height over forty-five (45) feet.
- (G) *Minimum floor area:*
- (1) One-family dwellings:
    - One story—One thousand (1,000) square feet.
    - Two-story—One thousand two hundred fifty (1,250) square feet.
  - (2) Two- or more family dwellings—One thousand (1,000) square feet per dwelling unit.
  - (3) Manager's apartment—Six hundred (600) square feet per dwelling unit.
  - (4) Transient lodging facilities:
    - Dwelling units without cooking facilities—Three hundred (300) square feet.
    - Dwelling units with cooking facilities—Four hundred (400) square feet.
- (H) *Maximum height:* Seventy-five (75) feet, plus as additional twelve (12) feet if at least seventy (75) percent of the ground floor is devoted to automobile parking, and if there are no dwelling units located on the ground floor, except one (1) manager's apartment.
- (I) *Minimum off-street parking:* Two (2) spaces per dwelling unit. (See Chapter 8, [section 8-3,] Parking Requirements, for other uses.)

- (J) *Maximum lot coverage by all buildings:* See Chapter 9 for multifamily residences and transient lodging facilities. None for individual single family residences constructed on individual parcels of land, except said residences must meet minimum setback requirements. All other buildings: Twenty-five (25) percent.

**Subsection 7-4-11. "R3-18" Multifamily District.**

- (A) *District purpose:* This is an apartment district in which the city's tallest buildings are permitted.
- (B) *Permitted Uses:* No building or structure, or part thereof, shall be erected, altered, or used, or land or water used, in whole or in part, for other than the following:
- (1) Single family residences.
  - (2) Multifamily residences.
  - (3) Accessory structures which are incidental to and customarily associated with the above uses permitted in this district.
- (C) *Conditional uses:*
- (1) Child care centers.
  - (2) Nursing, group or rest homes.
  - (3) Parking lots (noncommercial; no meters or on-site parking fee collection).
  - (4) Recreation areas or facilities that are a part of one of the above permitted uses.
- (D) *Minimum lot area:* Twenty-five thousand (25,000) square feet.
- (E) *Minimum lot width:* One hundred fifty (150) feet.
- (F) *Minimum yards:*
- (1) Front yard—Thirty (30) feet, plus one foot for each two (2) feet of building height over forty-five (45) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Fifteen (15) feet, plus one foot for each two (2) feet of building height over forty-five (45) feet.
  - (3) Rear yard—Twenty-five (25) feet, plus one foot for each two (2) feet of building height over forty-five (45) feet.
- (G) *Minimum floor area:*
- (1) One-family dwellings:
    - One story—One thousand (1,000) square feet.
    - Two-story—One thousand two hundred fifty (1,250) square feet.
  - (2) Two (2) or more family dwellings—One thousand (1,000) square feet per dwelling unit.
  - (3) Manager's apartment—Six hundred (600) square feet per unit.
- (H) *Maximum height:* Seventy-five (75) feet, plus an additional twelve (12) feet if at least seventy-five (75) percent of the ground floor is devoted to automobile parking, and if

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there are no dwelling units located on the ground floor, except one (1) manager's dwelling.

- (I) *Minimum off-street parking:* Two (2) spaces per dwelling unit. (See Chapter 8, [section 8-3,] Parking Requirements, for other uses.)
- (J) *Maximum lot coverage by all buildings:* See Chapter 9 of this code for multi-family residences and transient lodging facilities. None for individual single family residences constructed on individual parcels of land, except said residences must meet minimum setback requirements. All other buildings: Twenty-five (25) percent.

**Subsection 7-4-12. "HC" Highway Commercial District.**

- (A) *District purpose:* This district provides for general commercial development along arterial or major highways. Development in this district is intended to be planned and provided in integrated units, of high quality, visually attractive and designed so as to control the impact of traffic on arterial or major streets. (See Chapter 3, [Article IV,] General Development and Site Plan Review.)
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following, and all merchandise shall be stored and displayed in an enclosed building:
  - (1) General retail sales establishments, including shopping centers (see Chapter 9) or department stores. Retail sales establishments may include incidental processing, repair and rental services, provided they are accessory and subordinate to the retail sales use, and provided that all storage, processing and repair of merchandise occurs within the principal building.
  - (2) Art or photography studios.
  - (3) Bakery, retail (baking on premises with all baked goods sold at retail on premises).
  - (4) Cocktail lounges. Dancing or staged entertainment facilities are permitted only by conditional use petition approval.
  - (5) Convenience service establishments such as tailoring, garment alteration and repair, shoe repair and the like.
  - (6) Financial institutions, excluding drive-up windows which are permitted only by conditional use petition approval.
  - (7) Laundry or dry-cleaning pick-up establishments (no laundering or dry-cleaning on premises).
  - (8) Medical offices or clinics (not animal).
  - (9) Parking lots (noncommercial; no meters or on-site parking fee collection).
  - (10) Personal service establishments such as barber and beauty shops.
  - (11) Professional, business, financial, civic, or public utility offices.
  - (12) Restaurants, conventional, with or without cocktail lounges. Dancing or staged entertainment facilities are permitted only by conditional use petition approval.
  - (13) Accessory uses or structures which are incidental to and customarily associated with the above permitted uses in this district.

(C) *Conditional uses:*

- (1) Amusement parlors, having coin-operated amusement games.
- (2) Automobile agencies franchised to sell new automobiles.
- (3) Bowling alleys.
- (4) Child care centers.
- (5) Churches.
- (6) Cultural facilities, including libraries or museums and/or publicly-owned buildings.
- (7) Dancing or staged entertainment.
- (8) Drive-up windows which are accessory to permitted uses.
- (9) Gasoline service stations (See Chapter 9, [subsection 9-3-3,] Gasoline Service Stations).
- (10) Motion picture theaters or live theaters (no drive-in theaters).
- (11) Nursing, rest, or group homes.
- (12) Parking garages.
- (13) Pool or billiard parlors.
- (14) Residential dwelling units when such dwelling units are accessory to and compatible with a permitted use and are located within the same building or group of buildings as the permitted use.
- (15) Schools and colleges.
- (16) Transient lodging facilities.
- (17) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated for this district.

(D) *Minimum lot area:* Thirty thousand (30,000) square feet.

(E) *Minimum lot width:* One hundred fifty (150) feet.

(F) *Minimum yards required:*

- (1) Front yard—Twenty (20) feet, all of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
- (2) Side yard—Ten (10) feet, except where the adjoining lot is in a residential district, in which case a minimum side yard of twenty-five (25) feet shall be provided.
- (3) Rear yard—Twenty-five (25) feet.

(G) *Minimum floor area:*

- (1) Nonresidential buildings—One thousand (1,000) square feet per building on the ground floor.
- (2) Transient lodging facilities:

Dwelling units without cooking facilities—Three hundred (300) square feet.  
Dwelling units with cooking facilities—Four hundred (400) square feet.

- (3) **Residential units**—Six hundred (600) square feet per unit.
- (H) *Maximum height*: Notwithstanding the definition listed in Chapter 2, the maximum height shall be limited and measured as follows: Three (3) stories, up to a maximum height of thirty-five (35) feet, measured vertically from the established 100-year flood elevation to the ceiling of the highest story, plus six (6) feet from said ceiling to the highest point of a flat roof, parapet wall or "mansard" detail; or six (6) feet from said ceiling to the mean distance between the eaves and the ridge of a gable, hip or gambrel roof.
- (I) *Minimum off-street parking required*: See Chapter 8, [section 8-3,] Parking Requirements. No parking shall be permitted in required front yard areas.
- (J) *Maximum lot coverage by all buildings*: Thirty (30) percent, except see Chapter 9 for transient lodging facilities, nursing, rest, or group homes and/or shopping centers.
- (K) *Minimum landscaping*: In addition to the parking, vehicular use and front yard setback area landscaping requirements, all areas not improved for parking, per city ordinance requirements, or occupied by a structure, paved walkway or the like shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.

**Subsection 7-4-13. "C1" Retail Shopping District.**

- (A) *District purpose*: This district is intended to accommodate the city's prestige shopping areas and a limited amount of residential development. It is more restrictive and specialized than the "C2" General Commercial District.
- (B) *Uses permitted*: No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following, and all merchandise shall be stored and displayed in an enclosed building:
- (1) Small scale retail sales establishments other than shopping centers. Retail sales establishments may include incidental processing, repair, and rental activities, provided they are accessory and subordinate to the retail sales use, and provided that all storage, processing and repair of merchandise occurs within the principal building.
  - (2) Art or photography studios.
  - (3) Bakery, retail (baking on premises with all baked goods sold at retail on premises).
  - (4) Cocktail lounges. Dancing or staged entertainment facilities are permitted only by conditional use petition approval.
  - (5) Convenience service establishments such as tailoring, garment alterations and repair, shoe repair and the like.
  - (6) Cultural facilities (including libraries and museums) and/or publicly-owned buildings.
  - (7) Financial institutions, excluding drive-up windows which are permitted only by conditional use petition approval.

- (8) Laundry or dry-cleaning pick-up establishments (no laundering or dry-cleaning on premises).
  - (9) Medical offices and clinics (not animal).
  - (10) Parking lots (noncommercial; no meters or on-site parking fee collection).
  - (11) Personal service establishments such as barber or beauty shops.
  - (12) Professional, business, financial, civic or public utility offices.
  - (13) Restaurants, conventional, with or without cocktail lounges: Dancing and/or staged entertainment facilities are permitted only by conditional use petition approval.
  - (14) Accessory uses or structures which are incidental to and customarily associated with the above permitted uses in this district.
- (2) *Conditional uses:*
- (1) Dancing or staged entertainment.
  - (2) Drive-up windows which are accessory to permitted uses (not to include restaurants).
  - (3) Motion picture theaters, live theaters (no drive-in theaters).
  - (4) Parking garages and lots.
  - (5) Residential dwelling units when such dwelling units are compatible with a permitted use and are located within the same building or group of buildings as the permitted use.
  - (6) Transient lodging facilities.
  - (7) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated for this district.
- (D) *Minimum lot area:* None.
- (E) *Minimum lot width:* None.
- (F) *Minimum yards required:*
- (1) Front yard—Ten (10) feet.
  - (2) Side yard—Buildings may be placed either on the side lot line or a minimum of ten (10) feet from it, except when the adjoining lot is in another zone with a different side yard requirement, in which case a minimum side yard of ten (10) feet shall be provided.
  - (3) Rear yard—Twenty-five (25) feet.
- (G) *Minimum floor area:*
- (1) Nonresidential buildings—One thousand (1,000) square feet per building on the ground floor.
  - (2) Transient lodging facilities;
    - Dwelling units without cooking facilities—Three hundred (300) square feet.
    - Dwelling units with cooking facilities—Four hundred (400) square feet.

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- (3) Residential units—Six hundred (600) square feet per unit.
- (H) *Maximum height*: No more than three (3) stories; up to a maximum height of thirty-five (35) feet.
- (I) *Minimum off-street parking required*: See Chapter 8, [section 8-3,] Parking Requirements.
- (J) *Maximum lot coverage by all buildings*: Forty-five (45) percent.
- (K) *Minimum landscaping*: In addition to the parking and vehicular use area landscaping requirements, all areas not improved for parking, per city ordinance requirements, or occupied by a structure, paved walkway or the like shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.

**Subsection 7-4-14. "C1-A" Retail Shopping District.**

- (A) *District purpose*: This district is intended to accommodate the city's commercial core which includes prestige shopping, financial institutions, real estate and brokerage firms, and a wide range of office and service uses. It is more restrictive and specialized than the "C2" General Commercial District.
- (B) *Uses permitted*: No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following, and all merchandise shall be stored and displayed in an enclosed building.
  - (1) Small scale retail sales establishments other than shopping centers. Retail sales establishments may include incidental processing, repair and rental activities, provided they are accessory and subordinate to the retail sales use, and provided that all storage, processing and repair of merchandise occurs within the principal building.
  - (2) Art or photography studios.
  - (3) Bakery, retail (baking on premises with all baked goods sold at retail on the premises).
  - (4) Cocktail lounges. Dancing or staged entertainment facilities are permitted only by conditional use petition approval.
  - (5) Convenience service establishments such as tailoring, garment alteration and repair, shoe repair and the like.
  - (6) Cultural facilities (including libraries or museums) and/or publicly-owned buildings.
  - (7) Financial institutions, excluding drive-up windows which are permitted only by conditional use petition approval.
  - (8) Laundry or dry-cleaning pick-up establishments (no laundering or dry cleaning on premises).
  - (9) Medical offices and clinics (not animal).
  - (10) Parking lots (noncommercial; no meters or on-site parking fee collection).
  - (11) Personal service establishments such as barber shops and beauty shops.
  - (12) Professional, business, financial, civic or public utility offices.

- (13) Restaurants, conventional, with or without cocktail lounges. Dancing and/or staged entertainment facilities are permitted only by conditional use petition approval.
  - (14) Accessory uses or structures which are incidental to and customarily associated with the above permitted uses in this district.
- (C) *Conditional uses:*
- (1) Dancing or staged entertainment.
  - (2) Drive-up windows which are accessory to permitted uses (not to include restaurants).
  - (3) Motion picture theaters, live theaters (no drive-in theaters).
  - (4) Parking garages.
  - (5) Radio and television broadcasting offices and studios, with no tower.
  - (6) Residential dwelling units when such dwelling units are compatible with a permitted use and are located within the same building or group of buildings as the permitted use.
  - (7) Transient lodging facilities.
  - (8) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this section.
- (D) *Minimum lot area:* None.
- (E) *Minimum lot width:* None.
- (F) *Minimum yards required:*
- (1) Front yard—Ten (10) feet.
  - (2) Side yard—Buildings may be placed either on the side lot line or a minimum of ten (10) feet from it, except when the adjoining lot is in another zone with a different side yard required in which case a minimum side yard of ten (10) feet shall be provided.
  - (3) Rear yard—Twenty-five (25) feet.
- (G) *Minimum floor area:*
- (1) Nonresidential buildings—One thousand (1,000) square feet per building on the ground floor.
  - (2) Transient lodging facilities:
    - Dwelling units without cooking facilities—Three hundred (300) square feet.
    - Dwelling units with cooking facilities—Four hundred (400) square feet.
  - (3) Residential units—Six hundred (600) square feet per unit.
- (H) *Maximum height:* No more than three (3) stories; up to a maximum height of thirty-five (35) feet.
- (I) *Minimum off-street parking required:* See Chapter 8, [section 8-3,] Parking Requirements.

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- (J) *Maximum lot coverage by all buildings:* Forty-five (45) percent.
- (K) *Minimum landscaping:* In addition to the parking and vehicular use area landscaping requirements, all areas not improved for parking, per city ordinance requirements, or occupied by a structure, paved walkway or the like, shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.

**Subsection 7-4-15. "C2" General Commercial District.**

- (A) *District purpose:* This district permits a broad range of retail sales and services, professional, business and personal services, financial institutions, and transient lodging facilities.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following, and all merchandise shall be stored and displayed in an enclosed building:
  - (1) General retail sales establishments, including shopping centers (see Chapter 9) and department stores. Retail sales establishments may include incidental processing, repair and rental services, provided they are accessory and subordinate to the retail sales use, and provided that all storage, processing and repair of merchandise occurs within the principal building.
  - (2) Art or photography studios.
  - (3) Bakery, retail (baking on premises with all baked goods sold at retail on premises).
  - (4) Bus or other transportation terminals. No truck terminals.
  - (5) Churches.
  - (6) Cocktail lounges. Dancing or staged entertainment facilities are permitted only by conditional use petition approval.
  - (7) Commercial laundry or dry-cleaning pick-up establishments (no laundering or dry-cleaning on premises). Coin-operated laundry cleaning establishments with washing, drying, and dry cleaning machines are permitted.
  - (8) Convenience service establishments such as tailoring, garment repair and alteration, shoe repair, and the like.
  - (9) Cultural facilities (including libraries and museums) and/or publicly-owned buildings.
  - (10) Financial institutions, excluding drive-up windows which are permitted by condition use petition approval.
  - (11) Medical offices or clinics (not animal).
  - (12) Parking lots.
  - (13) Personal service establishments such as barber and beauty shops.
  - (14) Pet shops, including pet grooming. No outside kenneling.
  - (15) Plant nursery.
  - (16) Printing, reproduction, or publishing.
  - (17) Professional, business, financial, civic or public utility offices.
  - (18) Radio or television broadcasting offices or studios, with no towers.

- (19) Repair of small appliances.
  - (20) Restaurants, conventional, with or without cocktail lounges; or restaurants, carry-out.
  - (21) Schools and colleges.
  - (22) Accessory uses or structures which are incidental to and customarily associated with the above permitted uses in this district.
- (C) *Conditional uses:*
- (1) Amusement parlors, having coin-operated amusement games.
  - (2) Automobile agencies franchised to sell new automobiles.
  - (3) Automobile cleaning businesses, including car washing facilities.
  - (4) Automobile rental, but not truck or trailer rentals.
  - (5) Bowling alleys.
  - (6) Dancing or staged entertainment facilities.
  - (7) Drive-up windows which are accessory to permitted uses.
  - (8) Funeral homes, undertaking establishments (no crematoriums).
  - (9) Gasoline service stations (See Chapter 9, [subsection 9-3-3,] Gasoline Service Stations).
  - (10) Motion picture theaters, live theaters (no drive-in theaters).
  - (11) Nursing or rest homes.
  - (12) Parking garages.
  - (13) Pool or billiard parlors.
  - (14) Restaurants, drive-in.
  - (15) Transient lodging facilities.
  - (16) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this subsection.
- (D) *Minimum lot area:* None.
- (E) *Minimum lot width:* None.
- (F) *Minimum yards required:*
- (1) Front yard—Ten (10) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Buildings may be placed either on the side lot line or a minimum of ten (10) feet from it, except when the adjoining lot is in another zone with a different side yard requirement, in which case a minimum side yard of ten (10) feet shall be provided.
  - (3) Rear yard—Twenty-five (25) feet.
- (G) *Minimum floor area:*
- (1) Nonresidential—One thousand (1,000) square feet per building on the ground floor.

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## (2) Transient lodging facilities:

Dwelling units without cooking facilities—Three hundred (300) square feet.

Dwelling units with cooking facilities—Four hundred (400) square feet.

- (H) *Maximum height:* Notwithstanding the definition listed in Chapter 2, maximum height shall be limited and measured as follows: Three (3) stories, up to a maximum of thirty-five (35) feet, measured vertically from the established 100-year flood elevation to the ceiling of the highest story plus six (6) feet from said ceiling to the highest point of a flat roof, parapet wall, or “mansard” detailed, or six (6) feet from said ceiling to the mean distance between the eaves and the ridge of a gable, hip, or gambrel roof.
- (I) *Minimum off-street parking required:* See Chapter 8, [section 8-3,] Parking Requirements.
- (J) *Maximum lot coverage by all buildings:* Forty (40) percent.
- (K) *Minimum landscaping:* In addition to the parking and vehicular use area and front yard setback area landscaping requirements, all areas not improved for parking, per city ordinance requirements, or occupied by a structure, paved walkway or the like shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.

**Subsection 7-4-16. “C2-A” Waterfront Commercial District.**

- (A) *District purpose:* This district provides for a limited range of commercial uses and certain specific water oriented uses intended to serve and enhance the Naples Bay waterfront area. The dismantling of watercraft for salvage purposes is not permitted.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following, and all merchandise shall be stored and displayed in an enclosed building:
- (1) Small scale retail sales establishments, other than shopping centers. Sales establishments may include incidental processing, repair, and rental activities provided they are accessory and subordinate to the retail sales use, and provided that storage, processing, and repair of merchandise occurs within the principal building.
  - (2) Art or photography studios.
  - (3) Bakery, retail (baking on premises with all baked goods sold at retail on premises).
  - (4) Boat or marine motor sales, rentals (including slip rentals) or display. No boats or other merchandise may be stored or displayed in required front yards.
  - (5) Boat yards and ways.
  - (6) Cocktail lounges. Dancing or staged entertainment facilities are permitted only by conditional use petition approval.
  - (7) Fish and seafoods; wholesale or retail sales.
  - (8) Fishing boats, including charter boats.

- (9) Marinas. No boats or other merchandise may be stored, displayed, maintained, or repaired in required front yard setback areas, but boats do not have to be kept within an enclosed building.
  - (10) Marine oriented research, development and testing operations.
  - (11) Parking lots (noncommercial; no meters or on-site parking fee collection).
  - (12) Personal service establishments such as barber and beauty shops.
  - (13) Professional, business, financial, civic or public utility offices (no drive-up or drive-through windows).
  - (14) Repair and servicing of boating accessories and marine equipment, provided that all such activities are conducted either under roof, in rear yards, or at dockside, or are screened from off-premise view by an ornamental buffer.
  - (15) Restaurants, conventional, with or without cocktail lounges, or restaurants, carry-out.
  - (16) Yacht or sailing clubs.
  - (17) Accessory uses and structures which are incidental to and customarily associated with the above permitted uses in this district.
- (C) *Conditional uses:*
- (1) Cultural facilities (including libraries or museums).
  - (2) Dancing or staged entertainment facilities.
  - (3) Recreation areas or facilities; public or private.
  - (4) Residential dwelling units when such dwelling units are accessory to and compatible with a permitted use and are located within the same building or group of buildings as the permitted use.
  - (5) Transient lodging facilities.
  - (6) Time-share lodging.
  - (7) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this subsection.
- (D) *Minimum lot area:* Ten thousand (10,000) square feet.
- (E) *Minimum lot width:* Sixty-five (65) feet.
- (F) *Minimum yards:*
- (1) Front yard—Twenty (20) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Buildings may be placed either on the side lot line or a minimum of ten (10) feet from it, except when the adjoining lot is in another zone with a different side yard requirement, in which case a minimum side yard of ten (10) feet shall be provided.
  - (3) Rear yard—Twenty-five (25) feet, except that no rear yard is required for boat service buildings or marinas.

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- (G) *Minimum floor area:*
- (1) Nonresidential: One thousand (1,000) square feet per principal building on the ground floor.
  - (2) Transient lodging facilities: Dwelling units without cooking facilities—Four hundred (400) square feet.
  - (3) All other dwelling units: Nine hundred (900) square feet.
- (H) *Maximum height:* Notwithstanding the definition listed in Chapter 2, the maximum height shall be limited and measured as follows: Three (3) stories, up to a maximum height of thirty-five (35) feet, measured vertically from the established 100-year floor elevation to the ceiling of the highest story plus six (6) feet from said ceiling to the highest point of a flat roof, parapet wall, or "mansard" detail; or six (6) feet from said ceiling to the mean distance between the eaves and the ridge of a gable, hip, or gambrel roof, except that boat storage buildings in this district shall be limited to a maximum height of forty (40) feet, measured vertically from the established 100-year flood elevation to the eaves of the building. In the C2-A District north of U.S. 41, all property is limited to a maximum height of thirty-five (35) feet, measured vertically from the established 100-year flood elevation to the top of the highest structure.
- (I) *Minimum off-street parking:* Parking requirements as provided for by Chapter 8, [section 8-3,] Parking Requirements.
- (J) *Maximum lot coverage by all buildings:*
- (1) Marinas or research, development and testing operation—Fifty (50) percent.
  - (2) All other buildings—Forty (40) percent.
- (K) *Minimum landscaping:* In addition to the parking, vehicular use and front yard setback area landscaping requirements, all areas not improved for parking, per city ordinance requirements, or occupied by a structure, paved walkway or the like, shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.

**Subsection 7-4-17. "C3" Heavy Commercial District.**

- (A) *District purpose:* This is a utilitarian business district which is intended to accommodate the building and service trades, plus a broad range of retail, wholesale, storage and repair uses. Material and merchandise which are not stored or displayed within an enclosed building (except authorized motor vehicle sales or motor vehicle rental businesses) shall be screened from off-premise view by an ornamental buffer which shall be at least seventy-five (75) percent opaque.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered, or used, or land or water used, in whole or in part, for other than the following:
- (1) All those uses permitted in the "C2" General Commercial District, as well as [the following uses.]
  - (2) Automobile agencies; sale of new or used vehicles.

- (3) Bakeries, wholesale or retail.
  - (4) Building supply outlets.
  - (5) Clothing fabrication and repair.
  - (6) Contractors' fabrication, storage and supply establishments.
  - (7) Laundry and dry-cleaning establishments.
  - (8) Locksmith shops.
  - (9) Maintenance, repair and renovation businesses.
  - (10) Rental businesses.
  - (11) Retail sales of used goods.
  - (12) Transportation, communication, and utilities businesses.
  - (13) Warehousing, wholesaling, or distribution facilities.
  - (14) Accessory uses and structures which are incidental to and customarily associated with the above permitted uses in this district.
- (C) *Conditional uses:*
- (1) Amusement or recreation uses not listed as permitted uses.
  - (2) Automobile cleaning businesses.
  - (3) Dancing or staged entertainment facilities.
  - (4) Drive-in businesses engaging in permitted sales or services; including drive-in restaurants.
  - (5) Gasoline service stations (See Chapter 9).
  - (6) Parking garages.
  - (7) Veterinarians or boarding kennels (no outside animal runs).
  - (8) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this subsection.
- (D) *Minimum lot area:* None.
- (E) *Minimum lot width:* None.
- (F) *Minimum yards required:*
- (1) Front yard—Ten (10) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Buildings may be placed either on the side lot line or a minimum of ten (10) feet from it, except when the adjoining lot is in another zone with a different side yard requirement in which case a minimum side yard of ten (10) feet shall be provided.
  - (3) Rear yard—Twenty-five (25) feet.
- (G) *Minimum floor area:* Nonresidential: One thousand (1,000) square feet per building on ground floor.
- (H) *Maximum height:* Notwithstanding the definition listed in Chapter 2, the maximum height shall be limited and measured as follows: Three (3) stories up to a maximum

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of thirty-five (35) feet, measured vertically from the established 100-year flood elevation to the ceiling of the highest story plus six (6) feet from said ceiling to the highest point of a flat roof, parapet wall, or "mansard" detail, or six (6) feet from said ceiling to the mean distance between the eaves and the ridge of a gable, hip, or gambrel roof.

- (I) *Minimum off-street parking required:* See Chapter 8, [section 8-3,] Parking Requirements.
- (J) *Maximum lot coverage by all buildings:* Fifty (50) percent.

**Subsection 7-4-18. "C4" Airport Commercial District.**

- (A) *District purpose:* This is a limited commercial zone district intended to accommodate only the Naples Municipal Airport, its related commercial and light industrial uses, related service facilities, and a limited range of non-airport related commercial uses.
- (B) *Uses permitted:* (See NOTE following the paragraph (C) entitled "Conditional Uses.")

Provided that an overall master development plan for all airport properties is first submitted to the city planning advisory board for a recommendation and is then approved by the city council, based on a submittal and review process as required under Chapter 3, Development and Site Plan Review for Development of Significant Impact, and provided that any proposed development is in accord with the provisions of the lease agreement for the airport property between the city and the airport authority or any approved sub-lease, no building or structure, or part thereof, shall be erected or altered or used, or land or water used, in whole or in part, that is not in substantial compliance with the approved overall master development plan and for other than the following:

- (1) Airport passenger and freight terminal and accessory uses and structures which are incidental to and customarily associated with such facilities, including, but not limited to, locations of landing fields; aircraft hangars and repair facilities; administration buildings; control towers; fuel storage areas; navigation equipment, approach and clear zones and the like.
- (2) Aircraft sales and service and flight instruction.
- (3) Airport-related light industrial uses that are primarily dependent upon the airport for goods, services or economic support; the principal activity of such users shall be directly related to the airport and not merely located on airport property as a convenience.
- (4) Airport-related commercial uses that are located within the airline or general aviation terminal buildings or in their vicinity and that are primarily intended to serve the needs of the public using the airport travel facilities such as auto rentals, restaurants, cocktail lounges, newsstands, gift shops, insurance outlets and the like.
- (5) Within the area designated for commercial and industrial development on the approved master plan, the following non-aviation related uses shall be permitted:

- (a) Small scale retail sales establishments other than shopping centers. Retail sales establishments may include incidental processing, repair and rental activities, provided they are accessory and subordinate to the retail sales use, and provided that all sales, displays, and storage, processing, and repair of merchandise occurs within the principal building.
  - (b) Art or photography studios.
  - (c) Convenience service establishments such as tailoring, garment alteration and repair, shoe repair and the like.
  - (d) Cultural facilities (including libraries or museums) and/or publicly-owned buildings.
  - (e) Financial institutions, excluding drive-up windows which are permitted only by conditional use petition approval.
  - (f) Medical offices and clinics.
  - (g) Professional, business, financial, civic or public utility offices.
  - (h) Accessory uses or structures which are incidental to and customarily associated with the above-permitted uses in this district.
- (C) *Conditional uses:* Within the area designated for commercial and industrial development on the approved master plan, the following uses shall be included as conditional uses:
- (1) Drive-up windows which are accessory to permitted uses (not to include restaurants).
  - (2) Motion picture theaters; live theaters (no drive-in theaters).
  - (3) Radio and television broadcasting offices and studios, with no tower.
  - (4) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this subsection.
- NOTE: None of the above-listed permitted uses nor any of the above-listed conditional uses are permitted to have direct ingress or egress to Airport Road.
- (D) *Minimum lot area:* None.
- (E) *Minimum lot width:* None.
- (F) *Minimum yards required:*
- (1) Front yard—Ten (10) feet, six (6) feet of which must be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Buildings may be placed either on the side lot line or a minimum of ten (10) feet from it, except when the adjoining lot is in another zone with a different side yard requirement in which case a minimum side yard of ten (10) feet shall be provided.
  - (3) Rear yard—Twenty-five (25) feet.
- (G) *Minimum floor area:* One thousand (1,000) square feet per building.

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- (H) *Maximum height:* Notwithstanding the definition listed in Chapter 2, the maximum height shall be limited and measured as follows: Three (3) stories up to a maximum of thirty-five (35) feet, measured vertically from the established 100-year flood elevation to the ceiling of the highest story plus six (6) feet from said ceiling to the highest point of a flat roof, parapet wall, or "mansard" detail, or six (6) feet from said ceiling to the mean distance between the eaves and the ridge of a gable, hip, or gambrel roof.
- (I) *Minimum off-street parking required:* See Chapter 8, [section 8-3,] Parking Requirements.
- (J) *Maximum lot coverage by all buildings:* Forty (40) percent.

**Subsection 7-4-19. "I" Industrial District.**

- (A) *District purpose:* This is a utilitarian district characterized by storage, repair, manufacturing, processing, wholesaling and trucking activities. The storage or display of used vehicle parts, used building materials, used household fixtures or appliances or similar material shall be screened from off-premise view. The dismantling of vehicles for salvage purposes is not permitted.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following, and nothing herein contained shall be construed to permit the operation of junk yards:
- (1) Retail, service, wholesale, rental, distribution, auction, and/or storage of new or used goods.
  - (2) Gasoline service stations (See Chapter 9).
  - (3) Maintenance, repair, reconditioning, cleaning (including auto cleaning), transportation, utilities, printing, cooking, processing, packaging, testing, manufacturing, and/or assembling operations.
  - (4) Professional, business, financial, civic, or public utility offices.
  - (5) Research and development establishments.
  - (6) Veterinarians or boarding kennels.
  - (7) Accessory uses and structures which are incidental to and customarily associated with the uses permitted in this district.
- (C) *Conditional uses:*
- (1) Restaurants and/or lounges.
  - (2) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this subsection.
- (D) *Minimum lot area:* None.
- (E) *Minimum lot width:* None.

(F) *Minimum yards required:*

- (1) Front yard—Twenty-five (25) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
- (2) Side yard—Buildings may be placed either on a side lot line or a minimum of ten (10) feet from it, except when the adjoining lot is in another zone with a different side yard requirement in which case a minimum side yard of ten (10) feet shall be provided.
- (3) Rear yard—Fifteen (15) feet.

(G) *Maximum height:* Notwithstanding the definition listed in Chapter 2, the maximum height shall be limited and measured as follows: Three (3) stories, up to a maximum of thirty-five (35) feet, measured vertically from the established 100-year flood elevation to the ceiling of the highest story plus six (6) feet from said ceiling to the highest point of a flat roof, parapet wall, or "mansard" detail, or six (6) feet from said ceiling to the mean distance between the eaves and the ridge of a gable, hip, or gambrel roof.(H) *Minimum off-street parking required:* See Chapter 8, [section 8-3,] Parking Requirements.(I) *Maximum lot coverage by all buildings:* Sixty (60) percent.**Subsection 7-4-20. "M" Medical District.**(A) *District purpose:* This is a district intended to accommodate medically oriented businesses and facilities.(B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:

- (1) Pharmacy (limited primarily to retail sales of drugs and medicine only).
- (2) Medical offices and clinics (not animal).
- (3) Nursing or rest homes.
- (4) Parking lots.
- (5) Accessory uses or structures which are incidental to and customarily associated with the above-permitted uses in this district.

(C) *Conditional uses:*

- (1) Hospitals.
- (2) Residential uses which are compatible with and have a direct service relationship to the permitted uses in the district. Residential uses shall follow the "R3-12" District requirements for minimum lot area, minimum lot width, minimum yards, minimum floor area, maximum height, and minimum off-street parking rather than those of this district.
- (3) Commercial uses which are compatible with and have a direct service relationship to the uses of the district.
- (4) Parking garages.

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- (5) **Other uses:** The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this subsection.
- (D) *Minimum lot area:* None.
- (E) *Minimum lot width:* None.
- (F) *Minimum yards required:*
- (1) **Front yard**—Twenty (20) feet, six (6) feet of which must be landscaped in accordance with the requirements of Chapter 8, [section 8-2.] Landscaping Requirements.
  - (2) **Side yard**—Buildings may be placed either on the side lot line or a minimum of seven and one-half (7½) feet from it, except when the adjoining lot is in another zone with a different side yard requirement in which case a minimum side yard of seven and one-half (7½) feet shall be provided.
  - (3) **Rear yard**—Twenty (20) feet.
- (G) *Minimum floor area:* One thousand (1,000) square feet per building on the ground floor.
- (H) *Maximum height:* Thirty (30) feet.
- (I) *Minimum off-street parking required:* See Chapter 8, [section 8-3.] Parking Requirements.
- (J) *Maximum lot coverage by all buildings:*
- (1) Nursing or rest homes and other residential buildings—Twenty-five (25) percent.
  - (2) All other buildings—Forty (40) percent.

**Subsection 7-4-21. "O" Office District.**

- (A) *District purpose:* This is a district intended to accommodate office uses of various types and serves to buffer residential districts from commercial districts.
- (B) *Uses permitted:* No building or structure, or part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than the following:
- (1) Professional, business, financial, civic or public utility offices.
  - (2) Medical offices and clinics (not animal).
  - (3) Accessory uses and structures which are incidental to and customarily associated with the above permitted uses in this district.
- (C) *Conditional uses:*
- (1) **Other uses:** The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this subsection.

- (D) *Minimum lot area:* None.
- (E) *Minimum lot width:* None.
- (F) *Minimum yards required:*
  - (1) Front yard—Twenty (20) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Buildings may be placed either on the side lot line or a minimum of ten (10) feet from it, except when the adjoining lot is in another zone with a different side yard requirement, in which case a minimum side yard of ten (10) feet shall be provided.
  - (3) Rear yard—Twenty (20) feet.
- (G) *Minimum floor area:* One thousand (1,000) square feet per building on the ground floor.
- (H) *Maximum height:* Thirty (30) feet.
- (I) *Minimum off-street parking required:* See Chapter 8, [section 8-3,] Parking Requirements.
- (J) *Maximum lot coverage by all buildings:* Forty (40) percent.

**Subsection 7-4-22. "PD" Planned Development District.**

- (A) *District purpose:* This district is intended to accommodate integrated and well designed developments in accordance with approved development plans. The district is intended to offer flexibility of design and to encourage imaginative, functional, high quality land planning development which is compatible with adjacent and nearby lands and activities.
- (B) *Uses permitted:* No specific list of uses permitted is established for this district. Land proposed for development under the "PD" district may contain a mixture of residential, commercial, recreational and/or other uses.
- (C) *Application procedure:* Applicants seeking to rezone lands to the "PD" district shall make the same submittals as required under Chapter 3, General Development and Site Plan (GDSP) Review for Developments of Significant Impact in addition to the rezoning petition process. The applicant shall pay either the change of zone or DSP petition fee, whichever is greater.
- (D) *Procedure for approval:* The planning staff shall review the application and required exhibits and shall determine that the documents are adequate as to form and informational content. The planning director shall then review the submittal with the appropriate city departments for their comments. Subsequent to the review, comment and discussion of the submittal, and of such modifications as the developer may make to it, the director shall prepare his recommendation and present it and the applicant's petition to the planning advisory board at a public hearing before said board, which

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has been advertised once in a newspaper of general circulation at least fifteen (15) days prior to the public hearing. For further details regarding the procedure for rezoning property, see section 3-81 of this code.

- (E) *Standards:* In their analysis of the rezone petition and the proposed development plan, and prior to official action recommending in favor of or approving the petition and plan, the planning advisory board and city council shall insure that the following standards and conditions are met and shall deny the request if the following standards are not met:
- (1) Land uses within the development shall be appropriate in their proposed location, in their relationships to each other, and in their relationships with uses and activities on adjacent and nearby properties.
  - (2) The development shall comply with applicable city plans and planning policies, and shall have a beneficial effect both upon the area of the city in which it is proposed to be established and upon the city as a whole.
  - (3) The total land area within the development and the area devoted to each functional portion of the development shall be adequate to serve its intended purpose.
  - (4) Streets; utilities; drainage facilities; recreation areas; building heights, sizes and yards; and vehicular parking and loading facilities shall be appropriate for the particular use or uses involved, and shall equal or exceed the level of design and construction quality required of similar land development elsewhere in the city.
  - (5) Visual character and community amenities shall be equal or better in quality than that required by standard zoning districts for similar development.
  - (6) Open space shall be adequate for the type of development and the population densities proposed.
  - (7) Areas proposed for common ownership shall be subject to a reliable and continuing maintenance guarantee.
  - (8) In the case of developments which are to be constructed in several units, the proposed units shall be shown on the overall development plan. The proposed construction units shall individually comply with the standards set forth in this section in order that, if for any reason construction ceases prior to completion of the entire planned development, the resulting partially complete project will adequately serve its purchasers and occupants and will not cause a general public problem.
- (F) *Effect of rezoning land to "PD" District:* Upon the rezoning of land to "PD" District, the approved development plan, along with such requirements, safeguards, modifications, or stipulations as may have been included by the city council in their rezoning action, shall be substantially complied with relative to the issuance of all building permits, zoning clearances, and certificates of occupancy by the city. Deviation from the approved development plan or failure to comply with any requirement, safeguard, modification or stipulation imposed by the city at the time of rezoning land to the "PD" District shall constitute a violation of the zoning ordinance.

- (G) *Changes in the development plan:* Any proposed significant change of an approved development plan shall be submitted and processed in the same manner as an original application for establishment of a "PD" District.
- (H) *Polling places:* At the time the Naples City Council approves a zoning request to planned development (PD) or at the time the Naples City Council approves a PD amendment, any residential or commercial project within said PD which will have a community recreation/public building/public room shall be required to provide polling places in said community recreation/public building/public room if a polling place is determined to be necessary by the Naples City Council. The city council shall consider the recommendation of the Supervisor of Elections of Collier County in reaching such determination.

If the PD or a residential or commercial project within the PD is a "private" development with a restricted and/or monitored entrance which limits access to residents or owners of that development, their guests and necessary maintenance workers, a polling place may be required by the city council to be provided in any community recreation/public building/public room or similar facility. However, the controlling entity of that private development may limit the use of the polling places to the residents of that "private" development.

This commitment shall be guaranteed through the following mechanism:

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 community recreation/public building/public room or similar common facility to be used for a polling place if determined to be necessary in accordance with this section. The commitment also shall be included within the PUD document.

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

**Subsection 7-4-23. "PS" Public Service District.**

- (A) *District purpose:* This district is intended to accommodate a variety of public and semi-public institutional, recreational, and service facilities.
- (B) *Uses permitted:* None.
- (C) *Conditional uses:* Provided that a conditional use petition has been processed and approved, no building or structure shall be erected, altered, or used, or land or water used, in whole or in part, that is not in substantial compliance with the approved conditional use and for other than the following:
- (1) Boat launching and docking areas.

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- (2) Churches.
  - (3) Clubs: Private or public, including golf and/or country clubs, beach clubs, yacht clubs and the like.
  - (4) Cultural facilities (including libraries or museums) and/or publicly owned buildings.
  - (5) Public utilities.
  - (6) Recreation areas or facilities; public or private.
  - (7) Schools and colleges.
  - (8) Accessory uses and structures which are incidental to and customarily associated with the above permitted uses in this district.
  - (9) Other uses: The planning advisory board may, through the review and approval of a conditional use petition and with the approval of the city council, permit other uses which are similar to and no more intense than those enumerated in this subsection.
- (D) *Minimum lot area:* Thirty thousand (30,000) square feet.
- (E) *Minimum lot width:* One hundred fifty (150) feet.
- (F) *Minimum yards:* Each yard requirement shall be the same as the yard requirement for the most restrictive adjacent zone district but in no case shall be less than the following:
- (1) Front yard—Twenty (20) feet, six (6) feet of which shall be landscaped in accordance with the requirements of Chapter 8, [section 8-2,] Landscaping Requirements.
  - (2) Side yard—Ten (10) feet.
  - (3) Rear yard—Twenty-five (25) feet.
- (G) *Minimum floor area:* One thousand (1,000) square feet per building on the ground floor.
- (H) *Maximum height:* Thirty (30) feet for principal buildings. Because of the wide diversity of uses allowed, auxiliary structures in excess of this height (church spires, water towers, etc.) may be approved as a part of the Conditional Use process provided that they do not affect public health, safety, or welfare.
- (I) *Minimum off-street parking:* See Chapter 8, [section 8-3,] Parking Requirements.
- (J) *Maximum lot coverage by all buildings:* Forty-five (45) percent.

**Subsection 7-4-24. "C" Conservation Zoning District.**

- (A) *District purpose and intent:* The Conservation Zoning District includes those areas having significant ecological, hydrological, physical or socioeconomic importance to the public. The principal consideration concerning uses within the Conservation Zoning District is the preservation of the natural functions and benefits of these areas while allowing natural uses and low intensity development which follows the guidelines outlined in each subcategory below. Preserving the integrity of these areas enhances

the aesthetics and quality of life for city residents and visitors, provides a degree of natural protection against storms, helps maintain air and water quality, promotes marine and wildlife diversification and productivity and promotes soil stabilization. Therefore, development which would diminish the integrity of such areas should be avoided.

- (B) *District structure:* The conservation areas of the city shall be designated by two (2) zoning districts: the Conservation Zoning District and the Transitional Conservation District. High hazard areas are found in conservation areas and are defined as "areas seaward of the most restrictive of the following: State of Florida Coastal Construction Control Line or Federal Emergency Management Agency designated Velocity Zones (FEMA V-Zones), and erosion prone bay frontage."

	Conservation Areas	
Land Use:	Vital	Limited Development
Zoning:	Conservation	Transitional Conservation
Includes:	Marine Grass Beds	Marginal Land
	Tidal Swamp/Marsh Areas	—High Hazard Areas
	Freshwater Swamp/ Marsh Areas	—Passive Recreation/ Open Space Areas
	Class II Waters	Class III Waters
	Gulf Beaches/Dunes	
	—High Hazard Areas	

Each of these districts have subcategories listed below. Each subcategory has its own standards with the exception of high hazard areas which are regulated by the subcategories in which they are found.

(C) *Subcategories of Conservation Zoning District:*

- (1) The Conservation Zoning District includes marine grass beds, tidal swamp and marsh areas, freshwater swamp and marsh areas, Gulf beaches and dunes, and shorelines of Class II waters. High hazard areas are located within the Gulf beach and dune system and the tidal swamp and marsh. These high hazard areas are also within COBRA (Coastal Barrier Resources Act of 1982) areas seaward of the Coastal Construction Control Line (CCCL) adopted June, 1989.
- (2) The Transitional Conservation District includes transitional land, Class III waters, and passive park, recreation and major open space areas. This district also includes high hazard areas that are unplatted at the time of the Comprehensive Plan (January, 1989), non-COBRA areas seaward of the CCCL (not including wetlands) which was adopted in June, 1989, or any adopted change which would locate the line farther landward.

(D) *Land use and zoning definitions:*

- (1) *Conservation Zoning District:* The future land use designation of the Conservation Zoning District areas is Conservation/Vital. The zoning designation shall be

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"C, Conservation." These areas are considered vital lands. Development which potentially could diminish the integrity of such areas will not be permitted.

- (2) *Transitional Conservation District:* The future land use designation of the Transitional Conservation Zoning District areas is Conservation/Limited Development. The zoning designation shall be "TC, Transitional Conservation." The TC District includes: Those areas of the coastal zone which have resource benefits; areas which have substantial benefits that are less susceptible to adverse effects from alteration or use than is the case in the Conservation Zoning District.
- (3) *Identification of Transitional Conservation District:* Conservation/Limited Development areas are generally located on the future land use map. These transitional conservation lands are found within the Conservation Zoning District and are suitable for limited development. However, a clear boundary of these areas cannot be established without an environmental assessment. Therefore, these lands shall also be zoned "C, Conservation" until such time as an environmental assessment (DSEI), a GDSP, and a rezone (to TC) is completed, which will identify the exact location and related characteristics of the transitional land. A preliminary determination of the boundary between "C" and "TC" will be determined by the community development director and the natural resources manager upon application by the property owner. The preliminary determination shall be based upon the appropriate regulatory line, vegetative distribution, and topography. The staff determination may be appealed to the planning advisory board and city council. The property owner shall provide the city staff with a survey of any regulatory line, and/or vegetation distribution information and topography. The property owner may present a different boundary through the rezone process.

(E) *General definitions/standards:*

- (1) *Armoring (Shoreline):* rigid coastal and shore protection structures such as sea-walls, bulkheads, revetments, groins and breakwaters.
- (2) *Artificially enhanced dune:* Manmade mound made by placement of sand into a dune configuration and planted with dune stabilizing vegetation. It may have a stabilizing core of sandbags (if concrete mixture is used, sandbags may consist of only five (5) percent concrete and ninety-five (95) percent sand). Sand fencing may be used to protect the newly planted dune.
- (3) *Boardwalks:* Elevated wooden walkway structures. The site and construction of the boardwalk will provide for the least amount of disturbance to the natural area. The width of boardwalks in conservation areas should be minimized. Generally the following guidelines should be followed: If boardwalks lead to a public access site, then their width should be no greater than eight (8) feet, to allow for a small vehicle to collect trash from that area and; boardwalks for pedestrian passage only should be narrower and should not disturb an area of greater width of five (5) feet. Construction should follow DNR standards for boardwalk construction.
- (4) *Clearing:* Understory and tree removal shall be permitted only in those areas specifically required to facilitate a residential dwelling or other structure per-

mitted through the conditional use process. Clearing of native vegetation for lakes shall be discouraged, and if unavoidable should be the minimum area required for water management.

Clearing should not exceed the following open space ratio for each individually identified habitat type; however, the ratio may vary slightly based upon the quality and viability of the habitat and off-setting mitigation such as restoration or creation of appropriate habitats. The exact ratio for each individually identified habitat type will be determined during the development approval process.

<i>Habitat type*</i>	<i>Open Space Ratio***</i>
Habitats of Special Concern	1.0
Mangroves	1.0
Freshwater Wetlands	1.0
Coastal Hammock	1.0
Palm Hammock	.90
Salt Marsh and Buttonwood Association (Tidal Swamp/ Marsh Areas)	.85
Pinelands	.80
Disturbed with Exotics**	.20
Disturbed	.20

\* These are further defined under "habitat types" in this section.

\*\* All exotic vegetation must be removed and twenty (20) percent of the area must be designated as open space after replanting.

\*\*\*Does not include limited disturbance for boardwalks, beach access, nature trails etc.

- (5) *COBRA*: Coastal Barrier Resource Act of 1982 which designated undeveloped coastal barrier areas nationwide.
- (6) *Cluster development*: A cluster development is one in which a number of dwelling units are grouped, leaving some land for common use. Residential projects of three (3) or more units (or over one-half (1/2) acre in size) may employ the concept of clustered development whereby residential units are grouped to provide a more efficient design of infrastructure and to provide usable open space for the residents. Clustered developments must comply with the density, and lot coverage requirements may be decreased provided the land thus saved is allocated to usable open space areas for the residents of the project. The maintenance of the open space areas is the responsibility of the owner(s).
- (7) *Development*: Any proposed activity or material change in the use or character of land, including but not limited to, the placement of any structure, utility, fill, or site improvement on land, and any act which requires a building permit.
- (8) *Disturbed area*: Land that is identified by exotic vegetation cover or by development is considered a disturbed area.

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- (9) *DSEI*: A Development of Significant Environmental Impact is a site specific analysis which includes a review of: Soils; natural hazards; substrata; surface and groundwater analysis; water management; erosion; streams and water bodies; flora and fauna; archaeological and historical resources; environmental impact summary; impact on coastal barrier (if applicable); beach management; and mosquito control.
- (10) *Exotic vegetation*: Includes Australian Pines, Brazilian Pepper, Melaleuca, and Downy Rose Myrtle.
- (11) *GDSP*: General Development Site Plan as identified in this code.
- (12) *Habitat types*:
  - (a) *Habitats of special concern*:
    - 1. High quality special vegetation area: Characterized by the dominance, as determined by the natural resources manager, of any of the following habitats: Coastal Strand; Sand Pine Scrub Community; Coastal Hammock; Beach and Dune System. Clearing is generally not permitted.
    - 2. Medium quality special vegetation area: Characterized by the composition of site having isolated stands which are defined as habitats of special concern. These isolated stands must be incorporated into preservation areas.
  - (b) *Mangrove wetlands*: A jurisdictional or isolated wetland characterized by the presence of one or more species of mangrove trees.
  - (c) *Freshwater wetlands*: Associated with tidal swamp and marsh areas, either through streams or as transition areas between uplands and estuarine wetlands.
  - (d) *Palm hammock*: Characterized by an abundance and density of thatch palms such that they are fifty (50) percent of the dominant canopy plants.
  - (e) *Salt marsh and Buttonwood association* (Reference tidal swamps and marsh areas): Grassy marsh area dominated by salt grasses combined with Buttonwood trees.
  - (f) *Pinelands*: Characterized by canopy dominance by slash pines which can be managed by prescribed burning or other forest management techniques.
  - (g) *Coastal hammock*: Mixed hardwood dominated plant assemblage on high ground in coastal zone, frequently occurs in isolated strands surrounded by wetlands. This is a habitat of special concern.
- (13) *Intent to develop*: A written document from the developer/owner of the property which explains in detail the proposed disturbance or construction to the affected area. The document shall include acreage by natural forest community and the total acreage of the property, tree and understory survey, and a general development site plan showing the proposed development. Typically this document would accompany a rezone to TC since all conservation areas are initially zoned C.

- (14) *Landscape replacement plan*: A drawing containing proposed tree and understory removal, tree replacement planting, tree relocation and preservation areas.
- (15) *Marina*: A boat docking facility containing ten (10) or more slips (also see additional definition in this code).
- (16) *Natural forest community*: Assemblages of native temperate and/or tropical tree species and their associated understory. These assemblages shall have at least seventy-five (75) percent of the number of all trees and understory species as native plant species.
- (17) *Nature trails*: Shall be aligned to a path of least disturbance to the natural area and delineated with mulch or other appropriate natural material. Generally, their width shall not exceed four (4) feet in order to discourage motor vehicles.
- (18) *Native plant species*: Plants having a geographic distribution indigenous to all or part of southwest Florida.
- (19) *Observation tower*: A wooden platform designed to enable the public to see natural area from an elevated location which does not exceed thirty-five (35) feet in height. The square footage for an observation deck shall not exceed one hundred forty-four (144) square feet.
- (20) *Open space*: Natural features such as trees, shrubs, grass, and water with the absence of development. Landscaping, as required by this code or parking areas are not considered open space.
  - (a) *Natural open space*: Natural features and greenery completely void of any structure or development of any type.
  - (b) *Passive recreation*: Natural features and greenery with limited manmade additions, such as walkways and benches.
  - (c) *Active recreation*: Manmade additions to natural open space which promote activity, such as swing sets, ball fields, swimming pools or recreation buildings.
- (21) *Preservation area*: Portions of a site that are to be protected from alterations, such as hydrological changes that would cause long term vegetation changes not likely to occur otherwise, and from any tree or understory removal. Preservation areas shall be naturally maintained without any development. The land owner is responsible for these areas.
- (22) *Protective barrier*: A temporary fence or other structure built to restrict passage into an area surrounding a tree or stand of trees for the purpose of preventing any disturbance to the roots, trunk or branches of the tree(s).
- (23) *Storm protection*: In both Conservation Districts, passive devices such as beach restoration/renourishment and revegetated or reconstructed dunes can be used. If core structure is required for dune reconstruction, the core shall be sandbags (reference artificially enhanced dunes).
- (24) *Transfer of density*: The transfer of one unit per five (5) net acres density from conservation/vital areas which are classified as high hazard areas to immediately adjacent developable land under the same ownership. This transfer shall be fo-

cused into previously disturbed areas whenever possible and shall meet all standards of the area in which they are transferred. The transfer of density provides for density credit only for uplands within the Gulf beach and dune vital areas. In no case may the density of an adjacent upland area be increased by more than thirty-three (33) percent.

- (25) *Tree*: Any woody or fibrous perennial plant with a trunk having a minimum diameter at breast height (DBH—diameter of a tree's trunk measured at a position 4.5 feet above the ground surface) of three (3) inches and an overall height of twelve (12) or more feet. All specimens of mangroves shall be deemed to be trees by this definition, including seedlings, propagules and saplings.
  - (26) *Tree survey*: A drawing overlaid directly upon the site plan sufficient to provide the location, plotted by accurate techniques, in relation to all proposed development, which generally identifies existing trees and tree groupings which are proposed to be destroyed, relocated, or preserved. The common and scientific name of each tree species shall also be provided. The level of detail of the tree survey can be finalized with the director of community development and the natural resources manager.
  - (27) *Understory*: The complex of woody, fibrous, herbaceous, and graminoid plant species that are typically associated with a natural forest community.
- (F) *Submittal requirements for permitted use in Conservation or Transitional Conservation District*: Permitted uses which involve changes or alterations to the site shall require a submittal including:
- (1) GDSP of proposed permitted use which addresses the changes to the natural area and identification;
  - (2) A tree survey;
  - (3) A site survey and flagging of preservation areas;
  - (4) Field verification by natural resources manager;
  - (5) A complete DSEI assessment;
  - (6) The application fee; and
  - (7) A rezone application (to TC or PD), if appropriate. A proposal to rezone to "TC" that is under forty thousand (40,000) square feet does not require a variance to the rezone criteria as it shall not be considered a "spot" zoning since it is a subcategory of conservation zoned areas. A planned development (PD) rezone must meet all submittal requirements listed in this code.
- (G) *Submittal requirements for conditional use in Conservation or Transitional Conservation District*: Submittal shall include:
- (1) Preapplication discussion of intent to develop, and site visit evaluation with the natural resources manager and community development director;
  - (2) GDSP;
  - (3) Identification, survey and flagging of preservation areas;
  - (4) Tree survey and sites of proposed tree/understory removal;

- (5) Landscape replacement plan;
  - (6) Water management plan which creates minimal impact;
  - (7) Proposed placements of protective barriers during construction stage;
  - (8) A complete DSEI assessment;
  - (9) The applicable fee; and
  - (10) A rezone application (to TC or PD), if appropriate. A proposal to rezone to "TC" that is under forty thousand (40,000) square feet does not require a variance to the rezone criteria. A planned development (PD) rezone must meet all submittal requirements listed in this code.
- (H) *Review by the city:* Review by city shall include:
- (1) Departmental review, including site verification by natural resources manager and/or community development director;
  - (2) Public advertisement process;
  - (3) Formal staff report from community development department and natural resources manager;
  - (4) Planning advisory board recommendation through the public hearing process;
  - (5) Final action shall be decided by city council.
- (I) *Monitoring and enforcement:*
- (1) Conditional uses which are approved through this process must be monitored for compliance every six (6) months or at another appropriate interval as approved by city council due to the environmental sensitivity of the Conservation Districts. Specific monitoring requirements will be stipulated in the rezone resolution. The property owner is responsible to submit a report to the natural resources manager that identifies the status of the conditional use. A site visit by the natural resources manager will take place to document the monitoring report.
  - (2) Any unlawful destruction or removal of trees or understory in conservation areas, or any other action inconsistent with this ordinance is a violation of this ordinance, with each tree removed being defined as a separate offense. If, after illegal clearing, the number of trees removed is impossible to determine, an estimate, which is satisfactory to the natural resources manager, shall be made based on similar habitat areas. Mitigation plans accepted by the natural resources manager and community development director are required in addition to the penalties described above.
- (J) *Marine grass beds:*
- (1) *Description:* Tropical seagrass communities are highly productive habitats which shelter and nourish a broad group of organisms, especially juvenile fish and crustaceans. The grasses are a food source for a variety of animals, including the endangered West Indian Manatee.
  - (2) *Identification:* Marine grass beds should be identified on a project-by-project basis through the normal local, state, and federal dredge and fill permitting procedures, bulkhead and dock construction and maintenance dredging permitting,

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through the general development and site plan review process, the development of significant environmental impact assessment, or the state's development of regional impact process.

- (3) *Location:* Marine grass beds are found on suitable substrates off the Gulf beaches and in areas of Naples and Dollar Bays where light penetration and substrate are adequate. Their exact locations are not specified at this time.
  - (4) *Suitability for development:* Marine grass beds are easily destroyed and are vulnerable to pollution of all types, including thermal discharges, and are particularly vulnerable to turbidity from dredging, shoreline construction and excessive wave and wake activity. Some areas may be suitable for the establishment of marine grass beds which shall be permitted upon approval by the natural resources manager.
  - (5) *Permitted uses* (see submittal requirements):
    - (a) Natural propagation of sport and commercial fish; and
    - (b) Natural waterfowl and wading bird food production.
- (K) *Tidal swamp and marsh areas:*
- (1) *Description:* Tidal swamp and marsh areas include salterns which are areas characterized by the presence of one or more species of wetlands plants as listed in Sections 17-4.020.(18) and 17-4.022.(2 and 3), FAC, and below the yearly high storm elevation. High hazard areas are also present in these areas and are referenced in the Gulf beach and dune subsection.
  - (2) *Identification:* Tidal swamp and marsh areas include all areas where brackish or salt water is contained at or above the soil surface for a sufficient period during the yearly water cycle, often resulting in the establishment of natural communities of salt tolerant vegetation that are characteristic of wetland areas. Within the City of Naples, the predominant vegetation is one or more species of mangrove tree.
  - (3) *Location:* The general locations of tidal swamps and marshes have been identified in the Rookery Bay Land Use Studies and the Master Plans for Water Management Districts 6 and 7. They occur in isolation and association with natural and manmade waterways from Clam Bay south to Dollar Bay, often as a narrow fringe of vegetation.
  - (4) *Suitability for development:* Serious disturbances occur when the natural pattern of water movement through the system is altered. Structures or excavations which alter water flow could create serious disturbances to such a system. Development in such areas would destroy or diminish the system's other significant functions and benefits.
  - (5) *Permitted uses* (see submittal requirements):
    - (a) Natural storm protection;
    - (b) Prevention of shore erosion: Through natural vegetation and berms; or artificially enhanced natural features, such as mitigation revegetation;

- (c) Natural wildlife and fisheries habitat and propagation;
  - (d) Natural water quality improvement; and
  - (e) Aesthetic enjoyment.
- (6) *Conditional uses* (see submittal requirements):
- (a) Limited mangrove pruning and removal and dredging for a single-family boat dock, or educational activities;
  - (b) Limited mangrove pruning and removal for boardwalks, nature trails and observation towers, see definition section.
- (L) *Freshwater swamp and marsh areas:*
- (1) *Description:* In the Naples urban area most freshwater wetlands are associated with tidal swamp and marsh areas, either through streams or as transition areas between uplands and estuarine wetlands. They function as aquifer-recharge areas and provide a barrier to saltwater intrusion.
  - (2) *Identification:* Freshwater swamps and marshes are areas with water contained at or above the soil surface for sufficient time throughout the year to result in the establishment of natural communities of wetland plants, as listed in Sections 17-4.020(18) and 17-4.022(2 and 3), FAC.
  - (3) *Location:* The general locations of freshwater wetlands in the Naples area have been identified in the Master Plans for Water Management Districts 6 and 7 and in the Rookery Bay Land Use Studies. Few undisturbed freshwater wetlands still remain within the city. Several marshes exist on Key Island and along the Gordon River, but the majority of this habitat lies further east in Collier County.
  - (4) *Suitability for development:* Freshwater swamps and marshes are sensitive to man-induced changes. The vitality of these areas is dependent upon the inflow of upland runoff. Ecological disturbances occur when the natural pattern of water movement through the system is altered by development.
  - (5) *Permitted uses* (see submittal requirements):
    - (a) Freshwater retention: Providing there is minimal disturbance to the existing system;
    - (b) Natural saltwater intrusion barrier (no alteration shall be permitted);
    - (c) Storm and flood protection: Through natural vegetation and berms, or artificially enhanced natural features, such as mitigation revegetation;
    - (d) Natural wildlife habitat; and
    - (e) Aquifer recharge.
  - (6) *Conditional uses* (see submittal requirements):
    - (a) Boardwalks, nature trails and observation towers: See definition section.
- (M) *Gulf beaches and dunes:*
- (1) *Description:* Ocean-fronting beaches extending landward of the mean high water line (MHWL) and may include one or more low dune ridges. These areas are

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subject to flooding from tidal or storm surges, with superimposed velocity waves which makes them unsuitable for residential development.

- (2) *Identification:* The landward extent of the beach and dune system which must be protected lies between the shoreline and the coastal construction control line (CCCL), as identified and established pursuant to Chapter 161, Florida Statutes, and by relevant city ordinances. A site specific survey is necessary to establish the exact position of both city setback lines, which are defined as being one hundred fifty (150) feet landward of MHWL and seventy-five (75) feet landward of the vegetation line, and the position of the CCCL.
- (3) *Location:* The Gulf beach and dune system within the city is approximately eight (8) miles in length and is the western land boundary of the city limits. The coastal construction control line is surveyed and referenced to fixed monuments which are placed at approximately one-thousand-foot intervals for the length of the shoreline. The FEMA V-zone is plotted on the official flood insurance rate maps of FEMA.
- (4) *Suitability for development:* Development within the beach and dune system is extremely hazardous due to storm surges, wind and the dynamics of natural beach erosion cycles. The destruction of native dune strand vegetation and dune areas increases erosion potential and reduces storm buffer capabilities. The most serious erosion problems along the Naples Beach have occurred in the areas where shore protection structures, primarily seawalls, were installed on or in front of the dune system. No armoring of the beach and dune system will be permitted in the COBRA area. In the remainder of the Conservation Zoning District, existing armoring can be maintained and new armoring may be permitted, subject to both city and FDNR variance/permitting requirements.
- (5) *Permitted uses* (see submittal requirements):
  - (a) Passive recreation activities which do not require a permanent structure and adversely impact the environment, and open space;
  - (b) Storm and erosion protection by naturally occurring features and artificially enhanced dunes (no armoring or artificial dune enhancement is permitted in the COBRA areas);
  - (c) Transfer of density (see definition); PD rezone required;
  - (d) Aesthetic enjoyment; and
  - (e) Protection of dunes and dune vegetation with dune walkovers.
- (6) *Conditional uses* (see submittal requirements):
  - (a) Recreation activities which require a permanent structure and/or land improvements, such as boardwalks, gazebos and observation towers or similar facilities which require only minimal alteration and such alterations are easily expendable to erosion. No alteration shall damage the beach and dune system or interfere with the natural dynamics of the beach and dune system.

(N) *Class II waters and their shorelines:*

- (1) *Description:* Class II waters are coastal saline and brackish waters which can support shellfish propagation and harvesting.
- (2) *Identification:* Class II waters are identified and designated by the Department of Environmental Regulation in Chapter 17-3.161(2)(c)11., Florida Administrative Code.
- (3) *Location:* Class II waters include Naples Bay, Dollar Bay, Clam Bay and the Moorings Bay System.
- (4) *Suitability for development:* Class II waters and their bottom system are sensitive to development activities along the shoreline. Urban stormwater runoff, wastewater effluent, dredge and fill operations, and boating activities can degrade water quality.
- (5) *Permitted uses* (see submittal requirements):
  - (a) Natural shellfish propagation and harvesting.
- (6) *Conditional uses* (see submittal requirements):
  - (a) Circulation fountains, within the water, which improve the oxygen content of the water;
  - (b) Passive recreation which has minimal impact on the environment, such as boardwalks and nature trails (see definition section for clarification);
  - (c) Marinas: In compliance with the city's marina siting criteria. PD rezone required which also meets all conditional use criteria;
  - (d) Dredging activities.

(O) *Transitional Conservation District (TC):*

- (1) *District purpose and intent:* The Transitional Conservation District shall function, in part, as a buffer area to ensure compatible development adjacent to the Conservation Zoning District. There would be little practical benefit to establish strict controls over development in the Conservation Zoning District while permitting indiscriminate development to occur on its boundaries. TC District areas require special precautions and attention prior to development because of their resource value, potential hazards that may exist, and their proximity and relationship to Conservation Zoning District areas. Failure to consider these limitations may result in direct or indirect consequences harmful to the public health, safety, and welfare.
- (2) *District structure* (see Conservation Zoning District).
- (3) *Subcategories of Transitional Conservation District:*
  - (a) The Transitional Conservation District includes transitional land, Class III waters, and passive park, recreation and major open space areas. This district also includes high hazard areas that are unplatted non-COBRA areas seaward of the CCCL (not including wetlands) which was adopted in June, 1989, or any adopted change which would locate the line farther landward.

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- (4) *Land use and zoning designation:*
- (a) *Land use designation:* The land use designation for the TC District is Conservation/Limited Development.
  - (b) *Zoning designation:* Because of their critical environmental concern, these lands are zoned "C, Conservation," which is the designation for vital lands. Within such areas, there may be smaller parcels which are suitable for limited development zoning, however, these areas cannot be clearly separated from vital lands without an environmental assessment.
- (5) *General definitions:* Reference Conservation Zoning District.
- (P) *Transitional land:*
- (1) *Description:* Because of such conditions as low elevation, poor drainage, or other physical restrictions, transitional lands are only marginally developable and require a major alteration in order to be made suitable for urban development. For these reasons, only recreational facilities and very low residential density uses may be reasonable developments. These areas are identified as "marginal land" by the Comprehensive Plan, adopted in January of 1989.
  - (2) *Identification:* Transitional lands are characterized as undeveloped or relatively unimproved dry land below five (5) feet elevation above mean sea level (MSL or NGVD) (which are not vital lands, according to an environmental assessment), lands contiguous to a Conservation Zoning District area, and lands without existing or easily provided access from developed areas. Transitional lands are defined by their elevation, location, and accessibility. Topographic maps, soil surveys, field surveys, and local, state, and federal permitting/review procedures may be used to identify these areas.
  - (3) *Location:* Transitional lands are found on: Key Island; the east shore of Naples Bay and; both sides of the Gordon River.
  - (4) *Suitability for development:* Portions of the east shore of Naples Bay and all of Key Island are not accessible by existing improved roads. This lack of accessibility requires special consideration for providing city services, such as emergency services, garbage collection, and utility services. Potential disturbance related to accessibility or services should be minimized by limiting clearing, as defined by the district provisions, and grouping utilities and other service areas.

The physical characteristics of transitional lands are generally more tolerant relative to alteration than are Conservation Zoning District (Vital) areas. However, there is a significant hazard of relatively frequent flooding as a result of unusually high tides or storms.

Due to the fact that virtually all of the transitional lands are contiguous to Conservation Zoning District areas, any development must not threaten the integrity, diminish the benefits, or interfere with the functions of the designated Conservation Zoning District areas.

- (5) *Permitted uses* (see submittal requirements):
- (a) Natural water quality maintenance;
  - (b) Natural wildlife habitat; and
  - (c) Open space area.
- (6) *Conditional uses* (see submittal requirements):
- (a) Passive, low intensity recreation, such as hiking foot paths, boardwalks, and nature trails (see definition section);
  - (b) Marinas: In compliance with marina siting criteria; (see Chapter 10, subsection 10-6-3); PD rezone is required which also meets all conditional use criteria; and
  - (c) Active recreation facilities and low density single-family or clustered residential with typical accessory uses or structures with the following standards. PD rezone is required which also meets all conditional use criteria.
    1. Density shall not exceed one unit per five (5) net acres (this may be increased only through transfer of density—See definition section).
    2. Maximum cleared or disturbed area per home site—Ten thousand (10,000) square feet.
    3. Maximum building envelope—To be determined through site check, in accordance with clearing provisions and percentage requirements applicable to specific vegetative cover of site.
    4. Maximum height—Thirty-five (35) feet.
    5. Maximum disturbed area (excluding areas heavily impacted by exotics) shall not exceed ten (10) percent of the total upland portion of the TC zoned area to maintain natural communities to the greatest extent possible.
    6. Any existing disturbed areas in Transitional Conservation District shall be required to be developed before undisturbed areas.
    7. Landscaping shall utilize xeriscape design. Native species should predominate, but xeric non-native landscape species can be used. Existing exotic vegetation shall be removed and replaced with native vegetation. In defined habitat types, such as pinelands and palm hammocks, landscaping shall be limited to those plants that normally occur in those assemblages.
    8. Only organic pesticides and fertilizers as approved by the natural resources manager shall be permitted in these areas, subject to evidence of minimal impact and any monitoring required by the PD.
    9. Site grading is permitted within the building envelope area and “fill” shall be limited to no more than eighteen (18) inches within the envelope to provide adequate drainage.
    10. Utilities shall be grouped together to limit the disturbance to the area. The preferred method of managing sewage is central public wastewater

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treatment and disposal. However, if that is not physically or legally possible, then on-site central treatment system or as a last resort septic tanks may be allowed subject to a complete DSEI which shows no adverse environmental impacts and other local and state regulations. The DSEI should also analyze the location and density of proposed drainfield sites and shall determine the appropriate siting and number which are compatible with the natural environmental conditions.

11. Clearing shall be limited by the open space ratio provisions listed in the general definition subsection.
12. Water management provisions shall be examined by the natural resources manager and city engineer and shall achieve runoff control with absolute minimum impact to the natural area. Lakes are discouraged.
13. Clustered home sites are encouraged in disturbed areas in order to reduce the impact to native habitat in the entire tract. In undisturbed areas, eighty (80) to ninety (90) percent of the area must be left as open space, depending on the habitat in that area.
14. Hurricane evacuation plans shall be developed which enable the residents to evacuate as soon as possible. Evacuation plans shall address adequate shelter space.
15. Public expenditures for new development in coastal high hazard areas will be limited to the few remaining existing undeveloped platted lots.
16. Clearing penalties reference definition "clearing."
17. A person(s) or organization shall be responsible for maintenance and protection of areas not included in residential lots.

(Q) *Passive park, recreation, and open space areas within conservation areas:*

- (1) *Description:* Passive park, recreation, and open space areas are devoted to passive outdoor recreational activities. Passive recreation is defined by the lack of permanent structures or land improvements. These areas may include passive city and Collier County parks within the city limits, historical and archaeological sites, and privately owned lands dedicated to passive recreational use.
- (2) *Identification:* Park and recreational lands in the city are typically zoned "PS, Public Service," regardless of the activities present at the site. Future lands dedicated to passive park, recreation and open space shall be designated "TC, Transitional Conservation." Those "PS, Public Service" sites which are identified as passive park and recreation areas shall be regulated by this section.
- (3) *Suitability for development:* These areas should be adequately protected from noise and air pollution and congestion caused by traffic and other uses. Noncompatible land uses within these areas can diminish the land's value for passive recreational purposes and will not be permitted.
- (4) *Permitted uses* (see submittal requirements):
  - (a) Aesthetics and open space; and

- (b) Passive recreation uses which do not require a permanent structure or land improvements.
- (5) *Conditional uses* (see submittal requirements):
  - (a) Intensification of active recreation uses; and
  - (b) Land use buffers.
- (R) *Class III waters and their shorelines*:
  - (1) *Description*: Class III waters include all coastal waters not otherwise classified in Class II section, including streams, lakes, ponds, and coastal water of the Gulf of Mexico, which have the capability or potential of supporting fish and wildlife propagation or water contact sports.
  - (2) *Identification*: They are identified and designated by the Department of Environmental Regulation.
  - (3) *Location*: The Gordon River, the manmade residential canals and the various tributaries of Naples Bay are designated as Class III waters.
  - (4) *Suitability for development*: These waters and their bottom systems are sensitive to development activities along their shoreline and adjacent upland areas.
  - (5) *Permitted uses* (see submittal requirements):
    - (a) Natural fish and wildlife propagation;
    - (b) Recreation;
    - (c) Natural maintenance of water quality standards; and
    - (d) *Marinas*: In compliance with the city's marina siting criteria. PD rezone is required which also meets all conditional use criteria.

**Cross references**—Supplemental standards for zoning districts, § 9-1 et seq.; resource protection standards, § 10-1 et seq.

#### **Section 7-5. Special Overlay Districts.**

##### **Subsection 7-5-1. Cone of Influence Special Overlay District.**

- (A) *District purposes*. This district provides for the protection of health, life, resources, and property through regulation of hazardous substances, sewage disposal, well construction, stormwater management, earthmining, solid waste and other related aspects of land use and development in the vicinity of public water supply well(s).
- (B) *Administration*. This district shall be derived from the "Collier County Ground Water Protection Ordinance" and administered by the Collier County Pollution Control Department or any other person or agency designated by the board of county commissioners. In the event this district conflicts with the provisions of the base district, the more restrictive shall apply.

##### **Subsection 7-5-2. Corridor Management Overlay District.**

- (A) *Definition*: Corridors are defined as the major roadways and abutting lands adjacent to Golden Gate Parkway and Goodlette-Frank Road.

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- (B) *Purpose:* These regulations serve as a supplement to existing zoning standards for lands defined in the location section. These regulations recognize that two (2) separate jurisdictions govern these land uses and they are designed to develop greater consistency in land uses and design standards which for these corridors which are located between the City of Naples and Collier County. Development standards which are not addressed in these regulations are subject to the underlying zoning standards. Development agreements approved prior to October, 1989 which conflict with the standards of this section shall not be required to meet these standards. All standards of this section which do not conflict with those within the development agreement shall apply to the development.
- (C) *District location:* These regulations pertain to all land adjacent to the rights-of-way of Goodlette-Frank Road from U.S. 41 to Pine Ridge Road and along Golden Gate Parkway from U.S. 41 to the city limits as measured perpendicular from the abutting right-of-way for a distance of three hundred thirty (330) feet (see location map).
- (D) *Permitted, conditional, or provisional uses:* As provided for in the underlying zoning districts.
- (E) *Setbacks:* These regulations pertain to front yard setbacks only, side and rear yards are the same as the underlying zoning. Golden Gate Parkway—Fifty (50) feet for commercially zoned property and in activity centers, one hundred (100) feet for all other areas. Goodlette-Frank Road—Fifty (50) feet. These setback standards apply to ground floors only; for each additional story which is developed, each additional story shall be set back an additional twenty-five (25) feet beyond the first floor story so that development follows a 1:2 view plane slope. Maximum height is determined by the underlying zoning district.
- (F) *Signage:* Same as existing city sign ordinance.
- (G) *Access:* Two-way ingress/egress shall be at least three hundred thirty (330) feet from street intersections; one-way ingress/egress shall be at least one hundred fifty (150) feet from intersections. Curb cuts and access shall be shared wherever possible. Parking lots of separate developments should be connected when possible to provide for greater open space. Development will be reviewed for such prior to issuance of building permits.
- (H) *Landscaping and design guidelines:* The following landscaping and design guidelines shall be used for development along each roadway. Interior landscaping standards are the same as designated in Chapter 8 of this code with the additional equivalent of one tree to be required for each landscaped area. In addition, specific public landscaping and design improvements which are compatible will be developed for each corridor. For any new development or significant redevelopment of a ten (10) percent change in the subject structure, a 24" × 36" landscaping site plan is required to be submitted for review and approval by the city planning staff. Additional landscape design detail drawings may be required.

(I) *Goodlette-Frank Road:*

- (1) *General:* Landscaping plans must comply with these general standards as well as specific district standards. Landscaping area shall be a minimum of ten (10) feet in width abutting the right-of-way property line. Landscaping shall include canopy trees at a minimum of ten (10) feet in height with a minimum five-foot canopy spread. Trees must be placed every thirty (30) feet in landscaped areas. Palm trees are not permitted. Designs should include berming or contouring land if possible, the use of shrubs and groundcover in massed groupings, and xeriscape materials. The following district guidelines shall be utilized:
- (2) *Greenbelt District—From Pine Ridge Road to 7th Avenue North:* Pine trees and canopy trees only, including oak, black olive, hong kong orchids, and golden raintrees planted in massed groupings spaced at thirty-foot intervals.
- (3) *Commerce District—From 7th Avenue North to U.S. 41:* Structured plantings using canopy trees of oak or black olive spaced thirty (30) feet apart. Shrubs and hedges are required as buffering along the perimeter of parking lots. In addition, the city may enhance landscaping if a ten-foot wide easement is granted to the city running adjacent to the property for use as a landscaped buffer area and for urban design improvements such as street furniture, lighting, and pedestrian walkways. Additional landscaping and design improvements will then be provided by the city.

(J) *Golden Gate Parkway:*

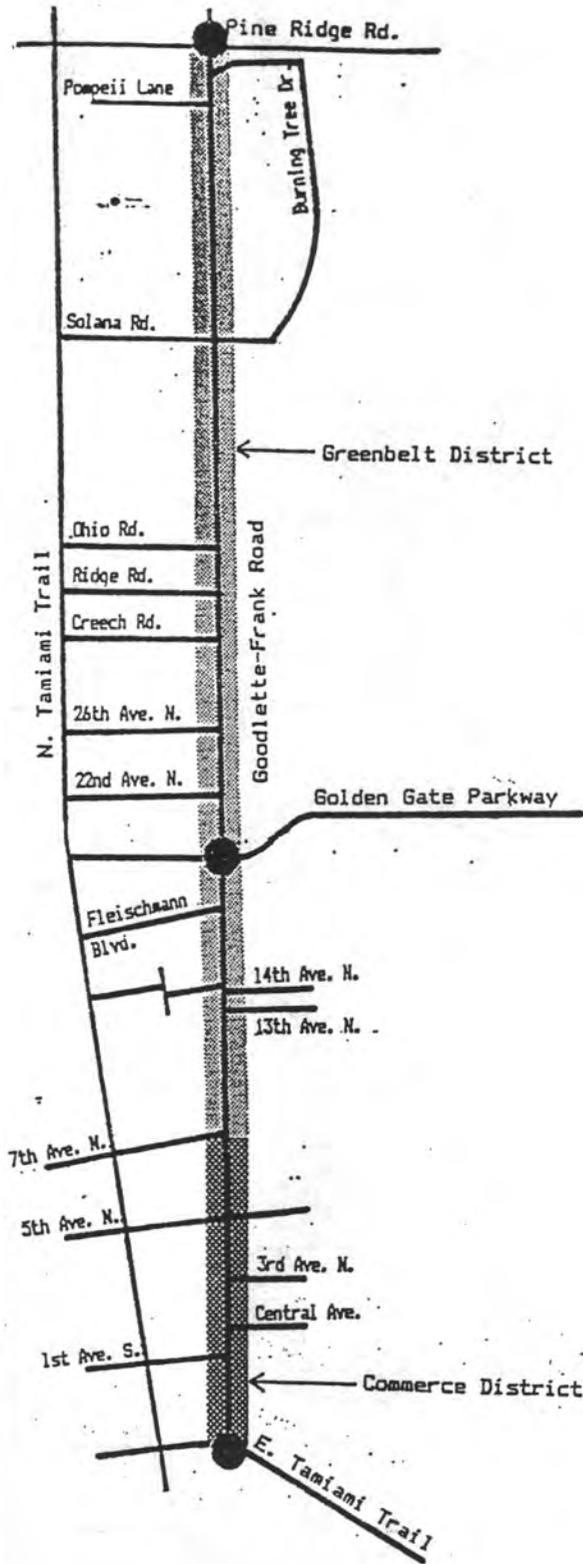
- (1) *General:* Landscaping plans must comply with the general standards as well as specific district standards. Landscaped areas shall be twenty-five (25) feet in width abutting the right-of-way property line. Indigenous species or compatible species with existing streetscape shall be provided. All trees shall have a twenty-foot canopy at maturity with a fifteen-foot canopy when planted. Slash pines may substitute for canopy trees. Pine trees and native vegetation shall be retained.
- (2) *Urban Parkway District—U.S. 41 to Goodlette-Frank Road:* Landscaping shall consist of major canopy trees such as oak planted every thirty (30) feet with continuous hedges along the property line abutting the corridor at least two (2) feet in height planted along the interior property line. In addition, the city may enhance landscaping requirements in exchange for a ten-foot wide easement along the entire exterior property line which abuts public right-of-way. This will be used as a landscaped buffer area and for urban design improvements such as street furniture, lighting and pedestrian walkways. Additional landscaped design improvements will then be provided by the city.
- (3) *Corridor Terminus at U.S. 41:* The lands immediately adjacent to the terminus may be given relief from the requirements of the corridor management overlay zoning district by rezoning the property to a planned development, with an urban planned development land use designation. The minimum building setback shall be fifty (50) feet of which a minimum of twenty (20) feet shall be landscaped.

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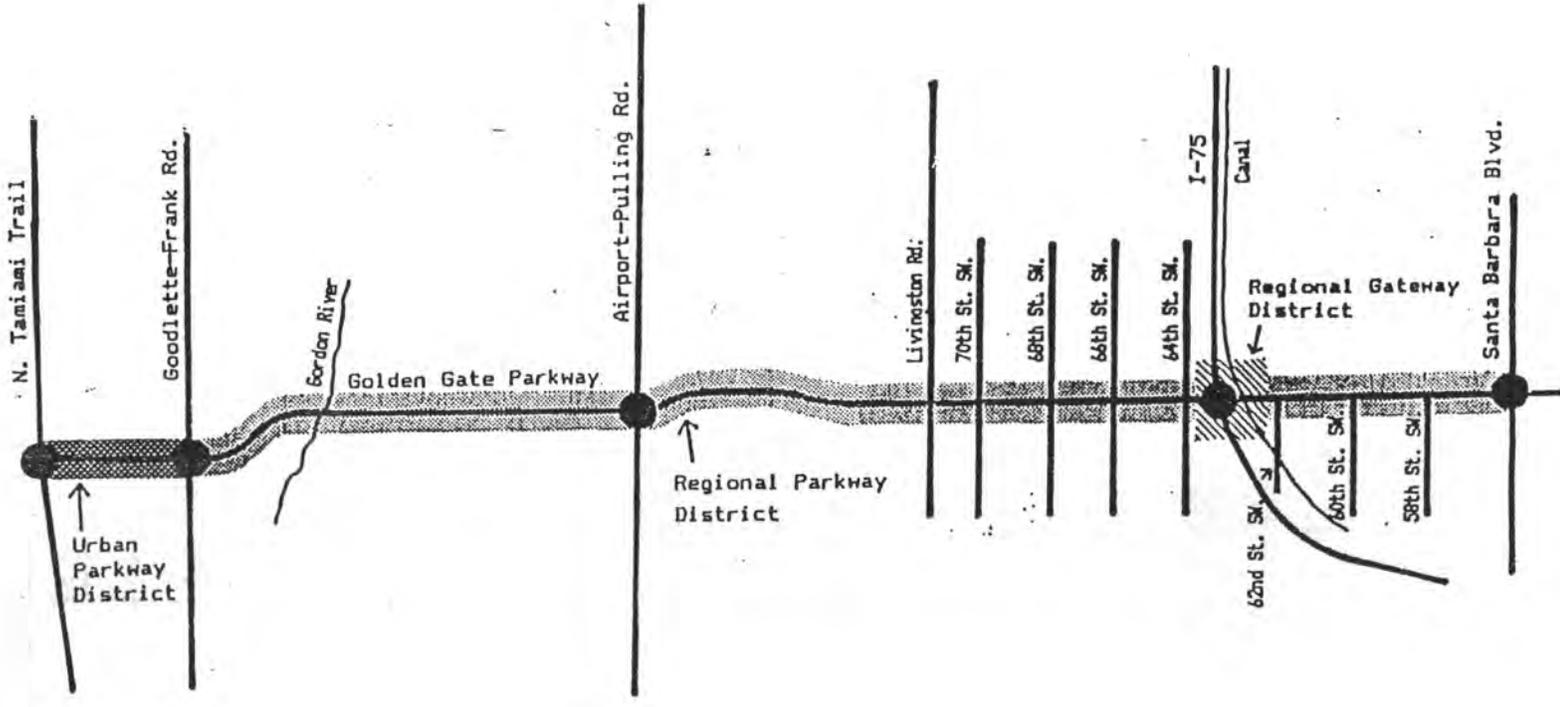
- (4) *Regional Parkway District—Goodlette-Frank Road to city limits:* Landscaping shall be designed to preserve greenbelt vistas and pine trees within setback areas except for at driveway entrances which should be shared wherever possible. Berming is permitted but is not to adversely impact existing vegetation. Canopy trees of oak or myrtle are permitted only if interspersed with natural vegetation. Proposed landscaping plans should also be provided to Collier County for their records since this corridor is split north and south by city and county jurisdictions.
- (5) *Regional Gateway District:* These standards are provided for in the Collier County corridor management overlay standards.
- (K) *Screening and walls:* These requirements are subject to existing standards. In addition, vegetative screens are required within the minimum setback areas with a minimum height of two (2) feet and a maximum height of four (4) feet. Perimeter walls are permitted provided they are at least seventy-five (75) percent screened by plant materials or buffered by berming. Entranceway walls are permitted without screening for a distance of fifty (50) feet from such entrances.

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GOODLETTE-FRANK ROAD



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DISTRICTS WITHIN GOLDEN GATE PARKWAY



**Subsection 7-5-3. (Reserved for Historic Overlay District).**

**Subsection 7-5-4. (Reserved for Mixed Use Special Overlay District).**

**Subsection 7-5-5. Airport High Noise Special Overlay District.**

- (A) *District purposes:* This district provides for the protection of health, life, resources, and property through the required review of development within this district for the purpose of mitigating the potential harm as established by the high noise impact area and potential land development conflict with regard to present and future safe operation of aircraft.
- (B) *Review:*
- (1) Development will be reviewed for consistency with the City of Naples' Comprehensive Plan; Future Land Use chapter—Section G: Areas of Public Concern, Subsection 12: Naples Municipal Airport and Figure FL 18: Naples Municipal Airport—High Noise Impact Area.
  - (2) This district requires a "PD" planned development rezone for any new development of land which is located within the Airport High Noise Special Overlay District. The development should conform to existing zoning and should be specifically reviewed for compatibility with noise and safety considerations.
- (C) *Uses permitted:* The uses in the underlying zoning district shall be permitted except for within the Transitional Conservation Zoning District. The uses permitted in the Transitional Conservation District are described in the following paragraph. All requirements of the underlying zoning district must be met.
- (D) *Uses permitted—Transitional Conservation District within the Airport High Noise Special Overlay District:* The permitted uses for lands which fall within this district under the Airport High Noise Special Overlay District are:
- (1) Natural water quality maintenance;
  - (2) Natural wildlife habitat; and
  - (3) Open space area.
- (E) *Conditional uses—Transitional Conservation District within the Airport High Noise Special Overlay District:* The conditional uses for lands in the Transitional Conservation Zoning District which falls within this Airport High Noise Special Overlay District are (all submittal requirements and development criteria of the Transitional Conservation Zoning District shall apply):
- (1) Passive, low intensity recreation, such as hiking foot paths, boardwalks, and nature trails;
  - (2) Marinas; in compliance with marina siting criteria (see Chapter 10, subsection 10-6-3). PD rezone is required which also meets all conditional use criteria;
  - (3) Parking lots;
  - (4) Utility/communication substations;
  - (5) Veterinary clinics and/or kennels;

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- (6) Automotive/truck rental business;
  - (7) Active recreation facilities with typical accessory uses or structures.
- (F) *Standards:* The following standards are applicable to the conditional uses listed above, in addition to all other applicable standards and requirements of the Transitional Conservation Zoning District:
- (1) **Maximum building envelope**—To be determined through site check, in accordance with clearing provisions and percentage requirements applicable to specific vegetative cover of site.
  - (2) **Maximum height**—Thirty-five (35) feet.
  - (3) **Maximum disturbed area (excluding areas heavily impacted by exotics)**—Not to exceed ten (10) percent of the total upland portion of the TC zoned area to maintain natural communities to the greatest extent possible. Any existing disturbed areas in Transitional Conservation District shall be required to be developed before undisturbed areas.
  - (4) **Landscaping** shall utilize xeric design. Native species should predominate, but xeric non-native landscape species can be used. Existing exotic vegetation shall be removed and replaced with native vegetation. In defined habitat types, such as pinelands and palm hammocks, landscaping shall be limited to those plants that normally occur in those assemblages.
  - (5) Only organic pesticides and fertilizers as approved by the natural resources manager shall be permitted in these areas, subject to evidence of minimal impact and any monitoring required by the PD.
  - (6) Site grading is permitted within the building envelope area and “fill” shall be limited to no more than eighteen (18) inches within the envelope to provide adequate drainage.
  - (7) Utilities shall be grouped together to limit the disturbance to the area. The preferred method of managing sewage is central public wastewater treatment and disposal. However, if that is not physically or legally possible, then on-site central treatment system or as a last resort septic tanks may be allowed subject to a complete DSEI which shows no adverse environmental impacts and other local and state regulations. The DSEI should also analyze the location and density of proposed drainfield sites and shall determine the appropriate siting and number which are compatible with the natural environmental conditions.
  - (8) Clearing shall be limited by the open space ratio provisions listed in the general definition paragraph of the Conservation Zoning District.
  - (9) Water management provisions shall be examined by the natural resources manager and city engineer and shall achieve runoff control with absolute minimum impact to the natural area. Lakes are discouraged.
  - (10) For clearing penalties, see the Conservation Zoning District.

[The next page is 609]

## CHAPTER 8

## REQUIRED DEVELOPMENT AND DESIGN STANDARDS

## Section 8-1. Signs.

**Subsection 8-1-1. Purpose.**

This regulation establishes a uniformity in the method of advertising through the medium of signs within each zoning district compatible with the intent of the zoning ordinance applicable to said districts, taking into account the economic, aesthetic and traffic factors that are reasonably consistent with the exercise of the police powers vested in this municipality. This is done so that there will be a minimum of conflict in relation to the need for traffic control, visual compatibility, economic growth and in order to promote the city's interest in maintaining and enhancing property values and the attractive appearance of Naples, which is important to the tourist aspect of the local economy.

**Subsection 8-1-2. Definitions.**

*Sign:* Any outdoor advertising display, billboard, poster, panel, bulletin, banner, pennant, flag, placard, or similar item, and all printed, painted, lettered, illuminated or figured devices, structures, or attention-getting devices used for outdoor advertising, attached to or painted on any building, pole or structure or to the ground, by post, footing or other contrivance.

*Billboard advertising sign:* A sign usually designed for use with changing advertising copy, and which is normally used for the advertisement of goods produced or services rendered at locations other than the premises on which the sign is located.

*Class "A" sign:* All signs advertising a product for sale or service to be rendered on the immediate premises where the sign is located.

*Directional sign:* A sign which provides information as to the location of a parking lot, building entrance, school, church, community center, park, or other public or institutional facility. The maximum area of a directional sign shall not exceed four (4) square feet.

*Erect:* To build, construct, attach, hang, paint, place, suspend, or affix.

*Ground sign:* A sign supported by uprights, braces, or footings placed upon the ground and not attached to any building.

*Identification sign:* A sign located on the property identifying the occupants or the building.

*Marquee sign:* A sign attached to, painted on or hung from a marquee or any such canopy or covered structure projecting from and supported by a building.

*Projecting sign:* A sign attached to a building or other structure and extending more than twelve (12) inches beyond the surface of that portion of the building or structure to which it is attached.

*Roof sign:* A sign which extends above the roofline of the building to which it is attached.

*Roofline:* The highest point of the main roof structure or the highest point on a parapet wall or mansard detail but shall not include cupolas, projections, or minor raised portion of the roof.

*Spectacular sign:* Any sign or advertising structure which has any visible moving parts or mechanical movement of any description (excepting time or temperature indicators), or other apparent visible movement achieved by electrical, electronic, or kinetic means, including intermittent electrical pulsations, or by any action of normal wind currents.

*Wall sign:* A sign attached to or painted on the wall of any building as long as such sign does not project more than twelve (12) inches from the building.

#### **Subsection 8-1-3. Sign Area Calculation.**

(A) *Ground signs, roof signs, or projecting signs:* The total area within the smallest parallelogram, triangle, circle, or semi-circle which will completely enclose the outside perimeter of the overall sign, including the border, if any, but excluding the supports.

(B) *Wall signs or marquee signs:* The total area within the smallest parallelogram, triangle, circle or semi-circle which will enclose the outside perimeter of the overall sign, including the border.

(C) *Detached letters:* Signs consisting of a group of detached letters, or two (2) or more panels on the same support presented as a single advertisement, shall be considered as one sign and the area shall be as above defined without regard to whether the sign is single or double faced.

(D) *Double face vs. single face:* Only one side or face of the same sign shall be used in computing sign area.

#### **Subsection 8-1-4. General Requirements.**

(A) *Permit required:* It shall be unlawful for any person to erect or replace or modify the design of any sign, unless specifically exempt, without first securing from the zoning administrator a written permit to do so.

(B) *Sketch:* The applicant for such a permit shall provide the zoning administrator with specific information including a sketch showing sizes, heights, and other pertinent information, so as to determine compliance with this ordinance.

(C) *Construction standards:* In addition to complying with the requirements of this ordinance, the building code sets forth structural and other standards regarding sign construction, erection, electrical wiring, etc., which must be met.

(D) *Commercial complex/architectural character:* In commercial complexes, the permitted signs must be uniform in design including a color and lettering scheme as well as

shape and location on the building. The design must be consistent with the general character of the structures. A signage plan must be approved by the zoning administrator for all new development and redevelopment.

(E) *Elevation, setback and height regulations:*

- (1) Minimum elevation: The lower edge of each sign over a pedestrian walkway shall be no less than eight (8) feet above the surface thereof.
- (2) Minimum setback: No part of any ground sign shall be closer than five (5) feet to a street right-of-way.
- (3) Maximum height: No part of any ground sign shall be higher than thirty (30) feet above the crown of the adjacent street in commercial and industrial zone districts and no higher than twelve (12) feet in residential zone districts.

(F) *Signs not to constitute a traffic hazard or nuisance:*

- (1) No sign shall be erected or maintained at any location in such a manner as to obstruct free and clear vision at the intersection of any streets or other public ways.
- (2) No sign shall be erected or maintained at any location where, by reason of position, illumination, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; nor shall it make use of the words "STOP," "LOOK," "DANGER," or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.
- (3) Any lights used for sign illumination shall be so designed as to concentrate the illumination upon the sign and shall not glare upon the street or upon adjacent property.
- (4) No ground sign over thirty-six (36) inches in height shall be erected within thirty (30) feet of the intersection of any street right-of-way lines without prior approval of the zoning administrator.

(G) *Maintenance of signs:* All visible portions of a sign and its supporting structure shall be maintained in safe condition and neat appearance. If a lighted sign, all lights shall be maintained in working order and functioning in a safe manner; if a painted sign, the paint shall be kept in good condition; all signs will be kept in such manner as to constitute a complete sign at all times. The area immediately surrounding ground signs shall be kept clear of all unsightly vegetation or debris.

**Subsection 8-1-5. Permitted Signs.**

Only the following signs are permitted:

- (1) Exempt signs.
- (2) Two (2) Class "A" signs per street fronted upon for each place of business or other establishment in zones "R3-12," "R3T-12," "R3-15," "R3T-18," "R3-18," "HC," "C1," "C1-A," "C2," "C2-A," "C3," "C4," "I," "M," "O," "PD," and "PS" (See

"Gasoline Service Stations" (Chapter 9, subsection 9-3-3) and "Shopping Centers" (Chapter 9, subsection 9-3-4) for special sign regulations applying thereto).

- (3) Directional signs.
- (4) Temporary signs may be authorized under the temporary use permit procedure. (See Chapter 3, [subsection 3-88-2,] Temporary Use Permits.)
- (5) One billboard advertising sign on each vacant, undeveloped, recorded lot of record with frontage on a public street in zone districts "C3" and "I" (See subsection 8-1-6(B)(2) below).

**Subsection 8-1-6. Size, Type, and Location of Permitted Signs.**

- (A) Class "A" signs shall be limited as follows:
  - (1) In "R3-6," "R3-12," "R3T-12," "R3-15," "R3T-18," and "R3-18" zones and properties zoned "PD" for multi-family residential use: Ground (see subsection 8-1-6(A)(6) below), marquee or wall signs only, not to exceed the following sizes:
    - Duplexes—Eight (8) square feet per permitted sign per duplex.
    - Three- or four-unit dwellings—Sixteen (16) square feet per permitted sign per residential complex.
    - Five- or more unit dwellings—Twenty-five (25) square feet per permitted sign per residential complex.
  - (2) In "HC," "C2," "C2-A," "C3," "C4," "PS," and "I" zones and "PD" zoned properties intended to accommodate the same uses: Ground (see subsection 8-1-6(A)(6) below), marquee or wall signs only: Limited to two (2) square feet of sign area per lineal foot of structure or business fronting on a public street, alley, or pedestrian walkway up to a maximum of sixty (60) square feet per permitted sign, plus one sign per business which is adjacent to a covered pedestrian walkway; such sign to be located under and hanging from the canopy over the pedestrian walkway and not to exceed six (6) square feet in area.
  - (3) In "C1" and "C1-A" zones and "PD" zoned properties intended to accommodate the same uses: Marquee or wall signs only: Limited to two (2) square feet of sign area per lineal foot of structure or business fronting on a public street, alley or pedestrian walkway up to a maximum of sixty (60) square feet per permitted signs; plus one sign per business which is adjacent to a covered pedestrian walkway, such sign to be located under and hanging from the canopy over the pedestrian walkway, not to exceed six (6) square feet in area.
  - (4) In "M" and "O" zones and "PD" zoned properties intended to accommodate the same uses: Marquee or wall signs only: Limited to ten (10) square feet per permitted sign per structure or business.
  - (5) Additional sign area: The following additional sign area is permitted when signs are located more than one hundred (100) feet from the front property line: For every foot of front yard setback in excess of one hundred (100) feet, the maximum area of permitted signs may be increased by one-third ( $\frac{1}{3}$ ) square foot up to a

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maximum of one hundred (100) square feet per permitted sign (not applicable to signs in shopping centers).

- (6) Ground sign limitation: In "R3-12," "R3T-12," "R3-15," "R3T-18," "R3-18," "HC," "C2," "C2-A," "C3," "C4," "I," "PS" zones and "PD" zoned property intended to accommodate the same uses: One ground sign will be permitted per structure or business only if such structure or business is located on a parcel of land which has a minimum street frontage of at least one hundred twenty-five (125) feet; in no case shall there be more than one ground sign for each one hundred twenty-five (125) feet of street frontage and no more than a total of two (2) ground signs per street fronted upon.

(B) Billboard advertising signs shall be limited as follows: (See also subsection 8-1-5(5) above)

- (1) "C3" and "I" zone districts only.
- (2) Sixty (60) square feet maximum sign area.
- (3) Minimum of one thousand (1,000) lineal feet between billboard advertising signs.

**Subsection 8-1-7. Prohibited Signs.**

- (1) "Sold" signs.
- (2) Portable or sandwich type signs.
- (3) Signs attached to trees or utility poles.
- (4) Windblown, attention catching devices.
- (5) Any sign which does not have a city sign permit.
- (6) Spectacular signs including blinking lights, flashing arrows, and the like (excepting non-advertising time and temperature indicators).
- (7) Banners, pennants and flags (except municipal, county, state and federal or institutional flags approved by city council).
- (8) Roof signs.
- (9) Signs on vehicles, either attached to or painted on vehicles of any type which are parked in close proximity to the business being advertised and are parked in such a way to advertise said business to the passing motorist or pedestrian.
- (10) "For Sale" signs on vehicles, either attached to or painted on vehicles of any type which are parked in such a way to advertise such vehicle to the passing motorist or pedestrian.

**Subsection 8-1-8. Removal of Signs.**

(A) *Signs advertising businesses no longer conducted or products no longer sold:* Any sign now or hereafter existing which advertises a business no longer conducted, or a product no longer sold, shall be removed by the owner, agent, or person having beneficial use of the building, structure, or land upon which the sign is located.

(B) *Signs in violation of ordinance:* Signs that are in violation of city ordinances shall be removed immediately upon notification by the zoning administrator or his designee.

(C) *Nonconforming sign damaged or destroyed:* Any sign that becomes nonconforming under this ordinance which is more than sixty (60) percent destroyed or damaged shall be removed in its entirety and no sign permit shall be issued for replacement unless such sign is permitted under this ordinance.

(D) *Nonconforming sign not to advertise a different business:* Lawfully established nonconforming signs may be continued so long as they remain otherwise lawful, but may not be modified to advertise a different business or service than that which they advertised at the time they became nonconforming. A change in business name even if the same type of business continues to be conducted shall be construed as a "different business."

(E) *Nonconforming signs—Removal thereof:* Notwithstanding any other provisions of these regulations, all legal, nonconforming, on-premise advertising signs in the City of Naples shall be removed or altered so as to conform to present ordinance requirements, according to the following removal schedule of values, based on building permit values. If a building permit cannot be located but a sign is still judged to be a legal nonconforming sign, the zoning administrator shall place a value on the sign based upon the age of the sign and the value of comparable signs in the city and the subject sign shall then be removed or made to conform based upon that value and the time schedule shown below.

- (1) \$0.00—\$1,000.00—One (1) year from the effective date of this ordinance (to be removed or made to conform by April 1, 1988).
- (2) \$1,001.00—\$3,000.00—Two (2) years from the effective date of this ordinance (to be removed or made to conform by April 1, 1989).
- (3) \$3,001.00 and over—Three (3) years from the effective date of this ordinance (to be removed or made to conform by April 1, 1990).

#### **Subsection 8-1-9. Exempt Signs.**

The following signs may be erected without a permit, subject however to the remaining requirements of these regulations:

- (1) Professional name plates not exceeding two (2) square feet in area (one per business).
- (2) Bulletin boards and identification signs for public, non-profit or religious facilities, located on the premises of said facilities and not exceeding twelve (12) square feet in area (one per premise).
- (3) One sign denoting the architect, engineer, contractor, or subcontractor on the premises of work under construction, which does not exceed sixteen (16) square feet in area.
- (4) Occupational signs or directories denoting only the name, street number and business of occupants in a commercial building, public institutional building or dwelling house, which do not exceed two (2) square feet in area per business or occupant identified.
- (5) Memorial signs or tablets.
- (6) The name of a building and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

- (7) Traffic or other municipal signs, and such temporary emergency or non-advertising signs as may be approved by the zoning administrator.
- (8) Signs inside a building.
- (9) One "For Sale," "For Lease," or "For Rent" sign and one "Open House" sign for each parcel of property for each street on which said parcel fronts, when such signs have an area per face of not more than four (4) square feet. Off-site and "Sold" signs are not permitted.

"For Sale," "For Lease," or "For Rent" signs may mention only the name, address and telephone number of the property owner or a real estate broker, investment company, or business firm licensed to sell real estate in the State of Florida and the name and telephone number of a sales person.

- (10) Identification signs at the entrance drive of residences which do not exceed two (2) square feet in area.
- (11) Non-advertising directional signs or symbols (Entrance, Exit, Caution, Slow, No Trespassing, etc.) located on and pertaining to a parcel of private property or geographical location, none to exceed four (4) square feet in area.

## **Section 8-2. Landscaping and Tree Protection.**

### **Subsection 8-2-1. Applicability.**

The following minimum landscaping requirements are applicable to each zone district relative to the landscaping of certain setback areas and additional required on-site landscaping including vehicular use areas. Such off-street facilities and land shall conform to this section, except that single- and two-family residential uses on individually platted lots shall be exempt from such requirements.

### **Subsection 8-2-2. Minimum Standards for Plant Material/Quality/Size.**

(A) *Quality*: Plant materials used in conformance with provisions of this section shall conform to the Standard for Florida No. 1 or better, as given in "Grades and Standards for Nursery Plants," Part I, 2963, and Part II, State of Florida, Department of Agriculture, Tallahassee, or equal.

(B) *Trees*: All trees shall be of a species having an average crown of greater than fifteen (15) feet in the Naples area and having trunk(s) which can be maintained in a clean condition, free of branches, from grade to five (5) feet above grade. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen-foot crown spread. Tree species shall be a minimum of seven (7) feet overall height immediately after planting. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than six (6) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior dimensions shall be five (5) feet square and three (3) feet deep, and for which the construction requirements

shall be four (4) inch thick concrete reinforced with #6 road mesh (6×6×6) or other approved containment.

(C) *Shrubs and hedges:* Shrubs and hedges shall be a minimum of two (2) feet in height when measured immediately after planting. Hedges, where required, shall be planted and maintained so as to form a continuous unbroken, solid visual screen within one year after time of planting.

(D) *Vines:* Vines shall be a minimum of thirty (30) inches in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet physical barrier requirements as specified.

(E) *Ground covers/limitation on use of stone or gravel:* Ground covers in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage and shall be used with a decorative mulch, such as pine or cypress bark or other material of a similar nature.

In no instance shall stone or gravel be utilized for more than twenty (20) percent of the ground cover area.

(F) *Lawn grass:* Grass areas shall be planted in species normally grown in permanent lawns in the Naples area. Grass areas may be sodded, plugged, sprigged or seeded; except that solid sod shall be used in swales or other areas subject to erosion, and providing that in areas where other than solid sod or grass seed is used, nursegrass seed shall be sown for immediate effect and protection until coverage is otherwise achieved.

### **Subsection 8-2-3. General Requirements.**

(A) *Plan approval:* Except for single and two-family dwellings, prior to the issuance of any building permit, a plot and planting plan shall be submitted to and be approved by the community development department of the city. The plot plan shall be drawn to a suitable scale and shall include all pertinent dimensions and indicate clearly by delineation the existing and proposed parking spaces or other vehicular use areas, access aisles, driveways, easements, hydrants, irrigation system, and the location, type, and size of all landscape materials, including location of planting protective devices, the location and size of buildings, if any, to be served. No building permit shall be issued unless the plot plan has been reviewed and certified by the building and zoning division of the city as complying with the provisions of this section.

(B) *Installation:* All landscaping shall be installed in accordance with the plot plan as finally approved prior to issuance of a certificate of occupancy and shall be installed in accordance with accepted landscape practices within the area. It shall be unlawful to occupy the premises without a valid certificate of occupancy. In instances where conditions do not permit immediate planting, if the department of community development is furnished with satisfactory evidence that plantings will be installed when conditions permit, a temporary certificate of occupancy can be issued.

(C) *Maintenance*: The owner, tenant or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping, and landscaped areas shall be so maintained as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris. In the event that trees, shrubs, or other landscape material should die, such materials must be replaced within thirty (30) days.

(D) *Protection*: All landscaped areas shall be protected from vehicular encroachment by curbs, wheel stops (one full wheel stop per parking space), or other similar device.

(E) *Ground level/grade*: The required landscaped area shall be relatively level and at the same elevation as the adjacent parking lot or building floor area.

(F) *Existing plant material*: In instances where healthy plant material exists on a site prior to its development, in part or in whole, for purposes of off-street parking, other vehicular use areas, or in conjunction with other landscaping requirements, an applicant will be encouraged to retain such landscaping and the zoning administrator may adjust the application of the above-mentioned standards to allow credit for such plant material if, in his opinion, such an adjustment is in keeping with and will preserve the intent of this section.

#### **Subsection 8-2-4. Development Standards.**

(A) Required landscaping in front setback areas in all districts except single-family residential districts and additional minimum landscaping requirements in the "HC," "C1," "C1-A," "PD" (designated for commercial uses), "C2," and "C2-A" zone districts:

- (1) *Minimum size of areas to be landscaped*: Each separate landscaped area shall contain a minimum area of thirty (30) square feet and shall have a minimum dimension of at least five (5) feet and shall include at least one tree.
- (2) *Minimum number of trees*: The total number of trees shall not be less than one for each one hundred eighty (180) square feet or fraction thereof of the area to be landscaped. Each landscaped area shall contain at least one tree.
- (3) *Minimum shrubs, grass required*: The remainder of the required landscaped areas shall be adequately landscaped with shrubs, grass, ground cover, or other approved landscape treatment.

(B) Required landscaping adjacent to public rights-of-way and in required front yard setback areas: On any parcel providing an off-street parking area or other vehicular use area, where such area will not be entirely screened visually by an intervening building or structure from any abutting right-of-way, excluding single family and multifamily residential development with city approved parking that takes access from an alley, there shall be provided landscaping between such areas and such rights-of-way, as follows. The following provisions are also applicable to front yard setback areas that are required to be landscaped.

- (1) *Area to be landscaped*: A strip of land at least six (6) feet in depth, located between the abutting right-of-way and the off-street parking area or other vehicular use

area which is exposed to an abutting right-of-way shall be landscaped. Certain commercial district regulations require a larger area to be landscaped and take precedent over this minimum requirement.

- (2) *Minimum number of trees:* One tree for each thirty (30) linear feet or fraction thereof.
- (3) *Minimum size of landscaped areas:* Each separate landscaped area shall contain a minimum area of at least thirty (30) square feet with a minimum dimension of five (5) feet.
- (4) *Hedge or wall required:* A hedge, wall, or other durable barrier of at least two (2) feet in height shall be placed along the entire length of such landscaped area.
- (5) *Shrubs or vines required adjacent to a walk:* If such durable barrier is of non-living material, an average of one shrub or vine shall be planted abutting such barrier for each ten (10) feet of such barrier, but such plants need not be spaced evenly ten (10) feet apart. Such shrubs or vines shall be planted along the street side of such barrier unless they are of sufficient height at the time of planting to be readily visible over the top of such barrier.
- (6) *Minimum grass, ground cover required:* The remainder of the required landscaped area shall be landscaped with grass, ground cover, or other approved landscaping treatment.

(C) Required landscaping adjacent to interior property lines: On any parcel providing an off-street parking area or other vehicular use area, there shall be provided landscaping between such area and such property line as follows:

- (1) *Adjacent to residential or institutional uses:*
  - (a) *Area to be landscaped:* Where such area abuts property zoned or in fact used primarily for residential or institutional purposes, that portion not entirely screened visually by an intervening structure or conforming buffer on the subject property, there shall be provided a landscaped buffer of not less than six (6) feet in width measured at right angles to the property line.
  - (b) *Minimum opaqueness required:* Such buffering areas shall be designed and planted so as to be seventy-five (75) percent opaque when viewed horizontally at three (3) feet above ground level.
  - (c) *Minimum height of plant material:* Said plant material should reach a height of five (5) feet within two (2) years after planting.
  - (d) *Structure permitted in lieu of plant material:* A five-foot high structure set in a six-foot wide landscaped buffer area may be substituted for the required three-foot high planted buffer provided that no such structure exists along the adjoining lot line. Such landscaped buffer shall be located between the common lot line and the off-street parking area or other vehicular use area exposed to the abutting property, so that the purpose of screening the off-street parking area or other vehicular use area is accomplished.
  - (e) *Minimum number of trees:* In addition, an average of one tree shall be provided for each fifty (50) lineal feet of such interior property line or fraction

- thereof. Such tree shall be located between the common lot line and the off-street parking area or other vehicular use area.
- (f) *Minimum size of landscaped areas:* Each such tree shall be planted in at least thirty (30) square feet of planting area with a minimum dimension of at least five (5) feet.
  - (g) *Minimum grass, ground cover required:* Each such planting area shall be landscaped with grass, ground cover, or other approved landscape material in addition to the required tree.
- (2) Adjacent to commercial or industrial uses: Where such area abuts property zoned or in fact used for commercial or industrial purposes, only the tree provision with its planting area as prescribed in this subsection shall be required.
- (D) Required interior landscaping:
- (1) Area to be landscaped:
    - (a) *Minimum landscaped area per parking space:* Off-street parking areas shall have at least twenty (20) square feet of interior landscaping for each parking space, excluding those spaces abutting a perimeter for which landscaping is required by other sections hereof.
    - (b) *Minimum landscaped area relative to other vehicular use areas:* In addition, other vehicular use areas (such as new or used car sales lots) shall have two (2) square feet of landscaping area for each one hundred (100) square feet or fraction thereof.
    - (c) *Determining size of vehicular use areas:* Where the property contains both parking areas and other vehicular use areas (such as new or used car sales lots), the two (2) types of areas may be separated for the purposes of determining the other vehicular use areas by first multiplying the total number of parking spaces by three hundred (300) and subtracting the resulting figure from the total square footage of paved areas.
    - (d) *Minimum size of landscaped areas:* Each separate landscaped area shall contain a minimum of fifty (50) square feet and shall have a minimum of at least five (5) feet.
  - (2) Plant materials:
    - (a) *Trees, shrubs, ground cover required:* Each separate landscaped area shall include at least one tree having a clear trunk of at least five (5) feet with the remaining area adequately landscaped with shrubs, ground cover or other approved landscaping material.
    - (b) *Minimum number of trees:* The total number of trees shall not be less than one for each one hundred (100) square feet or fraction thereof of required interior landscaping areas.
    - (c) *Location of landscaped areas:* Such landscaped areas shall be located in such a manner as to divide and break up the expanse of paving and at strategic points to guide traffic flow and direction.

- (3) Exception: In "other vehicular use areas" where the strict application of this subsection will seriously limit the function of said area, the required landscaping may be located near the perimeters of the area, including such perimeters which may be adjacent to the building on the site. Such landscaping shall be in addition to all other landscaping requirements.

#### **Subsection 8-2-5. Vehicle Encroachment.**

(A) *Interior landscaped areas:* The front of a vehicle may encroach upon any interior landscaped area or walkway when said area is at least three and one-half (3½) feet in depth per immediately abutting parking space and protected by wheel stops or curbing. Two (2) feet of such landscaped area or walkway may be part of the required depth of each abutting parking space.

(B) *Perimeter landscaped areas:* The length of paved parking spaces may be reduced from eighteen (18) feet to sixteen (16) feet adjacent to perimeter landscaped areas, provided the width of the required landscaped area is increased two (2) feet and is protected by wheel stops or curbing.

#### **Subsection 8-2-6. Landscaping Adjacent to Public Rights-of-Way and Points of Access.**

When an accessway intersects a public right-of-way or a when the subject property abuts the intersection of two (2) or more public rights-of-way, all landscaping within the triangular areas described below shall provide unobstructed cross-visibility at a level between two and one-half (2½) and six (6) feet; provided that trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the cross-visibility shall be allowed, and further provided they are located so as not to create a traffic hazard. Landscaping, except required grass or ground cover, shall not be located closer than three (3) feet from the edge of any accessway pavement. The triangular areas above referred to are:

- (1) The areas of property on both sides of an accessway formed by the intersection of each side of the accessway and public right-of-way lines with two (2) sides of each triangle being ten (10) feet in length from the point of intersection and the third side being a line connecting the ends of the other two (2) sides.
- (2) The area of property located at a corner formed by the intersection of two (2) or more public rights-of-way and two (2) sides of the triangular area being thirty (30) feet in length along the abutting public right-of-way lines, measured from their point of intersection, and the third side being a line connecting the ends of the other two (2) lines.

### **Section 8-3. Parking and Loading.**

#### **Subsection 8-3-1. Applicability.**

(A) [*New buildings, uses and structures:*] Every building, use or structure instituted or erected after the effective date of this ordinance shall be provided with off-street parking

and loading facilities for the use of occupants, employees, visitors, patrons, and service vehicles in accordance with the provisions of this ordinance. The off-street parking and loading facilities shall be maintained and continued as an accessory use as long as the main use is continued.

(B) *Existing buildings*: Buildings may be modernized, altered or repaired, provided there is no increase in floor area or capacity without providing additional off-street parking or loading facilities.

(C) *Expansion of existing buildings and uses*: Where a building or use is enlarged in floor area or capacity, off-street parking and loading facilities as specified herein shall be provided for the newly added floor area or capacity of the building or use.

(D) *Change of use*: When the use of a building or land is changed, additional off-street parking and loading facilities shall be provided to the extent that the off-street parking or loading required by this ordinance for the new use exceeds the off-street parking or loading for the previous use.

(E) *Unlawful elimination of required parking or loading*: It shall be unlawful for an owner or an operator of any building or land use affected by this section to cause or permit the discontinuance or reduction of required parking or loading facilities without the establishment of alternative parking or loading facilities which meet the requirements of this section.

#### **Subsection 8-3-2. General Requirements.**

(A) *Plan*: A plan shall be submitted with every application for a building permit or for any use or structure required to provide off-street parking, vehicular use areas or loading spaces under this ordinance, or for a proposed restriping of an existing parking lot, which plan, drawn to a suitable scale, shall clearly and accurately designate the required parking, vehicular use and loading areas, access aisles and driveways, construction material and landscaped area and shall be fully dimensioned.

(B) *Location*:

- (1) *Parking must be provided on-site*: The off-street parking and loading facilities required by this section shall be located on the same lot or parcel of land they are intended to serve.
- (2) *Exception*: When practical difficulties prevent the establishment of such facilities upon the same lot, the facilities may be provided on land within a radius of six hundred (600) feet of the lot, provided the land is zoned so as to permit such parking facilities. The owner/lessee of the land upon which such required off-site parking facilities are located shall enter into a written agreement with the city, to be filed with the clerk of the circuit court, with enforcement running to the city, providing that the land comprising the required off-site parking facilities shall not be encroached upon, used, sold, leased, or conveyed for any purpose except in conjunction with the building or use which the required off-site parking

serves so long as the parking facilities are needed. Relief granted hereunder shall be by the approval of a conditional use petition in accordance with this code.

(C) *Use of parking areas:* Where off-street vehicular parking is required, such parking areas shall be used for vehicular parking only, with no sales, rental, dead storage, including boat and trailer storage, repair work, dismantling or servicing of any kind.

(D) *Parking in yard areas:* Except for required landscape and buffer areas, side yard, rear yard, and front yard areas may be used for off-street parking.

(E) *Lighting:* If artificial lighting is provided, it shall be designed and arranged so that no source of such lighting is visible from any property used or zoned for residential purposes. In addition, such lighting shall be so designed and arranged as to shield public roadways and all other adjacent properties from direct glare or hazardous interference of any kind.

#### **Subsection 8-3-3. Standards for Design and Construction.**

(A) *Joint use of parking facilities:* All new off-street parking facilities in commercial districts shall be designed for joint use by abutting properties with exceptions or conditions as follows in subsections (3), (4), and (5). All of the other following subsections are applicable to all zoning districts except for single family or duplex development.

- (1) Access from one section of an on-site parking area to another shall be provided on-site.
- (2) Adequate back-out and turn-around areas shall be provided at the dead ends of permitted parking bays.
- (3) Driveways, accessways and access aisles shall be interconnected with all existing driveways, accessways, and access aisles in parking areas already developed on abutting commercial property.
- (4) Where abutting property is not developed and where the owner of the abutting property does not wish to develop the property concurrently, driveways, accessways and access aisles shall be brought to the common property line so that future interconnection is possible.
- (5) Where existing, abutting property is developed in such a manner that interconnection of driveways, accessways, or access aisles is physically impossible, no connection shall be required.
- (6) Access aisles or maneuvering areas shall be so arranged that no vehicle need back onto a public right-of-way (except in single family residential zone districts); provided, however, that parking spaces in multifamily residential districts "R3-12" through "R3-18" may be so arranged that vehicles may back into a dedicated alley right-of-way so long as such alley does not, at any point opposite the parking spaces, abut any commercial or industrial district or "PD" area designated for commercial or industrial use.
- (7) No parking or loading space shall interfere with access to any other parking or loading space, or with a pedestrian walkway.

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- (8) All parking and loading spaces shall be painted to indicate their proper location and area requirement.

(B) *Minimum dimensions:*

- (1) All required off-street parking areas shall be designed so as to meet the minimum dimensions shown in the following table:

(See landscaping regulations relative to permitted encroachment into landscaped areas.)

*Space Requirements at Various  
Parking Angles*

<i>Parking Angle (Deg.)</i>	<i>Stall Width</i>	<i>Stall to Curb</i>	<i>Access Aisle (One-way)</i>	<i>Curb Length</i>
0 deg.	9.0 ft.	9.00 ft.	12.0 ft.	20.00 ft.
30 deg.	9.0 ft.	16.83 ft.	12.0 ft.	18.00 ft.
40 deg.	9.0 ft.	18.45 ft.	13.0 ft.	14.04 ft.
45 deg.	9.0 ft.	19.08 ft.	13.0 ft.	12.69 ft.
50 deg.	9.0 ft.	19.62 ft.	13.0 ft.	11.79 ft.
60 deg.	9.0 ft.	20.07 ft.	18.0 ft.	10.44 ft.
70 deg.	9.0 ft.	19.98 ft.	18.0 ft.	9.54 ft.
80 deg.	9.0 ft.	19.26 ft.	24.0 ft.	9.18 ft.
90 deg.	9.0 ft.	18.00 ft.	24.0 ft.	9.00 ft.

- (2) Accessway: 12.0 feet minimum, one way; 20.0 feet minimum, two-way circulation. Minimum turning radius from property line to street line of fifteen (15) feet.
- (3) Compact car spaces: A maximum of ten (10) percent of the required off-street parking spaces may be designated as "Compact Car Spaces." Each such space shall have a minimum stall width of eight (8) feet and a minimum stall depth of eighteen (18) feet. Such spaces shall be signed and designated "Compact Cars Only" and shall not be located in high turnover areas which are in close proximity to main building entrances.
- (4) Minimum dimension of parking spaces in excess of required parking spaces: The dimension of parking spaces in excess of required parking spaces shall not be reduced below eight (8) feet in stall width or eighteen (18) feet in stall to curb length for ninety (90) degree parking (or proportionally the same for angled parking). Excess spaces which may become required spaces shall be modified to meet the minimum dimensions specified for such required spaces.
- (5) Loading spaces: Each Type "A" loading space shall be at least twenty-five (25) feet in depth and ten (10) feet in width. Each Type "B" loading space shall be at least fifty (50) feet in depth and twelve (12) feet in width. All buildings with overhangs that project over loading spaces shall have a vertical overhang clear-

ance of not less than fourteen (14) feet, exclusive of access aisle, platform or maneuvering area.

(C) *Paving requirements:* Off-street parking, vehicular use areas, and loading facilities (except in single family residential zone districts) including driveways, accessways and access aisles shall be paved as follows: All driveways, accessways, and access aisles shall have a minimum of six (6) inches of lime rock base with one-inch asphalt, slag or rock imbedded in asphalt or a minimum of six (6) inches of concrete reinforced with 6×6—6/6 wire mesh; all parking, vehicular use, and loading spaces shall have a minimum of four (4) inches of lime rock base with one-inch asphalt slag or rock imbedded in asphalt, or a minimum of four (4) inches of concrete reinforced with 6×6—10/10 mesh; all the above to be maintained in good condition.

(D) *Handicapped Spaces:* Handicapped parking spaces shall be provided in accordance with the table below:

<i>Total Spaces Provided</i>	<i>Handicapped Required</i>
Up to 25	0
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of Total
Over 1000	20 + 1 for each 100 over 1000

#### **Subsection 8-3-4. Off-Street Parking Required:**

Except where the district regulations specify other requirements, minimum off-street parking shall be provided as follows:

(1) **Airport passenger terminal:**

1 space for each 60 square feet of gross terminal floor area up to 47,000 square feet, plus 1 space per each 100 square feet of gross floor area over 47,000 including airline counter areas, waiting areas, and the like.

(2) **Auditoriums, arenas, theaters, churches, funeral homes, charter or party boats, or other places of indoor or outdoor seated spectator assembly:**

1 space per 4 seats or 1 space per 4 occupants; based on the maximum number of seats or occupancy.

## REQUIRED DEVELOPMENT AND DESIGN STANDARDS

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## (3) Bowling alleys:

15 spaces per alley.

## (4) Commercial uses such as retail sales, offices, financial institutions, maintenance and repair businesses, libraries, museums, art studios or galleries, private clubs which do not serve food or beverages, and business schools:

1 space per 300 square feet of gross floor area.

## (5) Furniture or carpet stores or interior decorator businesses which include furniture displays:

1 space per 500 square feet of gross floor area.

## (6) Golf courses, regulation or miniature, country clubs:

5 spaces per golf hole plus 1 space per 200 square feet of gross floor area devoted to food or beverage preparation, service, and consumption area, plus 1 space per 300 square feet of gross floor area devoted to other clubhouse and pro shop uses.

## (7) Grocery stores:

1 space per 100 square feet of gross floor area.

## (8) Hospitals:

1½ spaces per bed.

## (9) Marinas and boat storage facilities:

1 space per 300 square feet of principal building, plus 1 space per 3 boat storage spaces.

## (10) Medical offices and clinics:

1 space for each 200 square feet of gross floor area. For the purposes of this item, the following definition will apply:

Clinic: An establishment where persons, who are not lodged overnight, are admitted for examination or treatment by one person or a group of persons practicing any form of the healing arts, including physical therapists or laboratory technicians under the supervision of a doctor, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, podiatrists, dentists or any such profession, the practice of which is regulated by the State of Florida.

## (11) Mental health professionals, as licensed by Chapters 490 and 491, Florida Statutes:

1 space per 200 square feet of gross floor area.

- (12) Multifamily dwelling units:
- (a) Located in zoning district "R3-6," "R3-12," "R3T-12," or "PD" areas designated for residential uses—1½ spaces per dwelling unit.
  - (b) Located in zoning districts "R3-15," "R3-18," "R3T-18," "HC," "C2," "C2-A," or "PD" areas designated for commercial uses—2 spaces per dwelling unit.
  - (c) Located in zoning districts "C1," "C1-A," or "M"—1½ spaces per dwelling units.
- (13) Nursing, rest, or group homes:
- 1 space per 2 beds.
- (14) Post office:
- 1 space per 100 square feet of gross floor area.
- (15) Restaurants, cocktail lounges and private or public clubs which serve food or beverages:
- 1 space per 100 square feet of gross floor area, including outdoor eating and/or serving area.
- (16) Schools:
- (a) High School:

1 space for each 8 seats in an auditorium, plus 2 spaces for each classroom.
  - (b) Junior high and elementary:

1 space for each 10 seats in an auditorium, plus 1 space for each classroom.
- (17) Shopping centers (subject property must be at least 3 acres in size to qualify as a neighborhood shopping center and 10 acres in size to qualify as a community center):
- 5.5 off-street spaces for each 1,000 square feet of gross leasable area for centers with 300,000 square feet of gross leasable area or less and 5 off-street spaces for each 1,000 square feet of gross leasable area for centers with more than 300,000 square feet of gross leasable area. Bowling alleys, movie theaters, and transient lodging facilities shall provide the number of parking spaces required for these specific uses in this section in addition to the parking required for the other establishments or uses permitted. Each parking space shall have a continuous curb or a full parking bumper at least 6 feet in width so as to prevent vehicles from driving on other than designated access aisles.

- (18) Transient lodging facilities:
- (a) In all commercial zoning districts where such uses are permitted:
    - 1¼ spaces per unit for the first 100 units.
    - 1 space per unit for the next 150 units.
    - ¼ space per unit for all over 250 units.
  - (b) In zoning district "R3T-12":
    - 1½ spaces per unit.
  - (c) In zoning district "R3T-18":
    - 2 spaces per unit.
  - (d) In addition to the above noted parking for each unit, parking must also be provided for any other uses in the facility such as restaurants, cocktail lounges, retail shops and the like based on the requirement for the particular use in question as established by this section.
- (19) Industrial warehouse or storage uses only: (not applicable to storage or warehouse areas that are a part of other commercial or industrial uses. Applicable only to buildings used exclusively for warehousing or storage.)
- 1 parking space (exclusive of service roads, entrances and exits) for each 1,000 square feet of the gross floor area in a building up to 10,000 square feet in area, and then 1 parking space for each 2,000 square feet of gross floor area thereafter; or 1 parking space for each 2 anticipated employees, whichever requires the greater number of parking spaces. In no event shall there be fewer than 5 parking spaces provided per building.
- (20) Multiple uses:
- Multiple uses in a single building or complex shall be provided with the same off-street parking which would be required if each use were separately located and as required above for each individual use.
- (21) Uses not listed:
- Off-street parking requirements for any use not listed in this section shall be the same as for the most similar use listed as determined by the zoning administrator.

**Subsection 8-3-5. Off-Street Loading Spaces Required.**

- (A) *General requirements:*
- (1) All required off-street loading facilities shall be designed in such a manner that vehicles engaged in loading or unloading activities will not encroach upon, or interfere with, the public use of streets or alleys.

- (2) All Type "B" truck loading and unloading spaces and maneuvering areas shall be separated from the circulation pattern of the parking areas and designed with appropriate means of truck access to a street or alley.
- (3) Required off-street loading spaces shall be marked as such and shall not be utilized as storage for garbage or trash containers.

(B) *Number required:*

- (1) Commercial establishments with gross floor areas of 30,000 square feet or less: All retail, restaurant, and other similar commercial uses occupying 30,000 square feet of gross floor area or less shall provide at least one Type "A" off-street loading space for the first 10,000 square feet or fraction thereof, of principal building floor area, and one Type "A" space for the next 20,000 square feet or fraction thereof, of principal building floor area.
- (2) Office uses occupying up to 30,000 square feet of gross floor area shall provide one Type "A" loading space.
- (3) Multi-family dwellings and transient lodging facilities: All such uses shall provide one Type "A" off-street loading space for 20 through 40 units and two Type "A" spaces if there are more than 40 units.
- (4) Commercial establishments occupying more than 30,000 square feet of gross floor area: All retail, restaurant, and other similar commercial uses shall provide one Type "A" loading space and one Type "B" loading space per 30,000 square feet of gross floor area or fraction thereof.
- (5) Office uses shall provide one Type "A" loading space per 30,000 square feet of gross floor area.

**Subsection 8-3-6. Other Vehicular Use Areas.**

Wherever, in any zoning district, off-street facilities are provided for the parking or display of any and all types of vehicles, boats or heavy construction equipment, whether such vehicles, boats or equipment are self-propelled or not, and all land upon which vehicles traverse the property as a function of the primary use (including "drive-in" facilities) are hereinafter referred to as "other vehicular uses." Such off-street facilities and land shall conform to the minimum requirement set forth in this section, except that single- and two-family residential uses on individually platted lots shall be exempt from such requirements.

**Section 8-4. Driveways.**

(A) Driveways shall not intersect a street corner curbline (or edge of the traveled way) or be closer than fifty (50) feet to the intersection of extended street curb lines.

(B) Driveways shall not exceed fifty-four (54) feet in width at their intersection with a street travelway.

(C) Driveways shall be no closer together than ten (10) feet measured along a street right-of-way, or closer than six (6) feet measured at the curb line, or pavement edge.

(D) Driveways shall be no closer to a side lot line than five (5) feet at the edge of the right-of-way, or three (3) feet at the street pavement edge, unless the driveway is jointly used by the adjoining properties.

(E) Driveways shall be paved or otherwise stabilized.

(F) Paving any portion of a public right-of-way requires prior approval by the city manager or his designated representative.

#### **Section 8-5. Corner Visibility.**

On a corner lot, there shall be no structure or planting which materially obstructs traffic visibility within the triangular space bounded by the two (2) intersecting right-of-way lines and a straight line connecting two (2) points on the street right-of-way lines thirty (30) feet from their intersection.

#### **Section 8-6. Right-of-Way Acquisition and Standards.**

##### **Subsection 8-6-1. Need.**

The existing circulation system in the City of Naples has certain deficiencies and inadequacies, including incomplete street systems, narrow rights-of-way, substandard corner radii, lack of sidewalks and bike paths and the like; and present and projected revenue sources of the city are inadequate to correct such deficiencies and inadequacies. Continuing new multifamily residential, commercial and industrial development will add substantially to the traffic burden of the city and thus compel the continued improvement of the city's circulation system. Such development will benefit and subject properties will increase in value as a result of improved accessibility and the provision of a safe and well integrated circulation system.

##### **Subsection 8-6-2. Purpose and Intent.**

It is the intent and purpose of this section to enable the city to require a property owner and/or developer to provide for the dedication and/or improvement of property for circulation purposes to insure that the city is served by streets of adequate width and alignment; that all of the necessary improvements are provided; and that the circulation system is safe and continuous to insure the public safety, decrease traffic congestion and provide for an adequate circulation system.

##### **Subsection 8-6-3. Required Dedication and Improvement as a Condition of Building Permit Issuance and Final Occupancy Approval.**

Except as otherwise provided in this section, no building or structure shall be constructed, erected, relocated, enlarged, remodeled or otherwise altered, and no building permit shall be issued for such work on any lot or parcel for which it has been determined that certain right-of-way dedications, for circulation purposes, are required, until such required dedications are made to the city. No final occupancy approval shall be granted unless and until all required circulation improvements are provided.

**Subsection 8-6-4. Determination of Required Dedications and Improvements.**

The city council, upon the recommendation of the staff and planning advisory board, shall determine, when, and to what extent, circulation related right-of-way dedications and improvements shall be required based upon generally accepted minimum safety standards, and criteria, standards, alignments and the like as may be adopted as a part of the city's comprehensive plan and other city or county ordinances or other normally accepted standards as may be applicable. The city engineer may require a property owner or developer to provide the city with a traffic impact study to assist the city in determining dedication and improvement requirements.

**Subsection 8-6-5. Exemptions to Dedication and Improvement Requirements.**

- (1) Dedication of right-of-way or circulation related improvements are not required when the enlargement of any building or structure or the erection of an accessory structure involves an aggregate amount of work performed within any twelve-month period of less than two hundred (200) square feet of floor area.
- (2) Dedication of right-of-way or circulation related improvements are not required where the nonstructural alteration, repair or remodeling of any building or structure involves an aggregate amount of work performed within any twelve-month period of less than seven thousand dollars (\$7,000.00) in construction evaluation as determined by the building division.
- (3) Dedication of right-of-way or circulation related improvements are not required for additions, nonstructural alterations or accessory buildings incidental to a single family residential building legally existing on a lot having single family residential zoning, provided that no additional dwelling units are established.

**Section 8-7. Sidewalks.****Subsection 8-7-1. Required.**

In all districts except single-family residential districts and except for certain concentrations of single family and duplex developments in multifamily zone districts, sidewalks shall be constructed, if not already existing, along the street frontage of a lot which is being developed for a permitted use. In cases where no other sidewalks exist in the block or the required sidewalk will make no viable connection, the developer may, at his option, pay into the city's sidewalk/bikepath fund an amount equivalent to the standard cost of such a sidewalk, as determined by annual contracts found in the city engineer's office. Such funds may then be used for sidewalk construction anywhere within the city limits.

**Subsection 8-7-2. Widths Required.**

- (1) In districts "R3-6" through "R3-18" or in "PD" district intended for multifamily residential use, sidewalks shall be five (5) feet in width.
- (2) In districts "HC" through "PS" and for properties zoned "PD" for commercial uses, sidewalks shall be eight (8) feet in width.

**Subsection 8-7-3. Location.**

All sidewalks shall be constructed along the entire width of yards fronting upon a street right-of-way and for corner lots at street intersections shall be extended to and ramped to the street pavement. Sidewalks shall be constructed in the street right-of-way with one edge on the front property line and shall be constructed in accordance with City of Naples Sidewalk Improvement Specifications. Minor deviations as to width and location may be approved by the zoning administrator if, in his opinion, the existing landscaping or topography justifies such a deviation.

**Section 8-8. General Accessory Uses.****Subsection 8-8-1. Mailboxes.**

(A) *Mail and paper boxes; location requirements:* All mail or paper boxes heretofore or hereafter placed where home delivery is made shall be placed or affixed in one of the following ways:

- (1) Affixed to the house or building.
- (2) The post to which the box is affixed shall be placed not less than two (2) feet from the curb.
- (3) If there is no curb, said post shall be placed not less than seven and one-half (7½) feet from the edge of the existing pavement.
- (4) No post shall be placed less than thirty (30) feet from any intersection measured from the property line.
- (5) All turnouts shall be paved with limerock or shell at the property owner's expense to prevent damage to the existing pavement.

(B) *Post requirements:* No wooden post shall stand above the top of the box and all wooden posts shall be painted.

(C) *Conformance with provisions required within specified time:* All boxes that are nonconforming as prescribed above shall be made to conform within thirty (30) days from the passage of this ordinance. Any person, firm or corporation violating this section shall be punished by a fine of not more than ten dollars (\$10.00).

**Subsection 8-8-2. Newspaper Boxes.**

(A) *Definitions:* For the purpose of this subsection, the words set out in this paragraph (A) shall have the following meaning:

*Newsrack:* Any self-servicing or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers or news periodicals.

*Owner:* The particular individual who is responsible for installing and/or maintaining a newsrack.

*Parkway:* That area between the sidewalk and the curb of any street, and where there is no sidewalk that area between the edge of the roadway and the property line adjacent thereto. Parkway also includes any area within a roadway which is not open to vehicular travel.

*Person:* Any individual, company, corporation, association, business or other legal entity.

*Public property:* Parks, squares, plazas and any and all other real property owned by the city.

*Right-of-way:* Land which, by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for dedication to the general public for street, highway, alley, pedestrian walkway, storm drainage, bicycle path or other purposes.

*Roadway:* That portion of a street improved, designed or ordinarily used for vehicular travel.

*Sidewalk:* Any surface provided for the exclusive use of pedestrians.

*Street:* All that area dedicated to public use for public street purposes and includes, but is not limited to, roadways, parkways, alleys and sidewalks.

(B) *Standards:*

- (1) No person shall install, use or maintain any newsrack which projects onto, into, or over any part of the roadway of any public street, or which rests, wholly or in part, upon, along or over any portion of a roadway.
- (2) No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any public right-of-way or other public property, which such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such newsrack interferes with or impedes the flow of pedestrian or vehicular traffic, the ingress into or egress from any residence, place of business, or any legally parked or stopped vehicle, or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near said location, when such newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning machinery, or when such newsrack interferes with the ordinary use of public property.
- (3) Any newsrack which in whole or in part rests upon, in or over any public right-of-way or other public property, shall comply with the following standards:
  - (a) All newsracks shall have a uniform dark brown finish.
  - (b) No newsracks shall exceed fifty-four (54) inches in height, twenty-seven (27) inches in width, or eighteen (18) inches in depth.
  - (c) Newsracks shall only be placed next to, and on the roadway side of, a sidewalk or adjacent to the wall of a building. In instances where no sidewalks

exist, newsracks shall be located approximately eight (8) feet from the edge of the roadway. Newsracks located adjacent to a paved, city-approved vehicular "turn-out" are exempt from this subsection.

Newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six (6) inches from the wall. The provisions of subsection 8-8-2(B)(3)(h)g. of this section shall prevail over the foregoing.

- (d) No newsrack shall be chained, bolted or otherwise attached to any property or to any permanently fixed object not owned by the owner of the newsrack, unless the consent of the owner of such property or object is obtained in writing.
- (e) Newsracks may be placed, chained or otherwise attached to one another; however, no more than three (3) newsracks may be joined or placed together in this manner, and a space of no less than eighteen (18) inches shall separate each group of three (3) newsracks so attached.
- (f) No newsrack, or group of attached newsracks allowed under subsection 8-8-2(B)(3)(e) of this section shall weigh, in the aggregate, in excess of one hundred twenty-five (125) pounds when empty.
- (g) Every newsrack shall be installed level and plumb on a single pedestal or a multiple post, which shall be securely bolted to a level, concrete base set in the ground. Each newsrack shall be constructed, installed and maintained in a safe and secure condition.
- (h) No newsrack shall be placed, installed, used or maintained:
  - a. Within three (3) feet of any marked crosswalk.
  - b. Within fifteen (15) feet of the curb return of an unmarked crosswalk.
  - c. Within three (3) feet of any fire hydrant, fire callbox or other emergency facility.
  - d. Within three (3) feet of any driveway.
  - e. Within fifteen (15) feet of any sign marking a designated bus stop.
  - f. At any location whereby the clear space for the passageway of pedestrians is reduced to less than six (6) feet.
  - g. Within three (3) feet of any display window of any building abutting the sidewalk or parkway or in such manner as to impede or interfere with the reasonable use of such window for display purposes.
  - h. So that the front face or display window of the newsrack is within three (3) feet of any lawn, flowers, shrubs or trees.
- (i) The placement of all newsracks in the city shall comply with all local and state handicapped accessibility regulations.
- (j) No newsrack shall be used for advertising signs other than to promote the newspaper, periodical or other publications contained therein; and any such advertising sign shall either be painted on the newsrack or enclosed in or

made of a waterproof material and kept free of tears, peeling or fading. The advertising may only appear once on each box.

- (k) Each newsrack shall be maintained in a clean, neat and attractive condition and in good repair at all times.
- (4) Every person who places or maintains a newsrack upon, in or over any public right-of-way or other public property shall permanently affix to each newsrack the owner's name, address and telephone number in a place where such information may be easily seen.
- (5) No person shall sell, offer for sale, or keep or maintain any newspaper or news periodical in any newsrack on any sidewalk in such manner as to expose to the public view any photograph, cartoon or drawing, contained within such publication, displaying any of the following:
  - (a) The genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region of any person.
  - (b) Any portion of the breast, at or below the areola thereof, of any female person.
- (6) The owner of each newspaper shall execute a document, approved as to form by the city attorney, agreeing to hold the city, its officers, employees and agents free and harmless from any claim, demand or judgment in favor of any person, arising out of or resulting from the location of any newsrack located upon, in or over a public right-of-way or other public property.

(C) *Removal:*

- (1) Any newsrack installed, used or maintained in violation of the provisions of this subsection may be, after ten (10) working days' notice to the person designated pursuant to subsection 8-8-2(B)(4), removed and stored in any convenient place by the city engineer or any person designated by same. Said notice shall give the owner the opportunity to first cure the violation or to be heard at an informal hearing in reference to such violation. After removal of the newsracks, the owner shall receive notice thereof. Upon failure of the owner, following such notice, to claim the newsrack and pay the expenses of removal and storage plus administrative expenses within thirty (30) days after notice, the newsrack shall be deemed unclaimed property in possession of the city and may be disposed of pursuant to law.
- (2) In the case of violation of this chapter relative to the following:
  - (a) Restrictions upon attachment of newsracks to property or fixed objects other than that owed by the owner of the newsracks; or
  - (b) Restrictions upon location of newsracks;

the city engineer or any person designated by same, may, as an alternative to removal, remove such attachment and/or move such newsrack in order to restore

it to a legal condition, and thereafter the owner shall be notified of such corrective action and shall pay the cost thereof together with administrative expenses.

- (3) The city engineer or any person designated by same may summarily remove any newsrack where its installation, use or maintenance poses an imminent or immediate danger to pedestrians or vehicles, creates a health or safety hazard for pedestrians or vehicles, or otherwise unreasonably interferes with the safe use of any public right-of-way or other public property. After the removal of the newsrack, the owner shall be notified thereof. Upon failure of the owner, following such notice, to claim the newsrack and pay the expenses of removal and storage within thirty (30) days after notice, the newsrack shall be deemed unclaimed property in possession of the city and may be disposed of pursuant to law.
- (4) In the event of an emergency such as a severe storm in which the newspaper racks may become dangerous instrumentalities by virtue of the natural forces of catastrophes, all newspaper racks which are not securely bolted down must be removed by the owners thereof upon notification by the city that such an emergency is expected in the Naples area. If the newspaper racks are not removed by the owner thereof, the city may remove said newspaper racks pursuant to subsection 8-8-2(C)(3) above.

(D) *Review of subsection provisions.* This program of regulation and enforcement shall be reviewed approximately one year after the effective date hereof to evaluate the results and assess the costs, and the need for any changes, including provisions for charges to offset the costs of enforcing same, shall be determined then.

## Section 8-9. Nuisance.

### Subsection 8-9-1. Noise.

(A) *Animals, birds, etc.* The keeper of any animal or bird which by causing frequent or long continued noise, shall disturb the comfort or pose of any person or persons in the vicinity is prohibited.

(B) *Air conditioning units and equipment, and other types of mechanical equipment or apparatus installed on or attached to premises.*

- (1) In all districts or areas where multiple-family or transient lodging facilities are permitted, air cooled condensing and/or compressor equipment which is a part of an air conditioning system or a water cooling tower, and any other type of mechanical equipment or apparatus installed on or attached to premises, except window wall units up to 18,000 B.T.U. shall be at a distance of not less than fifteen (15) feet from all lot lines of adjoining lots in such districts or areas, or completely retained within building.
- (2) It shall be unlawful for any person, corporation, association of persons, co-partnership, in the operation of any air conditioning equipment or part thereof, or any other type of mechanical equipment or apparatus installed on or attached

to premises, to make, continue or cause to be made, excessive noise so as to cause annoyance, inconvenience or detriment to the public or to any person or persons. In single family residence districts, multiple-family districts or districts where multiple or transient lodging facilities are permitted, or other districts which adjoin such districts or areas, noise shall be considered excessive, if the sound pressure level from the air conditioning units, or any other type of mechanical equipment or apparatus installed on or attached to premises, between the hours of 10:00 p.m. and 8:00 a.m., exceeds sixty (60) decibels as measured on the A Scale of a General Radio Company No. 15-51-A sound level meter or American Standards Association approved equivalent, when the meter is located at a point on the property line nearest such air conditioning units, mechanical equipment or apparatus, or a distance of fifteen (15) feet from such air conditioning units, mechanical equipment or apparatus, whichever is greater.

- (3) If, as a result of the test, the air conditioning equipment, mechanical equipment or apparatus installed on or attached to premises, is found to violate the terms of this subsection, the operation of said equipment or apparatus shall be ceased immediately and not resumed unless proper corrections have been made and approved by the building and zoning department.
- (4) This section is cumulative and in addition to the existing requirements dealing with such equipment as set forth in the building code.

(C) *Construction or repairing of buildings.*

(1) In residential areas:

- (a) *During winter season:* The erection (including excavation), demolition, alteration or repair of any building within a residential area, other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday inclusive, during the winter season of December 15 through April 15 of each year, is prohibited.
- (b) *During summer season:* The erection (including excavation), demolition, alteration or repair of any building within a residential area, other than between the hours of 6:30 a.m. and 7:00 p.m., Monday through Saturday inclusive, during the summer season of April 16 through December 15 of each year is prohibited.
- (c) *Sundays and holidays:* The erection (including excavation), demolition, alteration or repair of any building within a residential area, except during a time of extreme emergency duly declared, is prohibited. It has been determined that Sundays and holidays are the usual days of rest as accepted by the citizens of the city.

(2) In nonresidential areas:

- (a) *During winter season:* The erection (including excavation), demolition, alteration or repair of any building within a nonresidential area, other than between the hours of 6:30 a.m. and 7:00 p.m., Monday through Saturday

inclusive, during the winter season of December 15 through April 15 of each year is prohibited.

- (b) *During summer season:* The erection (including excavation), demolition, alteration or repair of any building within a nonresidential area, other than between the hours of 6:00 a.m. and 7:00 p.m., Monday through Saturday inclusive, during the summer season of April 16 through December 14 of each year is prohibited.
  - (c) *Sundays and holidays:* The erection (including excavation), demolition, alteration or repair of any building within a nonresidential area, except during a time of extreme emergency duly declared, is prohibited. It has been determined that Sundays and holidays are the usual days of rest as accepted by the citizens of the city.
- (3) *Special permit:* Any person, corporation or other entity may apply to the building official of the city for a permit to operate during the hours prohibited above. If the building official, or his designee, shall determine that substantial loss or substantial inconvenience would result to any party in interest, and that the public health and safety will not be impaired by such operation, a permit shall issued which allows erection, excavation, demolition, alteration or repair during the otherwise prohibited hours. The permit shall not exceed three (3) days duration, but may be renewed from time to time for a like period so long as the above circumstances exist.
  - (4) *Emergency and special type of construction:* Where ordinary and necessary trade or engineering practices or an emergency require the continuous operation of pumps, well points, dredges, drag lines, and other machinery of a like nature during the otherwise prohibited hours, a permit shall be required and such operation shall not constitute a violation of this subsection. It is not the intent of this subsection to require poor or wasteful engineering or building practices in order to comply herewith.
  - (5) *Material suppliers:* Any material supplier may commence operations at point of origin of materials, thirty (30) minutes prior to the times specified above, so as to have materials arrive at the job site at the time when operations are allowed to begin. This shall be a special exception to the above regulations, and said operation shall be conducted in a reasonable manner.

(D) *Defect in vehicle or load.* The use of any automobile, motorcycle, or vehicle so out of repair or loaded in such manner as to create loud and unnecessary grating, grinding, rattling or other noise is prohibited.

(E) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationery internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom is prohibited. Provided, however, that no person, firm, or corporation shall be required to add new or additional muffling devices to commercial equipment when such devices would produce substantial engine inefficiently or damage.

(F) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers and vendors is prohibited.

(G) *Horns, signaling devices, etc.*

- (1) The sounding of any horn or signaling device on any automobile, motorcycle, railed vehicle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling devices of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time is prohibited.
- (2) The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up is prohibited. Provided, however, that a short whistle may be produced to signal the beginning and termination of work periods in nonresidential areas where more than ten (10) men are employed on the job.

(H) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound, whether attached to building or vehicle, which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure is prohibited.

(I) *Loading, unloading, opening boxes.* The creation of loud, excessive or unnecessary noise at any time of the day or night in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers is prohibited.

(J) *Metal rails, pillars and columns, transportation thereof.* The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon rubber-tired carts, drays, cars, trucks so loaded as to cause unreasonably loud noises or as to unreasonably disturb the peace and quiet of such streets or other public places is prohibited.

(K) *Radios, phonographs, televisions, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto is prohibited. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(L) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are

in use, or adjacent to any hospital which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street, is prohibited.

(M) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing in the public streets or in any other place where said sound can be heard from the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or unnecessarily at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity is prohibited.

(N) *Exemptions from subsection provisions.* The provisions of this subsection shall not be applicable to the normal use of churches, schools, athletic fields and auditoriums, but this exception shall not be construed as to authorize the use of churches, schools, athletic fields and auditoriums to the annoyance and discomfort of the neighborhood of such places.

#### **Subsection 8-9-2. Animals.**

(A) *Maintenance of livestock and other agricultural animals in residential districts:* No livestock (all animals of equine, bovine, or swine class, including sheep, goats and other grazing animals), bees or other agricultural animals including turkeys, chickens, or geese and the like shall be kept outdoors in urban residentially zoned districts.

(B) *Standards for keeping:* In any urban residential district, the owner of any animal must maintain that animal in such a manner as to assure that the following minimum standards are met so that a nuisance is not created that would impact adjacent property owners:

- (1) The animal does not produce noise that is reasonably objectionable to neighbors;  
or
- (2) No offensive odor resulting from the keeping of the animal is noticeable from another's property; or
- (3) The animal is not allowed to trespass on another's property.

(C) *Compliance required:* Upon adoption of this ordinance, any person keeping animals which are found not to comply with the provisions of this ordinance shall be deemed to be in violation and shall meet the provisions imposed by this subsection.

#### **Subsection 8-9-3. Vehicular and Engine Repair.**

Motor vehicle repair or modification and piston engine repair and/or overhauling is not permitted in residential districts. Exempted from this regulation are occasional and unavoidable minor or emergency repairs.

**Subsection 8-9-4. Undeveloped Property; Habitation Prohibited.**

No parcel of land shall be inhabited or occupied for purposes of sleeping, eating and the like during the hours of 11:00 p.m. to 7:00 a.m., unless such property is legally improved with a safe, standard structure meeting all minimum ordinance requirements and intended to accommodate such a use and provided that such activities are being conducted within said structure.

**Subsection 8-9-5. Garbage, Trash, Weeds and Noxious Plants.**

(A) Definitions: For the purposes of this subsection, the following terms, words and their derivations shall have the meaning given herein:

*Garbage:* Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

*Lot:* Any piece, division or parcel of land.

*Person:* Any person, firm, partnership, association, corporation, company or organization of any kind.

*Refuse:* All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleaning, dead animals, abandoned automobiles, and solid market and industrial wastes.

*Trash:* All horticultural trimmings and all accumulations of grass, weeds, palm fronds, leaves, flowers, shrubs, vines, tree limbs and other similar accumulations incidental to yard keeping, including, however, waste, debris and material accumulated from land clearing, the alteration and construction of buildings, residences, apartments, roads and other structures. "Trash" shall include combustible rubbish from households, stores and businesses such as, but not limited to, paper, rags, boxes, plastics, bedding, excelsior, rubber and leather, and all noncombustible rubbish such as, but not limited to, tin cans, metal and metal appliances, ceramics and glass.

(B) Owners and occupants of lots or agents for the owners of lots, unoccupied as well as occupied, shall keep down all excessive growth of weeds and other noxious plants, by cutting or removing the same, and shall remove any accumulation of trash, filth or other matter on or within their premises and the streets adjacent thereto within one hundred (100) feet of any improved property.

(C) The city council has found excessive growth of certain noxious plants on privately owned unimproved property to be a particular nuisance; and therefore, on privately owned unimproved lots, in all residential zone districts, excessive growth of Brazilian pepper (*Schinus terebinthifolius*), Australian pines (*Casurina equisetifolia*) and melaleuca (*Melaleuca leucadendra*) vegetation shall be trimmed. In the event that said plants are not trimmed by the owner, occupant or agent for the owner, the same may be trimmed by the City of Naples in accordance with the following paragraph.

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(D) If the owner, occupant or agent for the owner of any lot shall fail to clean, clear or mow the same as provided in the preceding paragraph, after receipt of ten (10) days written notice by the city manager, the city may, in addition to the fine as set forth in this subsection, clean, clear or mow such lot and tax the cost of such cleaning, clearing, or mowing against the owner of said property, and the same shall constitute a lien on such property. Said lien shall accrue interest at the rate of sixteen (16) percent per annum from the date of recording.

(E) Penalty for violation of this subsection: Any person violating any of the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding three hundred dollars (\$300.00) or be imprisoned in the city jail for a period not exceeding sixty (60) days or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

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CHAPTER 9

SUPPLEMENTAL STANDARDS

Section 9-1. Standards Applicable to All Districts.

Subsection 9-1-1. Accessory Structures.

Accessory structures may not precede construction of principal building: No accessory structure, including boat docks and swimming pools, shall be construed upon a lot until the construction of the principal building has started.

Subsection 9-1-2. Annexation Classification.

All territory which may hereafter be annexed to the city shall be automatically classified in accordance to the following table until otherwise changed by ordinance:

<i>County Zoning</i>	<i>City Zoning</i>
PUD	PD
Estates	RE
RSF-3	R1-10
RSF-4	R1-7.5
RMF-6	R3-6
RMF-12	R3-12
RMF-16	R3-15
C-1 (Office)	O
C-2 (Convenience commercial)	HC (Highway commercial)
C-3 (Intermediate comm.)	HC
C-4 (General commercial)	HC
C-5 (Industrial)	HC
IL (Light industrial)	C-3
RO (Rec/Open space)	PS (Public service)
GC (Golf course)	PS
A-2 (Rural ag.)	RE
ST (Special treatment)	C (Conservation)

Any Collier County zoning not specifically identified in this chart will convert to RE zoning, until rezoned pursuant to Chapter 166.041, Florida Statutes.

Note: The city's Conservation designation is a zoning district, not an overlay as is the county's Special Treatment.

Cross reference—Establishment of zoning districts, § 7-1 et seq.

Subsection 9-1-3. Building Dimensions, Maximum Permitted.

(A) *Single building*: No multifamily or transient lodging building shall exceed two hundred (200) feet in width or length, as measured in a straight line from the two (2) most

distant points of the structure, in any residential, office, or "PD" district indented for residential, transient lodging or office use.

(B) *Attached buildings:* The maximum dimension of any group of attached structures shall not exceed one hundred seventy (170) feet, as measured in a straight line from the two (2) most distant points of the group of structures, in any residential, office, or "PD" district intended for residential, transient lodging or office use.

#### **Subsection 9-1-4. Fallout Shelters.**

Fallout shelters are permitted as principal or accessory uses and structures in any district, subject to the minimum yard requirements of the district. Such shelters may contain or be contained in other structures or may be constructed separately; and in addition to shelter use, may be used for any principal or accessory use permitted in the district, subject to the district regulations on such use. Fallout shelters may not be placed in front yards and shall not be used for principal or accessory uses prohibited expressly or by implication in the district.

#### **Subsection 9-1-5. Fences.**

(A) *Maximum permitted height:*

- (1) The maximum permitted fence or wall height in all zone districts, except "C" Commercial and "I" Industrial, is six (6) feet in side and rear yard setback areas and three (3) feet in front yard setback areas.
- (2) *Exceptions:* The community development director may approve a fence or wall up to six (6) feet in height in a required front yard setback area for those properties located west of Gulf Shore Boulevard and Gordon Drive which abut a platted public beach access or beachhead. In such circumstances, unless special conditions do not permit, the fence or wall shall be set back a minimum of eighteen (18) inches from the property line abutting the street right-of-way or beach access, and planted with sufficient landscaping material to buffer the fence or wall. The landscaping material shall be planted on the street side of the wall or fence, entirely within the private property.
- (3) The maximum permitted fence or wall height in all "C" Commercial and "I" Industrial zone districts is six (6) feet, plus three (3) strands of barbed wire for security purposes (not to exceed seven (7) feet overall) in the side and rear yard setback areas and three (3) feet in front yard setback areas.

(B) *Fence and wall height measurement:* All fences and walls shall be measured from the natural grade of the subject property.

(C) *Type of fence material limited:* No chain link or similar type fence is permitted in any front yard area in any zone district except "C" Commercial and "I" Industrial zone districts.

**Subsection 9-1-6. Gate Houses.**

No gate house shall be constructed with a floor area greater than one hundred (100) square feet. Gate houses may encroach on the front yard required of a principal structure but shall have a minimum front yard requirement of twenty (20) feet in any district and shall meet the normal minimum side yard requirements for the district in which the gate house is located.

**Subsection 9-1-7. Height Requirements, Exceptions Thereto.**

Chimneys, elevator shafts, television and radio antenna (including telescoping antenna), church bell towers, crosses, or other religious symbols, rooftop heating, ventilating, and air conditioning equipment, ornamental screens for such equipment, and stair towers (when required by the building code) may only extend a maximum of ten (10) feet above the highest point of the main building, but in no case shall the same extend more than ten (10) feet above the maximum permitted height in any particular zone district. Cupolas not for habitation and other architectural embellishments are also exempt from height requirements. (See References Fences and Walls and Screening.)

**Subsection 9-1-8. Lot Coverage, Maximum Permitted.**

(A) *General:* Within districts "R3-6," "R3-12," "R3T-12," "R3-15," "R3T-18," "R3-18," "HC," and "PD" for multi-family residences and/or transient lodging facilities or nursing, group, or rest homes, the combined area of a lot or parcel of land occupied by all principal and accessory buildings and roofed structures, except for covered motor vehicle parking structures, shall not exceed the percent given in the following table for various heights of buildings; such height of building being the height of the highest principal building on said lot:

<i>Height of Building</i>	<i>Percent of Lot Area</i>
30.0 feet or less	25%
30.1 feet to 40.0 feet	24%
40.1 feet to 50.0 feet	23%
50.1 feet to 60.0 feet	22%
60.1 feet to 70.0 feet	21%
70.1 feet to 80.0 feet	20%
80.1 feet to 87.0 feet	19%

(B) *Ground floor parking not included in height determination:* Wherever a minimum of three-fourths ( $\frac{3}{4}$ ) of the ground floor is to be devoted to enclosed motor vehicle parking and wherever there are to be no dwelling units located on the ground floor, except for one manager's dwelling unit, such ground floor area shall not be counted in the determination of the building height relative to the above permitted lot coverage.

(C) *Additional lot coverage permitted:*

- (1) *Separate garage and carport structures:* In addition to the above percentages of maximum lot coverage, an area not to exceed ten (10) percent of the combined

area of a lot or parcel of land may be devoted solely to structures used exclusively for motor vehicle parking.

- (2) *Parking within a principal building:* The basic permitted lot coverage by all principal and accessory buildings and roofed structures, except for covered motor vehicle parking structures, may be increased by five (5) percent if at least two-thirds ( $\frac{2}{3}$ ) of the minimum required parking in "R3-6," "R3-12," "R3T-12," and "PD" (designated for multifamily or transient lodging use) districts, or one-half ( $\frac{1}{2}$ ) of the minimum required parking in "R3-15," "R3T-18," and "R3-18" districts is located within the applicable principal building.
- (3) *Limitation on additional lot coverage:* In no case may the basic maximum lot coverage be increased by both the ten (10) percent, or a portion thereof, for separate parking structures (reference paragraph (1) above) and five (5) percent for a principal structure that includes parking (reference paragraph (2) above).

(D) *Definition of lot coverage:* Lot coverage is defined as that percentage of a lot or parcel of land that is covered or occupied by all buildings, including accessory buildings, under the terms of these zoning regulations.

- (1) *Fences, swimming pools, etc., excluded:* Fences, shuffleboard courts, swimming pools, barbecue pits, terraces and other structures not roofed over shall not be included in computing coverage.
- (2) *Balconies and means of egress:* Balconies and means of egress shall be included in determining building coverages if either of the following conditions exists and to the extent that such conditions exist:
  - (a) Balconies and means of egress project more than six (6) feet from the building wall of any floor.
  - (b) The combined length of balconies and means of egress on any one floor level along a building wall, measured parallel to the building wall, exceeds fifty (50) percent of the length of said wall.

(E) *Exception to lot coverage regulations:* For public parking garages located in commercial zoning districts, the maximum lot coverage allowed in the district may be exceeded as approved by the city council through the required conditional use process.

#### **Subsection 9-1-9. Mechanical Equipment Located on Rooftops.**

In all zone districts except "C3," "C4," and "I," heating, ventilating, air conditioning equipment and duct work and the like located on building rooftops shall be shielded from ground level view within one thousand (1,000) feet of the building. If shielding cannot be accomplished by judicious placement of the equipment, ornamental screening visually compatible with the building is required.

#### **Subsection 9-1-10. Mobile Homes, Travel Trailers.**

Except as hereinafter provided, no mobile home, travel trailer, travel camper or other vehicle which may be regularly or periodically utilized for dwelling purposes or temporary

or mobile units intended for a commercial use shall be parked overnight in the City of Naples unless parked in an area specifically designated for this purpose by the city police department, unless a temporary use permit has been granted by the city council, or unless unoccupied and parked or stored in a completely enclosed building. A mobile home or other such vehicle parked in the same location for more than one hour between the hours of 11:00 p.m. and 7:00 a.m. is presumed to have parked overnight.

In residentially zoned districts, unoccupied motor homes, travel trailers, travel campers or other vehicles utilized for dwelling purposes may receive approval from the city police department for a permit to park overnight for a period of no more than two (2) consecutive nights, and only on private property with the permission of the private property owner and only on a noncommercial basis.

Unoccupied motor homes, travel trailers, travel campers or other vehicles utilized for dwelling purposes and used for transportation of visitors to this city to visit friends or members of the visitors' family residing in this city may obtain a permit from the police department of the City of Naples to park upon the premises of the visited family or friends for two (2) nights.

The community development director may approve a permit for a motor home of a visitor for a longer period of time if such vehicle has handicapped facilities and such facilities are a necessity for a person visiting.

**Subsection 9-1-11. Motor Vehicles, Unlicensed or Inoperable.**

No wrecked, junked or inoperable motor vehicles, or motor vehicles without a valid license tag, shall be parked or stored in any zoning district unless expressly permitted by this ordinance or unless stored in a completely enclosed building.

**Subsection 9-1-12. Ornamental Buffers.**

Ornamental buffers shall be a minimum of six (6) feet high, unless a different height is established by city council for a particular situation, and shall be composed of structural and/or plant materials. Within one year of installation and at all times thereafter, ornamental buffers shall be at least seventy-five (75) percent opaque and shall be maintained in a neat, attractive condition. Failure to meet the above standard of opaqueness or appearance shall constitute a zoning violation. Details of the ornamental buffer shall be shown on the building plans which are submitted to the building and zoning division as a part of the application for a building permit and must be approved by the zoning administrator prior to the issuance of a building permit for the development of the site.

**Subsection 9-1-13. Pools.**

(A) *Single family residential:* All swimming pools and enclosures constructed or erected on any single family residential lot except in the "RE," Rural Estates, zoning district shall be subject to the following regulations:

- (1) *Prohibited in side and front yard setback areas:* Unroofed pools or pools enclosed only with open mesh screening may be placed in a required rear yard, subject to the limitations below, but shall not be placed in a required front or side yard.

- (2) *Permitted in rear yard setback areas with limitations:* Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than fifteen (15) feet to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.
- (3) *Setback measurement:* The minimum setback requirement from any lot line shall be measured from the exterior of the screen enclosure of a screened enclosed pool or from the outer edge of the pool for an unroofed or unenclosed pool.
- (4) *Roofed or enclosed pool:* If any part of a pool is covered by a roof or enclosed by walls over six (6) feet in height, then such covered or walled section of the pool shall be subject to the limitations regarding location of any building or structure and shall not be placed in any required yard.

*Note:* Other sections of this ordinance prohibit the construction of a swimming pool on a vacant lot.

(B) *Other than single family residential:* All swimming pools and enclosures constructed or erected on any lot other than a single family residential lot shall meet the minimum yard requirements as specified for buildings or structures in the zoning district in which the pool or enclosure will be constructed or erected. The minimum setback requirements from any lot line shall be measured from the exterior of the screen enclosure of a screen enclosed pool and from the outer edge of the pool for an unroofed or unenclosed pool.

(C) *Construction to conform to building code, zoning laws and this subsection:* It shall be unlawful for any person to erect, construct or cause to be installed a private swimming pool upon any property located in the city without conforming to this subsection or the building code or the zoning laws ordinance of the city.

(D) *Permit requirements:*

- (1) No permit shall be issued by the building department for a private swimming pool unless the requirements are adhered to as set forth by section 105, Application for Permit, and section 106, Permits, of the building code of the city; together with all provisions of this code.
- (2) No permit shall be issued by the building department for a private swimming pool unless the name of a registered architect or structural engineer shall appear on the face of the drawing submitted.
- (3) No permit shall be issued for a private swimming pool unless the sanitary operation of such pool shall be of a recirculation type system, employing a disinfectant. Fill and drain or continuous flow systems will not be accepted as a method of sanitary operation.
- (4) This subsection is hereby declared to be in the interest of the public welfare and health of the general public.

**Subsection 9-1-14. Private Clubs.**

Such facilities are permitted in all zone districts except the single-family zone districts provided that the particular use and purpose of the club is permitted in the zone district in which it is to be located.

**Subsection 9-1-15. Property Numbering.**

(A) *System established and described:* Property abutting upon the streets of the city shall be numbered as follows:

- (1) Property abutting on streets crossing Central Avenue, or running at right angles thereto, shall be numbered north and south from Central Avenue, beginning with the numbers one and two respectively, and numbering away from Central Avenue. The numbers north from Central shall be designated as "Number 1 North" or "Number 2 North" and the numbers south from Central Avenue shall be designated as "Number 1 South" or "Number 2 South" etc. The numbering upon those streets so crossing Central Avenue shall be made so as to place all odd numbers upon the left hand side of the street going away from Central Avenue in each direction as the numbers increase, and the even numbers on the right hand side of the street crossing Central Avenue going away from said Central Avenue in either direction. One hundred shall be for each block. Fifty odd numbers on the left hand side, and fifty even numbers on the right side; in the residential sections of the city, three feet street frontage shall be allowed for each number, and in the business section, two feet street frontage shall be allowed for each number.
- (2) Property abutting on all streets running east and west shall be numbered from the Gulf of Mexico, beginning with the numbers one and two respectively, and numbering away from the Gulf of Mexico. The numbers on the left hand side going away from the Gulf of Mexico shall be odd numbers. One hundred numbers shall be for each block. Fifty odd numbers on the left side and fifty even numbers on the right hand side; in the residential sections of the city, four feet street frontage shall be allowed for each number, and in the business section three feet shall be allowed for each number.

(B) *Building department to furnish owner with number:* The building department is hereby required to furnish to all property owners or occupants, upon request, the proper number of their property, and is authorized to fix the correct number wherever the occupancy of the property is such as to render doubtful the correct numbering.

(C) *Owners required to number property:*

- (1) The owners of all houses, stores and other improved property are hereby required to have their premises properly numbered. For one- or two-family dwellings, "properly numbered" shall mean the conspicuous placement of arabic-styled, reflective numerals at least four (4) inches high on the main structure, or two (2) inches high on both sides of a mailbox or a separate post in such a manner and of such a size as to be readily visible and legible from the street(s). For multi-family and all commercial occupancies, "properly numbered" shall mean the

placement of arabic-styled reflective numerals at least six (6) inches high in such a manner and of such a size as to be readily visible and legible from the street(s).

- (2) Owners of waterfront property shall also place the hereinabove required numerals on a dock, seawall, or separate post adjacent to the waterway.
- (3) Any owners of such premises failing to properly number their improved property as required herein by January 1, 1990, shall be cited with a notice to appear before the City of Naples Code Enforcement Board such violation is not corrected by March 1, 1990.
- (4) Prior to certificate of occupancy or final inspections, whichever is applicable, all occupancies must be numbered in accordance with the above regulations.

(Ord. No. 89-6002, § 1, 12-6-89)

**Subsection 9-1-16. Satellite/Antenna.**

(A) *Purpose:* This subsection is hereby declared remedial and is enacted to secure the public safety, health and general welfare through structural strength, stability and for safety to life and property from fire or other hazards incident to the construction, repair and use of television masts and antenna; to maintain and enhance the attractive appearance of the City of Naples; to carry out the community goals and objectives expressed in the comprehensive plan to protect and enhance this appearance and the city's natural amenities and in recognition of the open, extensive lawn areas which are not conducive to the indiscriminate placement of antennas.

(B) *Definitions:* Terms or words used in this subsection shall be defined hereof as follows:

*Antenna:* Any device or array of elements used in the reception or distribution of television signals, including, without limitation, microwave and satellite earth station (dish) antennas.

*Approved material:* The product of a nationally recognized manufacturer, and being in common use for the purpose for which is intended or manufactured, or approval may be given by the electrical inspector upon submission of test data and reports from a recognized testing laboratory or upon submission of a statement signed by an engineer, licensed in the state, to the effect that the material meets all specifications as outlined in this chapter.

*Mast:* A tubular metal upright used either singly or in multiple-telescoping lengths properly fitted together to support the antenna.

*Tower:* Any upright support for mast and antenna, self-supporting or guyed construction.

(C) *Receiving installations, rules and regulations:* All television receiving or distribution installations shall be made in accordance with the following rules and regulations:

- (1) Towers, masts and antennas shall be of noncombustible and corrosive-restricted material; shall not be bright, shiny, garish or reflective of light; and shall be

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- designed and installed to withstand a wind pressure of twenty-five (25) pounds per square foot corresponding to a wind velocity of eighty (80) miles per hour.
- (2) Any tower, mast and antenna installed on a roof shall be mounted on its own platform, plat, or equivalent structure and shall be securely anchored with guy wires.
  - (3) Minimum size ground wires for masts shall not be less than number 6 B and S gauge copper wire. Sharp bends are to be avoided in the ground wires.
  - (4) A separate safety wire must be attached and secured in a direction away from a sidewalk, street or hazard when being installed under the following conditions:
    - (a) Where the base at the antenna is closer to the street or sidewalk than the total height of the installation plus ten (10) feet.
    - (b) Where the base of the antenna is closer to high tension electric wires than the total height of the installation plus ten (10) feet.
  - (5) Anchor points, when used in masonry construction, must be lead anchor screws or lead expansion shields or bolted through a wall. Anchor points, in wood construction, must be securely fastened to beams, rafters or other substantial members with suitable screw eyes.
  - (6) Number and spacing of guy wires shall be in accordance with recommendations of manufacturers providing the installation will withstand wind pressures specified in this chapter.
    - (a) Guy wires shall be of not less than three thirty-seconds (3/32) inch diameter stranded cable or equivalent—galvanized.
    - (b) Guy wires must be furnished with turn buckles or equivalent adjustment devices on all masts over thirty-five (35) feet high.
    - (c) Turnbuckles shall be protected against turning by safety wires.
  - (7) Lead in and/or transmission lines shall conform to the following:
    - (a) Must be kept at least three (3) feet clear of telephone or light wires.
    - (b) Lightning arrester shall be approved by the underwriters and both sides of the line must be adequately protected with proper arresters or neon lamps to remove static charges accumulated on the line. Arrester to be mounted as near entrance as possible and grounded with number 12 B and S gauge copper wire or equivalent.
    - (c) When coaxial cable or shielded twin lead is used for lead-in, suitable protection may be provided without lightning arresters by grounding the exterior metal sheath.
    - (d) Ground straps for grounding masts and attaching arresters to water pipes shall be approved ground fittings.
    - (e) The miscellaneous hardware, such as brackets, turnbuckles, thimbles, clips and similar type of equipment subject to rust or corrosion, shall be protected with a zinc or cadmium coating by either galvanizing or sherardizing process after forming. These finished are selected to guard against corrosion due to

stack gases and other deposits and to protect the elements against electrolytic action due to the use of adjoining dissimilar metals.

- (8) Masts and antennas may be supported by masonry chimneys, although not recommended in every case. Band iron may be used with brackets to secure masts to chimneys or other structures.

(D) *Electrical materials and equipment to conform to approved methods of construction:* No electrical materials, devices or equipment designed for attachment to or installation on any electrical circuit or system for television or radio receiving antennas shall be installed, used, sold, or offered for sale for use in the city, unless they are in conformity with the approved methods of construction for safety to life and property, and unless the electrical materials, devices or equipment conforms with the current standards of the Underwriters' Laboratories, Inc.

(E) *Identification and markings required on devices and equipment:* The maker's name, trademark and other identification symbol shall be placed on all electrical devices or equipment that uses 115 volts or more, which are sold, offered for sale or used in the city.

(F) *Insurance required of persons licensed to install antennas:* Liability and property damage insurance in the minimum amount of \$100/\$300 thousand shall be carried by any person licensed to install antennas in the city to cover any losses occasioned by said licensees.

(G) *Dangerous or unlawful work to cease upon notice from inspector:* Upon notice from the building official that work on any structure is being done contrary to the provisions of this subsection or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required to be given by the building official.

(H) *Unsafe antennas, masts or towers; procedure for abatement, repair or demolition of same:* All towers, masts, and antennas which are unsafe or which constitute a fire hazard or are otherwise dangerous to human life by reason of inadequate maintenance, dilapidation or abandonment, are hereby declared illegal and shall be abated by repair or demolition in accordance with the following procedure:

- (1) A ten-day notice shall be given to the owner of the tower, mast or antenna which is in violation of this subsection to correct the same within the ten-day period or to remove it from the property.
- (2) Failure to do this should subject the owner to the penalties provided in section 1-8 of the Code of Ordinances. In addition thereto, the city may forthwith declare the structure to be a nuisance and proceed to abate same as provided by law.

(I) *Location requirements:*

- (1) No antenna shall be installed or replaced on the street or beach side of any lot.

- (2) No dish antenna shall be mounted on any roof in any residential zone district.
- (3) A dish antenna may only be mounted on a roof in a commercial zone district if it is not visible from the adjacent and surrounding streets.
- (4) All antennas shall conform to the building setbacks required in the zone district in which it is located.

(J) *Advertising limited:* Advertising or identification on an antenna shall be limited to a manufacturer's nameplate not to exceed eighteen (18) square inches in area.

(K) *Screening required; general appearance:* An antenna, including supporting structures, accessory equipment and the like, shall be located and designed so as to minimize the visual impact on adjacent properties and from public streets, rights-of-way, beaches and bodies of water. The antenna shall be screened by the use of landscaping or architectural features which harmonize with the elements and characteristics of the lot or parcel on which it is located and the adjacent properties.

(L) *Height limitations:*

- (1) No antenna shall be higher than the minimum height necessary for it to function.
- (2) In no case shall a dish antenna be higher than the highest point of the principal structure on the subject property in a residential zone district.
- (3) Dish antennas in commercial zone districts and all other antennas in any zone district may only extend a maximum of ten (10) feet above the highest point of the main building, but in no case shall the same extend more than ten (10) feet above the maximum permitted height in any particular zone district.

(M) *Number limited:* Only one mast antenna and one dish antenna shall be permitted per residential building lot, and only one mast antenna and two (2) dish antennas shall be permitted per commercial building lot.

(N) *Permit required for construction or alteration; application:* Any owner, authorized agent or contractor who desires to construct or alter any mast, tower, antenna or related structure, which is regulated by this chapter, shall first make application to the building official and obtain the required permit therefor. Application for a permit with the required fee shall be filed with the building official on a form furnished by him and shall contain a general description of the proposed work, its location and sufficient information to determine compliance with the requirements of this subsection.

(O) *Enforcement:* Responsibility for the enforcement of this subsection shall be the duty of the building official.

(P) *Exceptions:* A property owner or his/her duly authorized representative may request an exception to any of the above regulations by filing a conditional use petition, as prescribed in Chapter 3 of this code.

#### **Subsection 9-1-17. Street Frontage Required.**

Except as may be permitted by other provisions of the ordinance, no building permit shall be issued for any structure unless the site thereof abuts, for at least twenty (20) feet,

on a city council approved vehicular access easement or on a public street right-of-way. A site that fronts only on a public alley shall also require city council approval.

**Subsection 9-1-18. Temporary Buildings/Structures.**

Except for the construction related uses permitted under the temporary use permit provisions of this code, no temporary building or structure, not permanently affixed to city approved foundations and utilities and in compliance with all other city requirements, shall be permitted in any zone district unless specifically approved by the city council.

**Subsection 9-1-19. Time Share.**

In addition to the regulations stated elsewhere in this ordinance, the requirements listed below are specifically applicable to time share lodging facilities:

(A) *Maximum lot coverage, off-street parking, minimum floor area, and maximum building dimensions:* All of these requirements shall be the same as the subject requirements for a transient lodging use in the applicable zone district except that parking shall be provided on the basis of one and one-half (1½) spaces per unit and the minimum floor area shall be six hundred (600) square feet.

(B) *Sales promotional activity:* Notwithstanding other applicable provisions of the zoning ordinance, the following provisions shall apply:

- (1) The original sale of the time share lodging units may be conducted on-site in a sales office and in up to a maximum of two (2) model units.
- (2) On-site sales activity shall be limited to original developer sales.
- (3) The sales activity shall be conducted inside the sales office and model units so as not to be noticeable from the outside, except for permitted signs.
- (4) On-site sales activity shall be terminated upon completion of original sales.
- (5) A minimum of one parking space for each two (2) proposed units shall be provided on-site for the sales staff and potential purchasers' use during the (marketing) sales, promotional and construction phases.

(C) *Transient lodging use changed to time share use:* A change in a transient lodging use to a time share use is hereby legislatively declared to be a change in use subject to the approval process and all other applicable regulations in this zoning ordinance.

**Subsection 9-1-20. Trash Enclosures Required.**

In each zoning district, except single family residential districts, each separate complex or business shall provide and maintain solid wood or masonry trash and garbage container enclosures (pierced concrete block is acceptable). These enclosures shall be located in such a manner that the containers within them are not visible from the street or from adjacent properties. Horticultural trimmings placed at curbside in accord with city trash regulations are exempt from this requirement.

**Subsection 9-1-21. Waterways and Watercraft.**

(A) *Definition*: "Regularly moored" shall mean moored in the same general area at least eight (8) hours a day, for any ten (10) days in a month.

(B) *Watercraft regulations*:

- (1) Watercraft shall not be regularly moored along any shore without the consent of the riparian land owner.
- (2) Regularly moored watercraft shall not be used as dwellings or as charter boats, except in marinas or boat yards, and then only if the required parking for such use is provided. No other commercial or office use is permitted.
- (3) Regularly moored watercraft shall be kept in seaworthy condition when not in a permitted repair area.

(C) *Boat shelters*. Unwalled, one-story boat shelters may be erected over recessed boat slips, but no part of such shelter may extend past the shoreline or into a required side yard.

**Subsection 9-1-22. Yards.**

(A) *Encroachments into required yards*: Structures less than thirty (30) inches in height, other than swimming pools, are not considered encroachments upon minimum required yards. Every part of every required yard shall be open and unobstructed from thirty (30) inches above the ground, as measured from the general ground level of the graded lot upward, except as hereinafter provided.

- (1) Cornices, overhangs, eaves and gutters, chimneys, air conditioning compressors, bay windows, balconies and means of egress may project a maximum of thirty-six (36) inches into required yards.
- (2) Horticultural growth and support therefor (such as arched arbors or trellises), poles, play equipment, wires, lights, mail boxes, ornamental entry columns and gates at sidewalk or driveway entrances, and outdoor furniture are not considered yard encroachments.
- (3) Boat shelters are permitted in accordance with this chapter.
- (4) Small cantilevered (no ground pole support) canvas decorative awnings installed over windows and at entrances may encroach into required setback areas.

Larger canvas awnings (such as porte cocheres) requiring pole supports to be placed in a setback area may be approved at the discretion of the zoning administrator. These encroachments are permitted in all zoning districts except single-family districts, and such canvas awnings must function as decorative architectural elements as opposed to garage, carport or other similar storage facilities.

- (5) *Chickees*: Chickees may be permitted in rear yard setback areas by the approval of a conditional use permit. Such structures may not be enclosed; must be constructed of natural materials; may not obstruct the view or interfere with the privacy of an adjacent neighbor; and may be used only to provide shade or serve

as a decorative architectural element and may not be used as a carport, storage shed, boat shelter, and the like.

(B) *Distance between principal buildings:* In the case of more than one principal structure on a single site, the minimum required yards between such structures shall be the total of the side yards required for each such structure in the applicable zone district. Carports and garages are not principal structures.

(C) *Front yard requirements modified when existing development establishes a front building line:* Whenever forty (40) percent or more of the frontage on one side of a street between two (2) intersecting streets is improved with buildings that have a front yard that is less than the minimum front yard requirements of the district in which they are located, then the average front yard of said buildings shall become the minimum required front yard for said side of the street. This regulation shall not, however, permit a front yard of less than twenty-five (25) feet in depth in any residential zone district.

**Cross reference**—Zoning districts, § 7-4.

## **Section 9-2. Standards Applicable to Residential Districts.**

### **Subsection 9-2-1. Architectural Duplication.**

No two (2) individual single-family houses fronting on the same street, between two (2) intersecting streets, shall have the same exterior front appearance nor shall such two (2) houses have a mirrored reverse appearance.

### **Subsection 9-2-2. Affordable Housing.**

(A) *Definition:* "Affordable housing" is defined as housing which is available for citizens with income which does not exceed sixty-five (65) percent of the adjusted family median income standards for the metropolitan area as defined by the U.S. Department of Housing and Urban Development. These figures shall be made available by the city community development department. At least forty (40) percent of housing units built under the development standards listed below must be available to low income citizens with incomes below sixty-five (65) percent of the adjusted family median income. In addition, thirty (30) percent of these units should be available to families of moderate income which is sixty-five (65) percent to eighty (80) percent of the adjusted family median income.

(B) *Purpose:* The following housing standards are provided to promote, encourage and provide incentives for the development of affordable housing. The city recognizes that a variety of tools are needed to provide for affordable housing and that this is only one such tool. These standards are less restrictive than other density standards and more restrictive with open space and landscaping. They encourage development savings per unit by reducing land needed per unit and reduced construction costs. Therefore, it is intended that these savings be realized in the rental costs and that these units be available for low and moderate income citizens. These standards apply to rental units only. These regula-

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tions supersede other development standards of multifamily zoning if development is for affordable housing as defined above.

(C) *Landscaping: Compliance with the zoning ordinance criteria:* Additional landscaping shall be provided to define open space areas and serve as neighborhood buffer from increased density. This will be reviewed through specific site plans.

(D) *Open space:* Open space and recreational amenities shall be provided, as appropriate, to meet the needs of the residents within each development.

(E) *Development standards:* Development standards shall be the same as the existing "R3-12" multifamily zoning district with a maximum density of sixteen (16) units per acre. In addition, other development standards aside from those in the "R3-12" zoning district may be proposed relevant to height, yards, lot coverage and parking in the required "PD," planned development, rezone process for this type of development. Any proposed variation from these standards shall be reviewed for neighborhood compatibility.

(F) *Procedural review and approval requirements:* Development which utilizes these standards must be approved through a planned development rezoning process and include elevation and perspective drawings as well as site plans which will consider the degree of neighborhood compatibility and the use of landscaping as an adequate buffer. Compatibility will be a primary consideration for approval. To expedite development review time, pre-application meetings are required between the planning staff and the developer to review subdivision, site plan designs, and landscaping.

(G) *Rental standards:* The following standards will be a requirement for this type of development. They regulate two (2) areas for rental housing: Maximum yearly income for renters and maximum rental lease rates.

- (1) Rental lease rates shall be at affordable rates as proposed in the review and approval process. Yearly rental rates shall be no greater than thirty (30) percent of the upper annual income limits of lower income families for the metropolitan area as established by the U.S. Department of Housing and Urban Development. The rental rates shall be based on the following table:

<i>Units</i>	<i>Maximum Rental Rates</i>
1 bedroom units	30% of one-person family yearly income
2 bedroom units	30% of two-person family yearly income
3 bedroom units	30% of three-person family yearly income

Formula for one bedroom units: One bedroom unit monthly rent = (HUD) lower income limit for one person family times thirty (30) percent divided by twelve (12) months.

Rental rates may be adjusted automatically based upon adjustments to median family income.

An increase in rental rates beyond these standards may be allowed subject to administrative approval of the community development director provided a hardship on the part of the landlord as related to expenses which are greater than effective gross income. Such an increase may be deferred to the city council for final approval at a public hearing with notice given to the affected tenants.

- (2) An analysis must be provided on the cost, sale, and rental price of the project.
- (3) As part of the planned development approval, an annual copy of leases and income verification statements from renters will be submitted to the community development director for compliance review with these standards.
- (4) This development shall be subject to these conditions for a minimum of fifteen (15) years regardless of ownership of the units. Development approval is subject to a contract between the city and the developer based on these standards.

(H) *Fees and waivers:* Administrative planning review and building permit fees will be waived for development petitions submitted under these criteria.

**Subsection 9-2-3. Bed and Breakfast Conditional Use Criteria.**

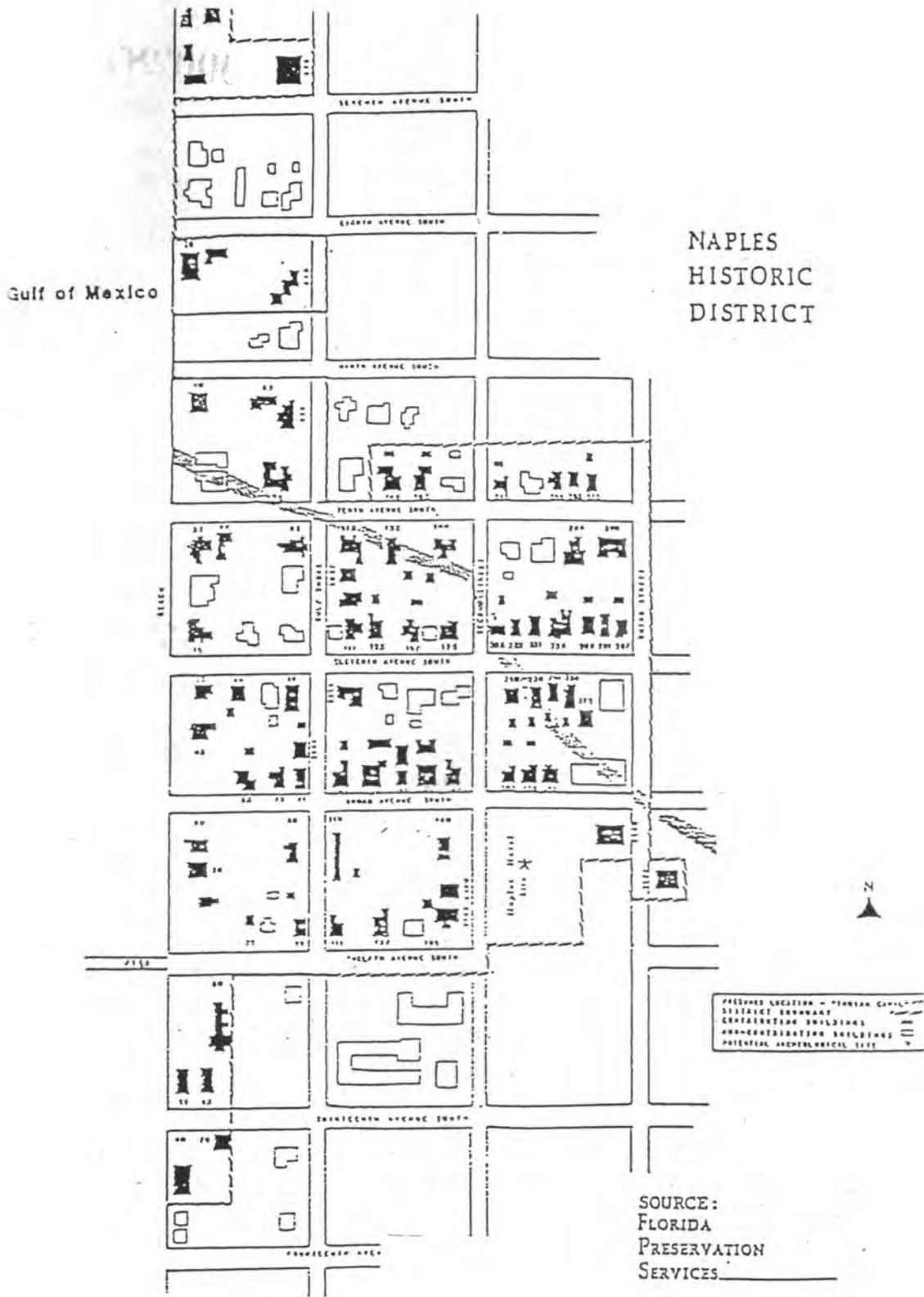
(A) *Definition:* "Bed and breakfast" means a use subordinate to and included in a single family residential dwelling unit, personally and physically operated and occupied by the owner(s), or a cottage or cottages located on the same property, in which transient guests, in return for payment, are provided a sleeping room and only breakfast.

(B) *Conditions and approval:* Every applicant for a bed and breakfast operation will be required to submit to the planning division a request for a conditional use. The submittal must include both a scaled site plan and a scaled floor plan of the property and demonstrate compliance with the following requirements, as well as the general standards for conditional use.

- (1) The bed and breakfast operation must take place within a historically significant structure located in a multifamily zoning district within the Naples Historic District as shown on the map on the following page. A finding must be made to determine it is necessary to preserve the historic structure and allow the use as a tool for preservation.
- (2) **Parking:** In addition to the parking required for the residence, one parking space shall be provided for each guest room or cottage shown on the floor plan. All parking shall be located on site, at the rear of the residence if possible. Flexible parking standards may be considered given the residential nature of the area. Landscaping must be provided for the parking area, to the extent practical. Parking must be designated not to have adverse impacts on the neighborhood.

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- (3) Number of guests and quarters: A minimum of two (2) bedrooms to be used for guests is required for consideration as a bed and breakfast operation. The maximum allowed number of room in a principal building shall be as follows.

<i>Total Area of All Dwellings</i>	<i>Max. Rooms</i>
Less than 1800 square feet	2
Over 1800 square feet but less than 3000 square feet	4
3000 square feet and over	6

Occupancy will be limited to two (2) adults per bedroom with a maximum stay of thirty (30) days. The minimum size for bedrooms to be used in the bed and breakfast operation shall be one hundred (100) square feet.

- (4) Residential quarters: Bedroom for all permanent residents must be in areas not used by guests.
- (5) Bathroom facilities: Separate toilet and shower facilities for the exclusive use of guests must be provided. At least one bathroom for each two (2) guest rooms must be provided.
- (6) Signs: Any other sections of this ordinance specifically regulating signs notwithstanding, a bed and breakfast operation shall be allowed a four (4) square foot sign containing only the name of the proprietor or the name of the residence. The identity of the residence as a bed and breakfast shall be allowed by letters not exceeding two (2) inches in height and signs shall be non-illuminating.
- (7) Cooking facilities: No cooking facilities or cooking shall be allowed in guest bedrooms.
- (8) Other conditions: These conditions should be addressed in the request for a conditional use and all must be complied with prior to issuance of an occupational license:
- No bed and breakfast shall be allowed to prepare food for guests unless all applicable approvals have been issued by the Collier County Environmental Health Department and applicable state agencies. No food shall be sold to non-guests. No alcoholic beverages shall be sold to guests or non-guests.
  - No bed and breakfast operation shall be allowed which has not received approval from the fire marshal for compliance with all applicable fire and safety regulations. A guest list containing names, addresses and phone numbers shall be maintained and made available to the zoning enforcement officer.
  - All business-related deliveries to the premises shall be made between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.
  - No occupational license shall be issued for a bed and breakfast operation that is not in compliance with these regulations and has not obtained a license from the Division of Hotels and Restaurants pursuant to Section 509.271, Florida Statutes.

- (e) All bed and breakfast operations must operate through a national registry as approved by the city.
- (f) Refuse containment must be reviewed with and approved by the utilities department.
- (g) At the discretion of city council, a one-year review of the operation will be required as a condition of approval.
- (h) The owner must maintain the structure as historically significant. No additions/alterations that are not in keeping with the character of the residence will be permitted.

(C) *Limitations:* Any conditional use approval granted under this subsection is limited to this petitioner/owner only. A change in ownership will require the approval of a new conditional use petition.

#### **Subsection 9-2-4. Boat and Trailer Storage in Dwelling Districts.**

No boats or boat trailers shall be stored in front or side yards; however, on double frontage, triple frontage, or through lots, the zoning administrator shall identify a rear yard area to perform this function.

#### **Subsection 9-2-5. Commercial Vehicles in Residential Districts.**

Commercial vehicles may not be parked overnight in any residential zone district, except for one commercial vehicle per dwelling, the rated capacity not to exceed three-quarter ( $\frac{3}{4}$ ) ton, when said vehicle is used by an occupant of the dwelling for personal transportation; or except when a commercial vehicle is engaged in a lawful construction or service operation on the site where it is parked.

#### **Subsection 9-2-6. Density.**

(A) *Densities, maximum permitted:* Maximum permitted densities shall be as follows:

- (1) *Residential, nursing, rest or group homes, and transient lodging uses in residential zone districts:*

<i>Zoning District</i>	<i>Maximum Density</i>
R3-6	6 dwelling units per net acre
R3-12	12 dwelling units per net acre
R3T-12	12 dwelling units per net acre
R3-15	15 dwelling units per net acre
R3T-18	18 dwelling units per net acre
R3-18	18 dwelling units per net acre
PD*	18 dwelling units per net acre

\*Areas designated for multifamily development.

(2) *Transient lodging facilities, nursing homes, and timeshare lodging facilities:*

- (a) Maximum densities shall apply to transient lodging facilities and/or nursing, rest or group homes in multifamily zone districts as noted above.
- (b) Timeshare facilities: The maximum density for timeshare facilities shall be twelve (12) units per net acre.

(B) *Density defined:* The term "density" refers to the number of residential dwelling units permitted per acre (43,560 square feet) of land. Streets, alleys, swamplands, mangrove areas, and areas covered or to be covered by water are not included in calculation of net acreage. In the determination of the number of residential dwelling units to be permitted on a specific parcel of land, a fractional unit larger than one-half (.50) shall entitle the owner to an additional unit.

*Exception:* Land to be covered by water for on-site storm water retention purposes, or as a landscape architectural feature, and which is not part of a platted lake or drainage easement, shall be included in the calculation of net acreage.

**Subsection 9-2-7. Group Homes.**

The comprehensive plan defines "group homes" as a "facility which provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents. It shall not include fraternities, sororities, monasteries or convents, hotels, residential treatment facilities, nursing homes or emergency shelters."

Group homes are permitted as approved through the conditional use process and can only be approved as conditional use in multifamily zoning districts and in "HC" and "C2" commercial zoning districts.

**Subsection 9-2-8. Guest Houses.**

(A) *Standards for design:* No guest house shall be constructed on a lot smaller than thirty thousand (30,000) square feet in area. Guest house floor area shall not be less than twenty-five (25) percent nor more than forty (40) percent of the principal dwelling floor area. Detached guest houses shall not be closer than fifteen (15) feet to the principal building.

(B) *Commercial use:* No guest house may be utilized for commercial purposes. Leasing or renting a guest accommodation facility shall constitute a violation of the zoning ordinance. Similarly, if a main residence is leased or rented, a guest accommodation facility accessory to it may not be occupied by the property owner since that would constitute the unlawful utilization of single family zoned property for two-family dwelling purposes.

**Subsection 9-2-9. Home Occupation.**

Such occupations are expressly prohibited in all residential zone districts. The use of a telephone in a residence for business purposes is not considered a home occupation; however, no other business activity may take place at a residence.

**Subsection 9-2-10. Recreational Facilities; Conditional Use Required.**

A conditional use shall be required in all single family and multifamily residential zone districts for construction of any of the following recreation facilities that are accessory to and a part of a residential complex permitted in the subject zone district. Swimming pools and related accessory structures are exempt.

- (1) Tennis, racquet ball, handball or similar courts.
- (2) Shuffleboard courts if there are three (3) or more.
- (3) Full basketball courts.
- (4) Other recreation or sports facilities similar to the above.

**Subsection 9-2-11. Utility Sheds/Buildings.**

(A) *General:* Prefabricated construction shall conform to the requirements of the Standard Building Code, except as hereinafter specified.

(B) *Definition:* "Utility buildings," in this section of the code, shall mean a building which is not intended for human occupancy and which meets the requirements of this subsection.

(C) *Loads:* Live, dead and wind load requirements shall conform to the requirements, as set forth in Chapter XII of the Standard Building Code.

(D) *Limitations:*

- (1) A utility building must not be attached to any other structure in any manner.
- (2) Utility buildings may be located in any single family, duplex, or multiple-family dwelling areas.
- (3) The maximum distance between the floor and the bottom of the ceiling joist is to be seven (7) feet, six (6) inches.
- (4) The maximum floor area shall not exceed one hundred (100) square feet.
- (5) No side can be more than ten (10.0) feet in length or less than three (3.0) feet. The width may be three (3.0) feet if the side length is reduced to a maximum of six (6.0) feet in length.
- (6) A utility building must comply with the setbacks for the district in which it is erected.

**Section 9-3. Standards Applicable to Commercial Districts.****Subsection 9-3-1. Alcoholic Beverages.**

(A) *Sale within specified distance of church or school prohibited; exemption; determination of distance:* No permit for the sale of liquors, wines or beer for consumption on or off the premises shall be given to any person where the location of the licensed premises is within four hundred (400) feet of any established church or school.

(B) *Definition:* For the purposes of this ordinance, "licensed premises" shall be construed to mean the room, place of business or establishment in which such liquors, wines or beers are sold.

(C) *Measurement of required distance:* The distance of four hundred (400) feet shall be measured as follows:

- (1) Pertaining to established school: Four hundred (400) feet from the main entrance of the licensed premises to the main entrance of the school grounds in use as part of the school facilities.
- (2) Pertaining to established churches: Four hundred (400) feet from the main entrance of the licensed premises to the main entrance of the church building or buildings.
- (3) Said distance shall be measured along the route of ordinary pedestrian travel.

(D) *Church located within four hundred (400) feet of licensee after licensee is established:* Whenever a licensee has procured a license permitting the sale of beverage containing more than one (1) percent of alcohol by weight, and thereafter a church or school is established within a distance otherwise prohibited by this ordinance of the place of business of the licensee, the establishment of such church or school shall not be cause for the revocation of the license of such licensee and shall not prevent the subsequent renewal of such license.

(E) *Restriction on distance from established liquor licensees; exemption:* No certificate of occupancy shall be issued to any applicant for consumption or sale of liquor as defined under the laws of Florida, either on the premises or off the premises, if the place of business of such applicant is situated less than five hundred (500) feet from an established licensee.

- (1) *Measuring required distance:* Such five hundred-foot distance to be measured and computed from the front door of the established licensee to the front door of the proposed licensee, along the route of ordinary pedestrian traffic.
- (2) *Exemption:* The restrictions herein set forth shall not be applicable to hotels with one hundred (100) or more guest rooms. Such hotels may contain places of business for the sale of liquor to be consumed on the premises where such sales are conducted in an orderly manner, and where such sale of liquor in such hotels is strictly incidental to the principal hotel use and where there are no signs of any type displayed or exhibited to the outside, indicating that liquor is obtainable therein, and where the room used for the sale of liquor does not open upon any public street or sidewalk. Not more than one certificate of occupancy for consumption on the premises shall be issued for hotels.

#### **Subsection 9-3-2. Densities, Maximum Permitted.**

Maximum permitted densities shall be as follows:

(A) *Residential uses in commercial zone districts:*

<i>Zoning District</i>	<i>Maximum Density</i>
HC	8 dwelling units per net acre
C1	8 dwelling units per net acre
C1-A	8 dwelling units per net acre
C2-A	8 dwelling units per net acre
M	12 dwelling units per net acre
PD*	8 dwelling units per net acre

\* Areas designated for commercial development.

*Note:* Residential uses in commercial zone districts are limited and require the approval of a conditional use petition.

(B) *Transient lodging facilities, nursing homes, and timeshare lodging facilities:*

- (1) Transient lodging facilities and nursing or group homes in commercial zone districts: Maximum densities shall not apply to transient lodging facilities and/or nursing, rest or group homes in any commercial district.

*Exceptions:* When transient lodging facilities and/or nursing homes are located in any commercial district and include any units with kitchens or cooking facilities, the maximum density for such facilities shall be eighteen (18) units per net acre.

- (2) Timeshare facilities: The maximum density for timeshare facilities shall be twelve (12) units per net acre.

(C) *Density defined:* The term "density" refers to the number of residential dwelling units permitted per acre (43,560 square feet) of land. Streets, alleys, swamplands, mangrove areas, and areas covered or to be covered by water are not included in calculation of net acreage. In the determination of the number of residential dwelling units to be permitted on a specific parcel of land, a fractional unit larger than one-half (.50) shall entitle the owner to an additional unit.

*Exception:* Land to be covered by water for on-site storm water retention purposes, or as a landscape architectural feature, and which is not part of a platted lake or drainage easement, shall be included in the calculation of net acreage.

**Subsection 9-3-3. Gasoline Service Station.**

(A) *Location:* Gasoline service station sites shall not be located within eight hundred (800) feet of any other site occupied by a gasoline service station, or site for which a still valid building permit has been issued for a gasoline service station.

(B) *Minimum lot size:* Gasoline service station sites shall not be less than one hundred twenty-five (125) feet in width, one hundred twenty-five (125) feet in depth, and fifteen thousand (15,000) square feet in area.

(C) *Permitted services:*

- (1) Retail sale of gasoline, oil, grease, batteries, tires and automobile accessories.
- (2) Sale and servicing of spark plugs, batteries, and distributors and distributor parts.
- (3) Tire servicing and repair, but not recapping or regrooving.
- (4) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like.
- (5) Radiator flushing and cleaning.
- (6) Washing and polishing and sale of automotive washing and polishing materials.
- (7) Greasing and lubrication.
- (8) Providing and repairing fuel pumps, oil pumps, and lines.
- (9) Minor servicing and repair of carburetors.
- (10) Emergency wiring repairs.
- (11) Minor maintenance, repair or replacement of vehicle components, comparable to the above listed services, so long as none involves removal of the engine, cylinder head, crankcase cover, radiator, transmission, or axle, or involves racing the engine, or involves body or fender repair or painting.
- (12) Emergency road repair and towing service, so long as no vehicle is towed to or stored at a gasoline service station except those which can be lawfully repaired at such station.
- (13) Sales of cold drinks, package foods, tobacco and similar grocery goods for filling station customers, as accessory and incidental to principal operation. The area devoted to this use shall not exceed fifty (50) percent of the gross floor area of the service station, and the parking for this use shall meet the parking requirements applicable to "grocery stores" in addition to the parking required for the balance of the station.
- (14) Passenger car rentals; provided a conditional use request is filed and approved.
- (15) Truck, auto or equipment storage; provided a conditional use request has been filed and approved.

(D) *Prohibited additional or accessory businesses or services:* Additional or accessory businesses or services, operated in conjunction with or on the same site as a gasoline service station, are prohibited unless listed in the above paragraph.

(E) *Permitted signs:* This paragraph supersedes the provisions of Chapter 8, [section 8-1,] Signs, dealing with permitted signs, size, type, and location. All other subsections are applicable. Only the following signs are permitted:

- (1) One price sign per gasoline pump, which does not exceed one and one-half (1.5) square feet in area, and which is permanently attached to, and an integral part of, the respective pump.
- (2) One ground sign not to exceed sixty (60) square feet in area, suspended from or attached to not more than two (2) poles or posts imbedded in the ground, provided

said sign advertises only a brand name and/or the products or services sold on the premises and not the price of such products or services.

- (3) Not more than one wall sign per street fronted upon, not to exceed thirty (30) square feet in area per sign, provided said sign advertises only a brand name and/or the products or services sold on the premises.

(F) *Combustible product storage*: All receptacles, tanks or facilities for the storage of combustible products in excess of two hundred (200) gallon quantities shall be located underground.

(G) *Ornamental buffer*: There shall be an ornamental buffer along all gasoline station side and rear property lines which abut any district other than "C2," "C2-A," "C3," or "I."

#### **Subsection 9-3-4. Shopping Center.**

(A) *Lot area and street frontage requirements*: Shopping centers are divided into two (2) categories:

- (1) Neighborhood shopping center:

- (a) Minimum lot area—Three (3) acres of land.
- (b) Maximum lot area—Ten (10) acres of land.
- (c) Minimum lot dimension on public street—Two hundred (200) feet.

- (2) Community shopping center:

- (a) Minimum lot area—Ten and one-tenth (10.1) acres of land area.
- (b) Maximum lot area—None.
- (c) Minimum lot dimension on public street—Four hundred (400) feet.

(B) *Permitted uses or establishments in neighborhood and community shopping centers; limitations thereon*:

- (1) Uses permitted in shopping centers are the same as the uses permitted in the zoning district in which the shopping center is located.
- (2) Restaurants, carry-out, are permitted as an integral part of an enclosed shopping mall.
- (3) All establishments or uses in shopping centers are subject to the following limitations:
  - (a) No more than twenty (20) percent of gross floor area shall be devoted to storage in neighborhood shopping centers, and no more than thirty (30) percent in community shopping centers.
  - (b) Products to be sold only at retail.
  - (c) No sale, display, or storage of secondhand merchandise except as incidental to sale of new merchandise; provided, however, that this shall not exclude the sale of bona fide antiques.

(C) *Permitted accessory uses and structures:* Accessory uses and structures which are incidental to and customarily associated with the uses permitted in the application zone district are permitted.

(D) *Maximum lot coverage by all buildings:*

- (1) Neighborhood shopping centers—Thirty (30) percent.
- (2) Community shopping centers—Twenty-five (25) percent.

(E) *Minimum yard requirements:*

- (1) *Front yard*—Sixty-five (65) feet, the front twenty (20) feet of which shall be landscaped except where paved walkways or vehicular accessways are provided which lead to parking areas or structures. No parking shall be permitted within the twenty-foot required landscaped area, which shall be landscaped in accordance with the requirements of Chapter 8, [Section 8-2,] Landscaping Requirements.
- (2) *Side yard*—Sixty-five (65) feet where abutting any land zoned residential; otherwise, thirty (30) feet.
- (3) *Rear yard*—One hundred (100) feet where abutting any land zoned residential; otherwise, sixty-five (65) feet.

(F) *Landscaping and ornamental buffer required adjacent to residential areas:* No less than twenty (20) feet of the required side yard and rear yards abutting residential property shall be landscaped and contain an ornamental buffer.

(G) *Permitted signs:* This subsection supersedes the requirements of Chapter 8, [section 8-1,] Signs, regarding permitted signs and their number and size.

(1) Ground signs for identification of shopping centers:

- (a) Neighborhood shopping centers—One ground sign structure for each neighborhood shopping center. The maximum area of such sign shall be one hundred twenty (120) square feet.
- (b) Community shopping centers—One ground sign structure for each community shopping center. Such sign shall be placed along the major arterial on which the shopping center fronts.

A community shopping center with frontage of one thousand five hundred (1,500) or more lineal feet along a public street other than the major arterial mentioned above may erect one additional ground sign structure along that street.

The maximum area of each such sign for a community shopping center shall be one hundred sixty (160) square feet.

- (c) Sign display limitations—Shopping center signs shall display only the name of the shopping center and shall not identify the business within the center.
- (2) Exterior wall and canopy signs for businesses in the shopping center: Only one exterior wall sign shall be permitted for each establishment with an exterior

## SUPPLEMENTAL STANDARDS

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customer entrance not to exceed two (2) square feet of sign area per lineal foot of exterior store frontage up to a maximum of eighty (80) square feet per store, plus one sign per business which is adjacent to a covered pedestrian walkway, such sign to be located under and hanging from the canopy over the pedestrian walkway, not to exceed six (6) square feet in area.

Major tenants with sixty-five thousand (65,000) square feet or more of enclosed building area and with more than one major pedestrian entrance may have a second wall sign up to eighty (80) square feet in area.

The lower edge of each sign over a pedestrian walkway shall be no less than eight (8) feet above the surface of the walkway.

(H) *Driveways/accessways to off-street parking and loading areas:* (See also Chapter 8, [section 8-3,] Parking Requirements)

- (1) *Driveway and accessway limitations:* Driveways and accessways shall not provide both ingress and egress unless a landscaped dividing island is provided. Said combined entrance-exit, including the island, shall not exceed sixty (60) feet in width at the property line, with an aggregate paved width not to exceed forty-eight (48) feet. There shall not be more than one driveway/accessway for every five hundred (500) feet of street frontage or fraction thereof; they shall not be closer than one hundred (100) feet to the intersecting right-of-way lines of any street intersection located on the same side of the street; they shall not be closer than fifteen (15) feet to abutting property unless a joint driveway/accessway is provided with the abutting property.
- (2) *No access to minor residential streets:* There shall be no access to or from minor residential streets or alleys where said streets or alleys are parallel or approximately parallel to main arterial streets. For the purpose of this section, minor residential streets or alleys are those designed to carry local residential traffic or are not frequently travelled, and main arterial streets are those designed to carry heavy traffic or which are frequently travelled.

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## CHAPTER 10

### RESOURCE PROTECTION STANDARDS\*

#### Section 10-1. Establishment of Resource Protection Standards.

It is the intent in this section to provide for minimum standards for the protection of the natural and manmade resources within the City of Naples. Such standards are necessary for the protection of the health, safety and general welfare of the citizens of Naples. It is further the intent in this section to include by reference those standards that are required to provide that protection. Copies of all referenced materials are on file in the office of the city clerk and shall be available for inspection during regular business hours.

#### Section 10-2. Conservation Districts.

See Chapter 7, [subsection 7-4-24,] "C" Conservation District.

#### Section 10-3. Coastal Construction.

The purpose of this section is to provide minimum standards for the design and construction of buildings and structures to reduce the potential harmful effects of natural phenomenon occurring along the coastal areas of Naples.

##### Subsection 10-3-1. Coastal Construction Code.

(A) *Title.* The provisions contained herein shall constitute the coastal construction code for construction within the coastal building zone and coastal barrier islands in the City of Naples and shall be referred to as the "coastal code."

(B) *Purpose.* The purpose of the coastal code is to provide minimum standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other natural disasters occurring along the coastal areas of Naples which fronts on the Gulf of Mexico. These standards are intended to specifically address design features which affect the structural stability of the beaches, dunes and topography of adjacent properties. The coastal code is site specific to the coastal building zone and coastal barrier islands as defined herein and is not applicable to other locations. In the event of a conflict between this section and other chapters of this code, the requirements resulting in more restrictive design shall apply. No provision in this chapter shall be construed to permit any construction in any area prohibited by local city, county or state regulation.

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\***Cross references**—Water conservation and shortages, § 5-7; wells, § 5-8; storm water management, § 5-9; seawalls and revetments, § 5-10; conservation district, § 7-4-24; landscaping and tree protection, § 8-2.

(C) *Scope.*

- (1) *Applicability generally.* The requirements of this coastal code shall apply to the following types of construction in the coastal building zone and on coastal barrier islands in Naples.
  - (a) The new construction of, or substantial improvement to, major structures, nonhabitable major structures, and minor structures as defined herein.
  - (b) Construction which would change or alter the character of the shoreline (e.g., excavation, grading, paving). The coastal code does not apply to minor work in the nature of normal beach cleaning or debris removal.
- (2) *Existing structures.* The requirements of this section shall not apply to existing structures, structures under construction, or structures for which a valid and unexpired municipal or county building permit was issued prior to the adoption of the coastal code.
- (3) *Multizone structures.* For structures located partially in the coastal building zone, the requirements of the coastal code shall apply to the entire structure.
- (4) *Construction seaward of mean high water.* Structures or construction extending seaward of the mean high water line which are regulated by Section 161.041, Florida Statutes, (e.g., groins, jetties, moles, breakwaters, seawalls, revetments, beach nourishment, inlet dredging, etc.) are specifically exempt from the provisions of this section. In addition, the coastal code does not apply to piers, pipelines, or outfalls which are regulated pursuant to the provisions of Section 161.053, Florida Statutes.

(D) *Applications for permits.* Applications for building permits for all construction in the coastal building zone and on coastal barrier islands shall be certified by an architect or professional engineer registered in the State of Florida. Such certification shall state that the design plans and specifications for the construction are in compliance with the criteria established by this coastal code.

(E) *Construction certification.* The owner of a subject building shall provide the city with written certification by an architect or professional engineer registered in the State of Florida upon completion of such a building and as a prerequisite to the issuance of a certificate of occupancy. Such certification shall state that the construction is in compliance with the certified design plans and specifications and in compliance with the criteria established by this coastal code.

(F) *Definitions.* The following terms are defined for general use in the coastal code:

*Breakaway wall or frangible wall:* A partition independent of supporting structural members that will withstand design wind forces, but will fail under hydrostatic, wave and run-up forces associated with the design storm surge. Under such conditions, the wall will fail in a manner such that it dissolves or breaks up into components that will not act as potentially damaging missiles.

*Building support structure:* Any structure which supports floor, wall, or column loads, and transmits them to the foundation. The term shall include beams, grade beams or joists, and includes the lowest horizontal structure member exclusive of piles, columns or footings.

*Coastal building zone:* The land area from the seasonal high water line to a line one thousand five hundred (1,500) feet landward from the coastal construction control line as established pursuant to Section 161.053, Florida Statutes. On coastal barrier islands, the "coastal building zone" is defined as the area five thousand (5,000) feet landward from the coastal construction control line or the entire island, whichever is less. On barrier islands for which no coastal construction control line has been established, the "coastal building zone" is the area five thousand (5,000) feet landward from the mean high water line or the entire island, whichever is less.

*Construction:* The carrying out of any building, clearing, filling excavation or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction.

*Major structure:* Includes, but is not limited to, residential buildings, including mobile homes, commercial, institutional, industrial and other construction having the potential for substantial impact on coastal zones.

*Minor structure:* Includes, but is not limited to, pile-supported, elevated dune and beach walkover structures, beach access ramps and walkways; stairways; pile supported elevated viewing platforms, gazebos and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts and other uncovered paved areas; earth-retaining walls; sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave and storm forces.

*Nonhabitable major structure:* Includes, but is not limited to, swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures and other water retention structures; water and sewage treatment plants; electrical power plants, transmission and distribution lines, transformer pads, vaults and substations; roads, bridges, streets and highways; and underground storage tanks.

*Substantial improvement:* Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds a cumulative total of fifty (50) percent of the market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the state inventory of historic places.

(G) *Coastal construction specifications.*

(1) *Compliance required.* Construction within the coastal building zone and on coastal barrier islands shall meet the requirements of this section.

(2) *Structural requirements for major structures.*

(a) *Foundations.* Major structures shall, at a minimum, be designed and constructed in accordance with Section 1205, 1986 Revisions to the 1985 Standard Building Code using a fastest wind velocity of one hundred twenty (20) miles per hour. Foundation design and construction shall consider all anticipated loads resulting from a 100-year storm event, including wave, hydrodynamic and hydrostatic loads acting simultaneously with live and dead loads. Erosion computations for foundation design shall account for all vertical and lateral erosion and scour-producing forces, including localized scour due to the presence of structural components.

1. *Pile foundations:* Shall be required for building located in Federal Emergency Management Agency Flood Insurance Rate Map "V" (velocity) zones or where impacted by wave action.

- a. Pile dimensions, spacing and embedment shall be designed consistent with the requirements of the site, taking into account all vertical, lateral, erosion and scour-producing forces.
- b. Piles shall be driven to a penetration which achieves adequate bearing capacity, taking into consideration the anticipated loss of soil above the design grade as a result of localized scour.
- c. In addition to the normal foundation analysis, the pile foundation analysis shall consider piles in column action, where appropriate, from the bottom of the support structure to the design grade.
- d. Consideration shall also be given to the degree of exposure to wave attack and the resulting impact loads on lateral or diagonal bracing between piles.

2. *Monolithic foundations:* May be permitted in Federal Emergency Management Agency Flood Insurance Rate Map "A" or "B" zones or in locations not impacted by wave action.

- a. Monolithic foundations may be used if soil conditions permit and if located at an elevation which minimizes their effect on the beach

and adjacent properties. Due consideration shall be given to their vulnerability to erosion under design storm conditions.

- b. Other types of spread footings such as running footers or pads may be permitted when positive methods are provided to prevent scour.
- (b) *Mobile homes:* Mobile homes shall conform to the Federal Mobile Home Construction and Safety Standards of the Uniform Standards Code ANSI book A-119.1, pursuant to Section 320.823, Florida Statutes, in addition to the other requirements contained in this code.

### **Subsection 10-3-2. Coastal Construction Setback Lines.**

(A) *Establishment of setback lines.* There is hereby established for the City of Naples a coastal construction setback line for construction of single family, multifamily and commercial structures, as established and approved on April 26, 1989, by the Bureau of Coastal Data Acquisition, Division of Beaches and Shores, Department of Natural Resources of the State of Florida, said line lying within the boundaries and limits of the City of Naples and to be recorded in the Coastal Setback Line Book of the Public Records of Collier County, Florida; and set forth in the Florida Administrative Code, Rule 16B-26.022, "Description of the Collier County Coastal Construction Control Line."

(B) *Procedure for obtaining variance.* See Chapter 3.

(C) *Procedure for obtaining permits.* The following classes or types of construction activities seaward of the coastal construction setback line do not require a variance from the city council, but they must receive a permit in accordance with prescribed procedures from the city manager, or his designee.

- (1) Dune nourishment, dune restoration or construction, including revegetation, provided less than one hundred (100) cubic yards of sand/sediment will be required to affect the nourishment, construction or restoration.
- (2) Landscaping and beach or dune stabilization projects, provided that less than one hundred (100) cubic yards of sand/sediment/soil will be excavated and/or relocated on the site.
- (3) Limited grading not to exceed one vertical foot from existing average grade elevation, and the removal and relocation of windblown sediment.
- (4) Beach vehicular ramp maintenance.
- (5) Beach cleaning operations.
- (6) Removal of any rigid structure or loose debris not to include the permanent removal of beach and dune sediment.
- (7) Placement of temporary sandbag structures.
- (8) Emergency construction for the protection of existing upland structure in danger of collapse from anticipated high frequency storm conditions or where a structure is undergoing progressive structural failure.
- (9) Oil spill clean-up operations.

- (10) Construction, maintenance or repair of shore-normal, wooden, elevated beach/dune walkover structures meeting Florida Department of Natural Resources standards, but not including viewing decks.
- (11) Construction or repair of beach access stairs meeting Florida Department of Natural Resources standards.
- (12) Installation of sand fencing.
- (13) Temporary excavation for installation or repair of subgrade utilities including water, sewer, electrical and gas lines.
- (14) Placement of sand filled material and planting of vegetation for the repair of small isolated dunes, to include the filling of blow-outs and other low areas of the beach/dune system.
- (15) Placement of sand fill material and sand retention geotextiles immediately landward of existing rigid coastal protection structures.
- (16) Routine maintenance or repair of stormwater discharge lines.
- (17) Removal of collected windblown sand provided that it is spread evenly on the beach or formed into a dune configuration.
- (18) Installation of security fencing around a swimming pool, provided it will create no adverse impacts, as elaborated in subsection 3-85-2(D)(1) and will not impede public pedestrian movement, as elaborated in subsection 3-85-2(D)(2).
- (19) Non-habitable structures on lots situated with a developed lot or lots between the applicant's lot and the Gulf beach.

Non-habitable structures shall include swimming pools, detached garages, gazebos, chickees, slab patios and porches, cantilevered porches, decks, sidewalks, driveways, fences, walls, ornamented garden structures, and similar structures.

No permit for this type of construction activity will be valid until it is approved by the mayor and city council at the next regular council meeting following the date of issuance by staff.

- (20) Maintenance or repair of existing shore-parallel shore protection structures and the three (3) jetties located on both sides of Doctors Pass and the south side of Gordon Pass.

Shore protection structures shall include seawalls or bulkheads and rock revetments and their return sections.

No permit for this type of construction activity will be valid until it is approved by the mayor and city council at the next regular council meeting following the date of issuance by staff.

(D) *Permit application; content and procedures.*

- (1) The permit application for project classes in subsection 10-3-2(C)(1) to (C)(9) shall consist of the submission of copies of all permit-related information provided to Florida DNR, as specified in Section 16B-33.008 FAC (DNR Form 73-100 Revised

4/86) "Application for a Permit for Construction or Other Activities Seaward of the Coastal Construction Control Line or Fifty Foot Setback."

- (2) The permit application for project classes in subsection 10-3-2(C)(10) to (C)(18) shall contain the following:
  - (a) A description of the applicant's property.
  - (b) A description of the proposed activity to be carried out seaward of the coastal construction setback line.
  - (c) A sketch of the property showing the location of the proposed activity or construction.
  - (d) A copy of the DNR "Field Permit" issued by the properly designated DNR staff representative, under the authority granted in Section 16B-33.012(11)FAC.
- (3) Permit application information shall be submitted to the city manager, or his designee, in compliance with subsections 10-3-2(D)(1) and (D)(2) hereof. Staff will review the proposed plan and investigate the site. If deemed necessary by staff, additional information or clarification may be requested to complete permit evaluation. Such information may include a survey of the property, including location of the coastal construction control line (established pursuant to Section 161.053 FS), sealed by a surveyor registered in the State of Florida.
- (4) Permit expiration six (6) months from date of issuance.
- (5) Permit fees: Seventy-five dollars (\$75.00).
- (6) If a permit is denied, applicant may petition for a variance under subsection 3-85-2 of this code.

(E) *Landscaping requirements.* Landscaping and beach/dune revegetation projects must utilize native beach-stabilizing vegetation and native species of salt-tolerant trees and shrubs. The following is a partial list of appropriate plants for landscaping seaward of the coastal construction setback line:

*Grasses*

- Panic grass (*Panicum amarum*)
- Common Bermuda grass (*Cynodon dactylon*)
- Crawfoot grass (*Dactyloctenium aegyptium*)
- Salt-meadow cordgrass (*Spartina patens*)
- Sea oats (*Uniola paniculata*)
- Seashore dropseed (*Sporobolus virginicus*)
- Seashore salt grass (*Distichlis spicata*)
- Seashore paspalum (*Paspalum vaginatum*)
- Seacoast bluestem (*Schizachyrium sciperium*)
- Inkberry (*Scaevola plumieri*)
- Seashore elder (*Iva imbricata*)
- Silverleaf croton (*Croton punctatus*)

*Grasses*

Saw palmetto (*Serenoa repens*)  
 Beach bean (*Canavalia maritima*)  
 Beach morning glory or railroad vine (*Ipomoea pes-capri*)  
 Fiddle-leaf morning glory (*Ipomoea stolonifera*)  
 Sea purslane (*Sesuvium portulacastrum*)  
 Beach peanut (*Okenia hypogala*)  
 Beach sunflower (*Helianthus debilis*)  
 Golden creeper (*Ernodea littoralis*)

*Trees*

Buttonwood (*Conocarpus erectus*)  
 Silver buttonwood (*Conocarpus erectus*, variety *sericeus*)  
 Cabbage palm (*Sabal palmetto*)  
 Coconut palm (*Cocos nucifera*)  
 Sea grape (*Coccoloba uvifera*)  
 Spanish bayonet (*Yucca aloifolia*)  
 Bay cedar (*Suriana maritima*)

Dune revegetation and/or landscaping plans must utilize the above plants, or reasonable substitutes, in order to obtain a permit under subsection 10-3-2(C)(1) and (2).

(F) *Prohibited activities seaward of setback line.* It shall be unlawful for any person, firm or corporation to construct any structure, make any excavation, deposit any fill, remove any beach material or otherwise alter existing ground elevations, soil structure and natural formation or drive any vehicle on, over or across any sand dune or beach, or damage or cause to be damaged such sand dune or beach or the vegetation growing thereon, seaward of said coastal construction setback line, other than normal beach maintenance and clean-up or emergency repairs.

(Ord. No. 89-6004, § 1, 12-6-89; Ord. No. 90-6085, § 3-21-90)

**Cross reference**—Coastal construction control line, § 3-85-2.

**Subsection 10-3-3. Seawalls and Revetments.** See Chapter 5 of this Code.

**Section 10-4. Floodplain Management.**

(A) *Purpose:* It is the purpose of this section to promote the public health, safety and general welfare and to minimize public and private losses due to specific flood conditions.

(B) *Statutory authorization; findings of fact:* The legislature of the State of Florida has, in Chapter 166, Florida Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the city council of the City of Naples, Florida, does ordain as follows:

- (1) The flood hazard areas of the city are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods, or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(C) *Statement of purpose:* It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Control filling, grade, dredging and other development which may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(D) *Objectives.* The objectives of this section are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flood and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas; and
- (7) To ensure that potential home buyers are notified that property is in a flood area.

(E) *Definitions.* Unless specifically defined below, words and phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

*Appeal:* A request for a review of the community development director's interpretation of any provision of this section or a request for a variance.

*Area of special flood hazard:* The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

*Base flood:* The flood having a one (1) percent chance of being equalled or exceeded in any given year.

*Breakaway wall:* A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation.

*Building:* Any structure built for support, shelter or enclosure for any occupancy or storage.

*Coastal high hazard area:* The area subject to high velocity waters caused by, but not limited to, hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone VE.

*Development:* Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

*Elevated building:* A nonbasement building built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

*Existing mobile home park or mobile home subdivision:* A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale, for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is considered "new construction."

*Flood hazard boundary map (FHBM):* An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

*Flood insurance rate map (FIRM):* An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

*Flood insurance study:* The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*Floor:* The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

*Highest adjacent grade:* The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

*Lowest floor:* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

*Mangrove stand:* An assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground which contain one or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia racemosa*); and buttonwood (*Conocarpus erecta*).

*Manufactured home:* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For the purposes of this section, the term is synonymous with "mobile home."

*Manufactured home park or subdivision:* A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*New construction:* Structures for which the "start of construction" commenced on or after the effective date of this section.

*Sand dunes:* Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

*Start of construction:* Includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pipes, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory building, such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Structure:* A walled or roofed building that is principally above-ground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

*Substantial improvement:* Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure, either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state and local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

*Variance:* A grant of relief to a person from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

(F) *Applicability.* This section shall apply to all areas of special flood hazard within the jurisdiction of the City of Naples. The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study for Collier County, Florida, dated June 3, 1986, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this section.

(G) *Establishment of development permit.* A building or other development related permit shall be required in conformance with the provisions of this section prior to the commencement of any development or construction activities.

(H) *Compliance.* No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this section and other applicable regulations.

(I) *Abrogation and greater restrictions.* This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(J) *Interpretation.* In the interpretation and application of this section, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(K) *Warning and disclaimer of liability.* The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and

engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City of Naples or by any officer or employee thereof for any flood damages than result from reliance on this section or any administrative decision lawfully made thereunder.

(L) *Penalties for violation.* Violation of the provisions of this section or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than three hundred dollars (\$300.00), or imprisoned for not more than sixty (60) days, or both, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Naples from taking such other lawful action as is necessary to prevent or remedy any violation.

(M) *Administration.* The director of community development is hereby appointed to administer and implement the provisions of this section. The duties of the director of community development shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this section have been satisfied.
- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities and the state Department of Community Affairs prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse, so that the flood carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with subsection (5) of section 10-4(N).
- (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with subsection (5) of section 10-4(N).
- (7) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the director of community development shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.

- (8) All records pertaining to the provisions of this section shall be maintained in the office of the director of community development and shall be open for public inspection.

(N) *Permit procedures.* Application for a building or other development related permit shall be made to the director of community development on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- (3) Provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in subsection (2) of section 10-4(Q).
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (5) Provide a floor elevation or floodproofing certificate after the lowest floor is completed, or in instances where the structure is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the director of community development a certification of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same. Any work done within the twenty-one-day calendar period or prior to submission of the certification shall be at the permit holder's risk. The director of community development shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop work order for the project.

(O) *Variance procedures.* See Chapter 3 of this code.

## RESOURCE PROTECTION STANDARDS

§ 10-4

(P) *General provisions for flood hazard reduction.* In all areas of special flood hazards, the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed within materials and utility equipment resistant to flood damage.
- (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into from them during flooding.
- (6) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (7) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this section shall meet the requirements of "new construction" as contained in this section.
- (8) Electrical, heating, ventilating, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Q) *Specific standards for flood hazard reduction.* In all areas of special flood hazard where base flood elevation data has been provided, as set forth in section 10-4(F) the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to no lower than the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or nonresidential structure shall have the lowest floor, including basement, elevated no lower than the level of the base flood elevation. Structures located in A zones may be floodproofed in lieu of elevation, provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards

of this subject are satisfied. Such certification shall be provided to the official as set forth in subsection (3) of section 10-4(N).

(3) *Mobile homes.*

- (a) No mobile home shall be placed in a floodway or coastal high hazard area, except in an existing mobile home park or existing mobile home subdivision. All existing mobile home parks or subdivisions which suffer damage, requiring the repair, reconstruction or improvements of streets, utilities, and pads, that equal or exceed fifty (50) percent of the value of such facilities prior to damage, shall require that all new or replacement mobile homes meet the requirements of this section.
- (b) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to, and consistent with, applicable state requirements for resisting wind forces.
- (c) For new mobile home parks and subdivisions; for expansion to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision, require:
  1. Stands or lots are elevated on compacted fill or on pilings, so that the lowest floor of the mobile home will be at or above the base flood level.
  2. Adequate surface drainage and access for a hauler are provided.
  3. In the instance of elevation on pilings:
    - a. Lots are large enough to permit steps;
    - b. Piling foundations are placed in stable soil no more than ten (10) feet apart; and
    - c. Reinforcement is provided for pilings more than six (6) feet above the ground level.
- (4) *Coastal high hazard areas (V Zones).* Located within the areas of special flood hazard established in section 10-4(F), are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash; therefore, the following provisions shall apply:
  - (a) All buildings or structures shall be located landward of the reach of the mean high tide;
  - (b) All buildings or structures shall be elevated so that the lowest supporting horizontal member (excluding pilings or columns) is located no lower than the base flood elevation level;
  - (c) All buildings or structures shall be securely anchored on pilings or columns;
  - (d) All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of the wind and water loads acting simultaneously on all building components. The anchoring and sup-

port system shall be designed with wind and water loading values which equal or exceed the one hundred year mean-recurrence interval (one (1) percent annual chance flood);

- (e) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of these requirements;
  - (f) There shall be no fill used as structural support;
  - (g) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage;
  - (h) The space below the base flood elevation shall be open and free of obstruction or enclosed with nonsupporting breakaway walls, open wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall have ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
    - 1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
    - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have one (1) percent chance of being equalled or exceeded in any given year (one hundred year mean-recurrence interval);
      - a. Any enclosed space located below the base flood elevation shall be used solely for parking of vehicles, building access, or storage and may not be used for human habitation.
- (5) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exits of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
- (a) Designs for complying with this requirement must either be certified by a professional engineer or architect to meet the following minimum criteria:
    - 1. Provide a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above grade; and
3. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

- (b) Electrical, plumbing and other utility connections are prohibited below the base flood elevation;
- (c) Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
- (d) The interior portion of such enclosed area shall not be partitioned or finished into separate room.

(R) *Standards for subdivision proposals.*

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres.

**Cross reference**—Storm water management, § 5-9.

**Section 10-5. Special and Endangered Species Protection. (Reserved)**

**Section 10-6. Water Resources.**

It is the purpose of this section to promote the public health, safety and general welfare through the prudent use of the water resources of the City of Naples.

**Subsection 10-6-1. Water Resources.**

(A) *Rules and regulations concerning water resources:*

- (1) The city shall have the right to regulate the use of all waterways within the city limits and the conduct of all persons using same, consistent with and not in conflict with federal or state regulations. All ordinances of the city regulating the conduct of persons on land shall apply to persons using waterways, insofar as same are properly applicable.
- (2) Whenever a public street or thoroughfare is laid out or existing in the city abutting or touching a waterway open to public use, the city as trustee for the public, has and owns riparian rights at such place where such public street or thoroughfare abuts or touches the waterway. The city shall have the right to regulate the

- use of the waters, adjacent to such place, and to construct docks, public landings, piers or wharves at such places.
- (3) Wherever a street, laid out and existing in the city, ends at a waterway in the city, the portion of such dead-end street abutting the waterway is hereby declared to be public property, and the city shall have the right to regulate the use of the waters adjacent to such place and to construct docks, public landings, piers or wharves at such place.
  - (4) When any plat is filed for record showing streets dedicated to public use laid out, touching or abutting any waterways used by the public, it is hereby declared that the portion of such dedicated street touching or abutting upon waterways in the city shall be public property, and the city shall own and hold same for the use of the public, and shall pass rules and regulations governing the use of same.
  - (5) Any person using the public property of the city described in items (2) through (4) above without the expressed consent of the city council, evidenced by a resolution duly adopted, shall be guilty of violating the provisions of this section.
  - (6) Any resolution adopted, permitting the use of public property by private persons, shall be of a temporary nature only, revocable by the city council at any time.
  - (7) All boats or vessels docked, moored or tied to land, docks, piers or wharves, abutting the public waterways in the city shall observe all the health and sanitary regulations of the city, and all ordinances of the city relating to the conduct of persons and prohibiting acts contrary to public health, morals, safety or public peace, including ordinances prohibiting disorderly conduct and loud and boisterous noises which disturb the peace of the neighborhood.
  - (8) No vessel or watercraft of any kind whatsoever shall be moored or tied up to a private seawall or dock or be beached upon private property within the city limits without the permission of the owner thereof. Any vessel or watercraft moored, tied up or beached in violation of this section may be removed and impounded in accordance with the procedures for the removal and impounding of vehicles set forth in section 23-11 of the Naples Code of Ordinances.
  - (9) No vessel or watercraft of any kind whatsoever moored or docked in any of the publicly dedicated waterways in the city shall be used as a place from which business or professional services are conducted; provided, however, that this shall not apply to charter fishing boats and sightseeing boats licensed by the city or to boats being displayed for sale.
  - (10) No vessel or watercraft of any kind whatsoever moored or docked in any dead-end canal or waterway, or portion of dead-end canal or waterway, shall be used for human habitation within the city limits of the city. This regulation shall prohibit sleeping, eating or cooking on such watercraft so situated.
- (B) *Obstruction of waterways:*
- (1) It shall be unlawful to place any wall or any structure or obstruction of any nature in the canals, waterways and ditches that shall encroach in any manner upon the bottom width of such canals, waterways and ditches as they now exist.

- (2) It shall be unlawful for any person to place any obstruction of any kind whatsoever in any of the canals, waterways or ditches in the city as such canals, waterways and ditches now exist.
  - (3) It shall be unlawful for any person to abandon any boat or watercraft in the public waterways within the corporate limits of the city or to moor the same in such manner as to cause such watercraft to be or become a menace to navigation.
  - (4) No vessel or watercraft of any kind whatsoever which is of an unsightly appearance or in badly deteriorated condition, or which is likely to damage any docks, or which might become a menace to navigation, shall be permitted to moor or tie up at said docks; such vessels or watercraft in such condition are hereby declared to be a public nuisance. The city manager shall determine whether any such watercraft is of unsightly appearance or in a badly deteriorated condition, and if found so to be shall take proper steps to compel the repair or removal of same. Where such action is necessary in the performance of his duties under this section, the city manager shall have authority to remove any boat from it, moving, or causing the same to be removed, to a boat yard or to a public dock.
- (C) *Construction of lakes, canals, and streams:*
- (1) A permit must be obtained before beginning construction of any lakes, stream, canal or other excavation. Before any permit may be issued the plan thereof must be presented to the council with the approval of the city engineer and the city manager and after such approval the city council in its discretion may then allow a permit to be issued. It shall be unlawful for any person to undertake the construction of any project as set out above without first obtaining a permit as set forth above.
- (D) *Construction of seawalls, groins, and other beach erosion control structures:*
- (1) All sea walls constructed in the city on waterways adjacent to and connected with Doctor's Pass, and which lie north of the original limits of the Town of Naples as recorded in Plat Book 1 at Page 8 of the Public Records of Collier County, Florida, shall be so constructed that the top of the sea wall is five and five-tenths (5.5) feet above mean low tide.
  - (2) All sea walls shall be of concrete or other approved materials and shall be designed and approved by a registered engineer.
  - (3) All applications for permits to construct sea walls along the Gulf of Mexico or any bayfront property within the city limits of the City of Naples, Florida, where a bulkhead line is not already established, or where there is some reason for not filling behind the bulkhead line, shall, after submission to the building department, be presented to the city manager and city engineer for their recommendation. After their recommendation is made, application for permit to construct sea wall to be accompanied by a certified survey showing location of sea wall and adjoining sea walls therein, and shall be presented to council for final approval.
  - (4) All applications for permits to construct groins or other beach erosion control structures along the Gulf of Mexico, shall, after submission to the building de-

partment, be presented to the city manager and city engineer for their recommendation. After their recommendation is made, application for permit to construct groins or other beach erosion control structures to be accompanied by a certified survey showing location of groin or other beach erosion control structure and adjoining groins or other beach erosion control structures therein, and shall be presented to council for final approval. Where steps are necessary to provide access along the beach to the public, then such steps shall be shown as part of the plan for groin construction prior to issuance of permit, and such steps shall be constructed and maintained in a safe condition at all times.

(E) *Lakes; filling, erecting buildings over, prohibited.* It shall be unlawful for any person to fill any portion of an existing lake or to erect any building or portion thereof over any existing lake without first obtaining the consent of the city council.

**Subsection 10-6-2. Dredging Filling and Other Marine Construction in Inland Waters.**

(A) *Procedure for obtaining approval for dredging, filling and other marine construction in inland waters of the city:*

- (1) *Purpose.* It is hereby declared that the purpose of this subsection is to protect the littoral zone in the inland waters of the City of Naples. This fragile zone is essential to the abundance and variety of marine life in the inland waters of the city and impacts ultimately on the cleanliness, productivity and usefulness of our bays, streams, canals and rivers. Because of past marine construction activities and dredging and filling projects already undertaken in the bay, the littoral zone has already been stressed beyond a desirable degree. In general, therefore, dredging and filling in this littoral zone area is declared to be harmful and may well cause irreparable damage, thereby diminishing forever the quality of life for the citizens of Naples. With this understanding the following provisions are adopted:

No dredging or filling shall be performed in, upon or contiguous to any inland water area of the City of Naples, including, but not limited to, construction under subsections 10-6-1(C) through 10-6-1(E) of this chapter, until approval of such work has been obtained in accordance with the procedures and requirements set forth herein.

- (2) *Definitions.* For the purpose of this chapter, the following words and terms shall have the meanings respectively ascribed to them as follows:

*Mooring piles:* Shall include dolphins or other pilings which are placed to provide anchorage, mooring or space for a ship or boat.

*Required side yard setback:* Those lines defined in the zoning ordinances of the city, beyond which the property owner may not build.

*Littoral zone:* The shallow bottom land fringing the shoreline and islands within the inland waters of the city, from the surface down to a depth of approximately six (6) feet at mean low water.

*Maintenance dredging:* The dredging of an existing, manmade canal or channel, where the spoil material is to be removed and deposited on a self-contained upland spoil site which will prevent the escape of the spoil material into the waters of the state; provided that no more dredging is to be performed than is necessary to restore the canal or channel to original design specifications, and provided that control devices are utilized to prevent turbidity and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging (Section 17-4.040(9)(d), Florida Administrative Code).

- (3) *Applications.* All applications for approval of construction under this chapter shall be submitted to the city manager, or his designee. Application forms similar or identical to the joint application for the Department of the Army DER permits may be used. However, each application shall contain the following information:
- (a) Affidavit of ownership of the upland property abutting the proposed construction activities.
  - (b) A written statement describing the proposed construction activities or project.
  - (c) A plan or sketch of the proposed construction activities or structure sufficient in detail to show the mean high water line, mean low water line, the official bulkhead line, designation of soundings and elevations in the area of the construction, a simple description of shoreline vegetation and the location and approximate relation of said construction to adjacent properties and existing coastal construction in the area. All applications and plans shall be prepared by a registered Florida engineer to meet the requirements of this chapter and shall bear the name, address and official seal of the engineer.
  - (d) The names and addresses of adjoining property owners whose property also adjoins the waterway, and in the case of construction activities within canals less than one hundred twenty (120) feet wide at the construction site, the names and addresses of property owners within two hundred (200) feet of the center of the construction site on the far side of the canal directly opposite the proposed construction.
  - (e) From the department of community development of the City of Naples, a written statement affixed to the construction plans or a letter substantiating that the proposed activity does not violate any city zoning law, ordinance or other restriction which may be applicable to such area or construction work.
  - (f) If the project requires review of biological, hydrographic or ecological surveys pursuant to Section 253.124, Florida Statutes, or other applicable laws, such surveys shall be included with the application.
  - (g) Each application shall be accompanied by payment of a seventy-five dollar (\$75.00) fee.

- (4) *Permitting procedure and requirements for dredging and filling activities.*
- (a) Approval of the city council must be obtained for all dredge and fill activities, except as provided in paragraph (b) of this subsection (4), in accordance with the following procedure:
1. The application shall be submitted to the city manager, or his designee, in compliance with subsection 10-6-2(A)(3) hereof. The city manager, or his designee, will investigate and review the proposed plan and give notice of a public hearing to consider the application in a newspaper of general circulation in the City of Naples at least ten (10) days prior to the public hearing. Said publication shall include a brief description of the proposed work and the location thereof. Copies of such notice shall be mailed to the property owners described in the application.
  2.
    - a. In the event the city council shall find that the proposed activities or project will not violate any statute, zoning law, ordinance, or other restrictions which may be applicable thereto; that no harmful obstruction to or harmful alteration of the natural flow of the navigable water within such area will arise from the proposed construction; that no significant biological or ecological adverse impact will result therefrom; that no harmful or increased erosion, shoaling or channels or stagnant areas of water will be created thereby; and that no material injury or monetary damage to adjoining land will accrue therefrom, the application may be approved, or approved with conditions, subject to approval of the appropriate departments of the State of Florida and/or the U.S. Army Corps of Engineers.
    - b. When an application is approved, the council may require, as a condition of the permit, that protective measures, including, but not limited to, turbidity screens, be employed to prevent harmful biological, ecological or hydrological impacts from occurring to the surrounding waters.
- (b) 1. The following dredge and fill activities shall be permitted by the city manager or his designee:
- a. Maintenance dredging of boat slips.
  - b. Filling of boat slips, providing the activity is carried out in a manner that does not cause increased turbidity in the adjacent waterway. Such precautionary measures include the use of full water-column turbidity screens or constructing a new bulkhead or seawall section across the mouth of the boat slip prior to beginning the fill operation.
  - c. Maintenance dredging in Class III waters, as defined in the Florida Administrative Code, Chapter 17-3.121, providing the dredging is confined to the area, adjacent to an existing dock, that would be

occupied by a vessel approaching, departing or moored to the dock. The dimensions of the area to be dredged will be finalized after a site visit by the city manager or his designee. Disturbance of productive substrates, such as oyster bars, may require mitigation. If so, a mitigation plan will be arranged with the city manager or his designee. The maximum depth of maintenance dredging shall not exceed below five (5) feet MLW. Removal of intertidal or subtidal sediment, organisms, or vegetation from the littoral zone immediately adjacent to a seawall or beneath a dock will not be permitted. The width of this zone will be determined after a site visit by the city manager or his designee. Dredging will not be permitted adjacent to a proposed or newly constructed dock, if the dock could have been designed to avoid the need for dredging. Such design measures include positioning the dock appropriately along the shoreline, as well as bridging near shore shoal areas.

2. The application for approval of dredge and fill activities under subsection 10-6-2(A)(4)(b)1. shall contain the following information:
  - a. Affidavit of ownership of the upland property abutting the proposed construction activities.
  - b. A written statement describing the proposed construction activities or project.
  - c. A plan or sketch of the proposed construction activities or structure sufficient in detail and quality to show the mean high waterline, mean low waterline, the official bulkhead line, designation of soundings and elevations in the area of the construction, a simple description of shoreline vegetation and intertidal habitat(s) and the location and approximate relation of said construction to adjacent properties and existing coastal construction in the area.
  - d. From the department of community development of the City of Naples, a memorandum substantiating that the proposed activity does not violate any city zoning law, ordinance or other restriction which may be applicable to such area or construction work.
  - e. From the Department of Environmental Regulation, a letter indicating that the proposed project is exempt from the need for a dredge and fill permit under Section 17-4.040(9)(d) of the Florida Administrative Code.
  - f. Each application shall be accompanied by payment of a seventy-five dollar (\$75.00) fee.
  - g. An applicant denied a permit under this section can apply for a permit under subsection 10-6-2(A)(3) and subsection 10-6-2(A)(4)(a).
3. The following activities associated with the construction of a dock or seawall shall be exempt from permit requirements: Dredging in bottom

lands that exceed six (6) feet in depth at the mean low waterline or are located further than one hundred (100) feet from the nearest mean low waterline. This exemption shall not apply if state and/or federal approval is required; in which event, such application shall be processed in the manner provided in subsection 10-6-2(A)(4) hereof.

4. The previous sections notwithstanding, any proposed dredge and fill project that requires a permit from the Florida Department of Environmental Regulation under Chapter 17-12, Florida Administrative Code, must apply for a City of Naples permit, as set forth in subsection 10-6-2(A)(3) above.
- (5) *Expiration.* Permits issued hereunder shall be good for one year from date of issuance. Extensions of this period may be granted by the city engineer for an additional period of six (6) months for good cause shown where delay has not been the fault of the applicant or his agents.
- (6) *Exceptions from permit requirement.* No permit for docks, mooring piles or seawalls is required hereunder. However, the construction of such devices is an improvement requiring the purchase of a building permit from the City of Naples Building Department under the Naples Building Code. Upon payment of the appropriate permit fees and evidencing that all required state and federal permits have been obtained, the building department shall issue the permit so long as the following conditions are met:
  - (a) The dock does not encroach into the required side yard setback limitations on the property at the waterfront, (unless the affected adjacent property owner consents in writing) and does not exceed the limitations imposed by the subdivision regulations applicable to the area in which the dock is constructed.
  - (b) All seawalls are designed by a professional engineer whose name, address and official seal appears on the construction plans. However, the following construction is exempt from the requirements of design by a professional engineer.
    1. Riprap slope protection devices (where no vertical seawall is constructed); and
    2. Repair of existing seawalls consisting of grouting, patching or replacement of tiebacks, but not including replacement of any section parts.

(B) *Fee for obtaining permits for dredge and fill and other coastal construction.* The fee for obtaining a permit for construction or excavation under subsection 10-6-1(C) through (E) and subsection 10-6-2(A) of this chapter shall be seventy-five dollars (\$75.00), which shall be payable at the time of filing the application therefor.

**Subsection 10-6-3. Marina Siting Criteria.**

(A) In order to ensure that marina development is carried out in an environmentally sound manner, certain criteria have been proposed by the Southwest Florida Regional

Planning Council and the State. The City of Naples criteria are adapted from their discussions.

(B) The following development activities shall be preferred in descending order of priority:

- (1) Upgrade and/or expand existing marina facilities, providing they will meet all environmental criteria, standards and concerns.
- (2) Develop new marinas on previously disturbed sites and/or on sites that historically have been used for marina related activities.
- (3) Develop new marinas in Transitional Conservation "TC" areas only if the total disturbance to the environment is minimized and all disturbance is mitigated, according to the mitigation standards and guidelines established in this code. The total disturbance shall include all dredge and fill activities associated with the project, including DER/U.S. Army Corps of Engineers jurisdictional wetlands and isolated wetlands, and all land clearing and/or site alteration that disturbs native plant assemblages or communities. Maintenance dredging (defined in subsection 10-6-2(A)(2)) of existing navigational channels and waterways shall be excluded.

(C) All nonwater dependent marina facilities must be sited outside vital areas, in appropriately zoned areas. This includes fuel storage tanks, dry storage areas, restaurants, bait and tackle shops, ship chandlers, gazebos, and all similar structures cited in the marina definition in this code.

(D) All new marinas must provide adequate facilities, including parking, sewage pump out facilities, potable water and appropriate shore power capable of servicing the potential mix of vessels and vessel users. Public uses shall be encouraged.

(E) A spill containment and cleanup contingency plan must be developed and implemented. Such a plan must address petroleum and other hazardous materials spills and discharges resulting from vessel sinking, vessel fires, fuel transfer and dispensing accidents, storage tank overfilling or leaks, and similar events as well as inspection and enforcement provisions.

(F) Marinas proposed for areas zoned C or TC must demonstrate that such a development is clearly in the public interest.

(G) Preference will be given to marina development projects that are situated in or close to well flushed deep channels or natural waterways. Development proposals for marinas that require extensive dredging to create and maintain entrance and/or flushing channels will be discouraged.

(H) Preference will be given to marina development projects that are sited close to the anticipated end use destination for their tenants.

(I) All proposals for marina development must address maintenance of water quality. Naples Bay and the Moorings Bay system are Class II waters, the Gordon River, the manmade residential canals, and the various tributaries of Naples Bay are Class III

waters, and Dollar Bay and the inland waterway to the south are in the Rookery Bay Aquatic Preserve and National Estuarine Research Reserve, which will eventually become Outstanding Florida Waters. Water quality criteria for these classes are set forth in Chapter 17-3, FAC, and quality of Outstanding Florida waters is discussed in Chapter 17-4.242 FAC. All proposals for marina development or redevelopment must present data establishing ambient water quality conditions, and a detailed description of a monitoring program designed to ensure applicable standards are maintained.

(J) If applicable, the monitoring program will be coordinated with the Florida DER. If water quality deteriorates within the marina basin or in immediately adjacent waters as a result of marina development (a statistically significant water or sediment quality impact is one in which the marina data differ from the background receiving body data at a significance level or  $P = 0.05$  ( $H_0$  rejected at  $P = 0.05$ ) or greater), the owners/operators will be formally notified of the water quality violation and required to commence corrective action within ninety (90) days. If corrective action is not undertaken, the operating license will be voided. In addition, the owner/operators shall be fined a reasonable amount, as decided by the city council, which shall be used by the city to undertake corrective action relating to the water quality of said site.

(K) Any proposed marina facility must address the city's level of service standards for Naples Bay. This analysis will include the impacts of the proposed slips to the bay and address alternate sites and sizes for the proposed marina.

**Subsection 10-6-4. Cone of Influence.**

See Unified Development Code "SO-1" Cone of Influence Special Overlay District in Chapter 7.

**Subsection 10-6-5. Water Resources Program/Basin Plan. (Reserved)**

**Cross references**—Water conservation and shortages, § 5-7; seawalls and revetments, § 5-10.

**Section 10-7. Cultural and Archeological Resources.**

It is the purpose of this section to promote the prudent use of the cultural and archeological resources of the City of Naples.

**Subsection 10-7-1. Archeological Resources. (Reserved)**

**Subsection 10-7-2. Local Register of Historic Places.**

See City of Naples Comprehensive Plan, adopted January 4, 1989; Section II, Subsection G(5).

**Subsection 10-7-3. Local Historic District. (Reserved)**

**Subsection 10-7-4. Cultural Resources. (Reserved)**

## CHAPTER 11

## FEES

**Section 11-1. Utility Fees.****Subsection 11-1-1. Definitions.**

*Definitions.* For the purpose of this section, the following words and phrases shall have the meaning respectively ascribed to them as follows:

*Single family residence.* Any single family dwelling; interchangeable with the word household. Where both a single family residence and a guest house occupy the same premises, each of them would constitute a separate living unit. In the case of a duplex, each unit shall be regarded as a single family dwelling.

*Multifamily residence.* All places of dwelling other than single family residence and duplex having three (3) or more living units.

*Living unit.* Any place of abode which is suitable for permanent or transient family or individual residential use. Each such living unit shall be considered as single and separate for the purpose of this section.

*Business and institutional.* Any commercial, industrial and institutional enterprise, including sanatorium, domiciliary houses, resident schools, hotels, motels and all other uses. The term "commercial" as used herein shall mean an establishment dealing in wholesale or retail trades or services, including, but not limited to, hotels, motels, apartment houses, rooming houses and trailers, renting furnished or unfurnished offices, stores, restaurants, churches, schools and other facilities which hold themselves out to the public as places of business.

*Lot:* Any place, division or parcel of land.

*Person:* Any individual, firm, partnership, association, corporation, company and organization of any kind.

**Subsection 11-1-2. Sewer System Development Charge.****(A) Definition.**

*System development charge:* An equitable and proportionate charge made at the time service is requested to cover the cost of capital improvements for master pumping stations, master force mains, treatment and effluent disposal facilities required to provide service to new connections to the sewer system by new users.

**(B) Applicability.**

- (1) Owners of properties which have been assessed for collection lines serving their property shall pay a system development charge as specified in this section.

- (2) Owners of properties which are served by collection lines installed by developers and dedicated to the city shall pay a system development charge as specified in this section.
- (3) Owners of properties not included in the preceding paragraphs which connect to the system shall pay the system development charge as specified in this section, plus a system connection charge of eighteen dollars (\$18.00) per hundred square feet, or major fractional part thereof, of a given parcel of property, except where an agreement has been made in writing with the city excluding system connection charges, and an inspection fee of twenty dollars (\$20.00) shall be charged upon the issuance of each permit.
- (4) The system development charges set forth in this section shall be paid in full prior to connection.
- (5) An inspection fee of twenty dollars (\$20.00) for each connection shall be paid by each applicant prior to connecting to the city sewer system.

(C) *In general.*

- (1) The city council shall review the system development charge annually to determine that said charge is equitable and proportionate to the current cost for providing new connections to the system for new users.
- (2) Additional living units or other facilities connected to the sewer system will be required to pay service connection charges which are applicable, prior to connecting to the system. For violation of this section, the water service may be cut off.
- (3) Where a developer or property owner is required by the city to install a connection line with a pipe size larger than twelve (12) inches in diameter, the city will reimburse the developer or property owner for the difference between the cost of installation for a twelve (12) inch diameter line and the cost incurred for the larger line required. The developer or property owner is responsible for all cost for lines up to and including twelve (12) inches in diameter which are hereby defined as "collection lines." Lines over twelve (12) inches in diameter are hereby defined as "transmission lines."

(D) *System development charge.* The system development charge shall be as follows:

- (1) Single family residence ..... \$ 900.00
- (2) Multifamily residence; per equivalent unit ..... 900.00
- (3) Business and institutional charge shall be based on the size of the water meter serving the building complex, as follows:

<i>Meter Size</i>	<i>Charge</i>
5/8" — 3/4" .....	\$ 900.00
1" .....	2,250.00
1 1/4" .....	3,600.00

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<i>Meter Size</i>	<i>Charge</i>
1½" .....	\$ 4,500.00
2" .....	9,000.00
3" .....	18,000.00
4" .....	27,000.00
6" .....	90,000.00
8" .....	157,500.00
10" .....	247,500.00
12" .....	427,500.00

In instances where the water meter service is used solely exterior to the building complex, the above charge will not apply.

(E) *Use of funds.* All past and future monies received from the system development charge, plus interest, if any, shall be deposited in the sewer capital reserve fund and a separate accounting shall be kept by the city's finance department for all monies collected under the system development charge set forth in this section. The monies collected shall be used solely for capital improvements for master pumping stations, master force mains, treatment and effluent disposal facilities, and constructing new additions to the city's sewer system required to provide service to new connections to the sewer system by new users. Such funds shall not be used for improving, updating or bringing the present systems into compliance with any change in law brought about by reason of action by any governmental authority. All prior system development charge funds collected under and pursuant to this section, as amended from time to time, shall be used and administered pursuant to this section. Under no circumstances shall any system development funds collected under the terms of this section, as previously amended, be expended for any purpose other than those specified in this section. All system development charges previously collected under such ordinances and this section shall be deemed to be recaptured.

**Subsection 11-1-3. Sewer Service—Rates and Charges.**

(A) *Rate structure.* The rate structure for sewer service is comprised of three (3) distinct elements. Those elements and their definitions are:

- (1) *Billing costs.* This cost is related to the number of customers in the system and is designed to recover the expenses of meter readings, billings, postage, etc.
- (2) *Capacity costs.* This is the cost of having the system in place and prepared to serve the customer. This charge recovers all those capital expenses that are not recovered from separate charges and the debt service to pay the bond issues.
- (3) *Commodity costs.* This is the cost of providing the collection and treatment of sewage such as chemicals, electricity, labor, etc. This cost is variable and depends on consumption.

(B) *Rate schedule.* Rates charged by the city for sewer service furnished to customers inside the city and outside the city limits shall be as follows:

- (1) *Billing costs.* One dollar and thirty-one cents (\$1.31).
- (2) *Capacity costs.* Fourteen dollars and fifty cents (\$14.50) per ERU (equivalent residential unit).

All nonresidential customers will be charged a whole number multiple of an ERU that has been determined by taking the average monthly consumption and dividing by eight thousand (8,000) gallons.

- (3) *Commodity costs.* Each ERU will have a cap of eighteen thousand (18,000) gallons. There will be a charge of one dollar and fifteen cents (\$1.15) per one thousand (1,000) gallons based on seventy-five (75) percent of consumption.

The charges set forth above are on a bimonthly (two-month) basis.

(C) *Annual review and notification.* User charges will be reviewed annually to ensure adequate revenues to cover operations, maintenance and repair costs, and these costs will be proportionately distributed among users. Each user of the rate being charged will receive annual notification of such charge.

(D) *Procedure for relief from inequities.* In instances where the rate is inequitable due to facilities where water used does not go into the sewer system, the aggrieved party or parties may apply in writing to the city manager for relief. The application shall include satisfactory data to substantiate the request. The city manager shall review the application and may make such adjustments as he deems equitable in accordance with the following criteria:

- (1) Consideration for an adjustment will be given in instances where less than fifty (50) percent of the water over a six-month period goes into the sewer system.
- (2) Consideration will not be given where the average bimonthly sewer bill over a twelve-month period is less than the charge would be if based on a fifteen dollar and sixty-seven cent (\$15.67) minimum.
- (3) The adjustment will be based on the amount of water going into the system, as determined by the city manager or his designee. In no case shall the rate be adjusted to an amount which is less than the amount required to adequately compensate the city for the cost of providing the service.

In the event the rates set forth above are insufficient to cover the cost to the city of providing the service, then the city manager, after consultation with and recommendation by the city's consulting engineer, shall make a recommendation to the city council for approval of an adjustment in the rate to adequately compensate the city for the cost of such service.

(E) *Additional living units.* Application shall be made to the water department for addition of any living units connected to the sewer service if the units have not been

included on previous applications. For violation of this section the water service may be cut off.

(F) *Responsibility for payment of charges.* The property owner shall be responsible for all charges for sewer service unless the water department is notified of all tenant changes and new services.

(G) *Billing.* All users shall be billed bimonthly. Bills are due when rendered and delinquent fifteen (15) days thereafter. Water service may be cut off for nonpayment and meter removed fifteen (15) days after cutoff if not paid in full.

**Cross reference**—Sewer and sewage disposal, § 5-6-3.

**Subsection 11-1-4. Water Service.**

(A) *In general.*

- (1) Every separate residence using city water shall be considered a separate service and shall be charged not less than the minimum charge.
- (2) Each parcel of property being used for business purposes shall be considered a separate service and shall be charged not less than the minimum charge.
- (3) Meters shall be placed just within the property line at the nearest point to the tap-in main. If moved at the request of the property owner, a charge of cost plus ten (10) percent shall be made for the expense of moving.

(B) *Deposits prior to service.*

- (1) Application for water service must be made to the utilities department, and the following guarantee of payment deposit shall be required within fifteen (15) days of said application. Failure to make said deposit will result in discontinuance of service.

5/8" x 3/4" service .....	\$ 60.00
3/4" service .....	60.00
1" service .....	60.00
1 1/4" service .....	60.00
1 1/2" service .....	60.00
2" service .....	60.00
3", 4", 6", 8", 10", 12", service .....	100.00
Construction service blanket deposit .....	50.00
Fire hydrant service .....	75.00

- (2) An application for water service shall also be considered as an application for sewer and garbage service when the property is within those areas in which the city provides sewer and garbage service. The deposit shall also cover sewer and

garbage service where applicable and will be applied as described in the following paragraph.

- (3) Deposits shall be refunded upon final reading and discontinuance of service from the city water system, including sewer and garbage services where applicable. The city reserves the right to deduct final billing or any accrued indebtedness from said deposit; and the balance, if any, shall be refunded to the depositor. Each residence or place of business shall be considered a separate service and a deposit shall be required for each separate service.

(C) *Rate structure.* The rate structure for water service is comprised of three (3) distinct elements. Those elements and their definitions are:

- (1) *Billing costs:* This cost is related to the number of customers in the system and is designed to recover the expenses of meter readings, billings, postage, etc.
- (2) *Capacity costs:* This is the cost of having the system in place and prepared to serve the customer. This charge recovers all those capital expenses that are not recovered from separate charges and the debt service to pay the bond issues.
- (3) *Commodity costs:* This is the cost of providing the water, such as chemicals, electricity, labor, etc. This cost is variable and depends on consumption.

(D) *Rate schedule.* The rates charged by the city for water furnished to customers inside the city and outside the city limits shall be as follows:

<i>Meter Size</i>	<i>Billing Cost</i>	<i>Capacity Cost</i>	<i>Commodity Cost \$0.88 per Thousand Gallons over Minimum of</i>
5/8" x 3/4"	\$1.53	\$ 3.05	5,000 gallons
1" & 1 1/4"	1.53	12.20	10,000 gallons
1 1/2"	1.53	30.50	15,000 gallons
2"	1.53	45.75	15,000 gallons
3"	1.53	91.50	27,000 gallons
4"	1.53	122.00	27,000 gallons
6"	1.53	152.00	36,000 gallons

The charges set forth above are on a bimonthly (two-month) basis.

(E) *Billing.*

- (1) Billing shall begin upon registration of water on meter, or within six (6) months from date of application, whichever occurs first.
- (2) The owner of property is responsible for charges for water service to the property, unless the utilities department is notified of all tenant changes and new services. The owner of property must notify the utilities department that the contractor is responsible for water bills while construction is in progress. When a landlord-tenant relationship exists, the utility deposit for a tenant shall be three (3) times that of a property owner or a minimum of one hundred eighty dollars (\$180.00).

All unpaid and delinquent utility bills shall constitute a lien on a single-family, owner occupied residence.

- (3) Bad debts will be taken off the books and the name and amount due filed in a bad debt file. In the event water service is requested in the future, this back debt must be paid before water service will be furnished.
  - (4) Bills are due when rendered and delinquent fifteen (15) days thereafter. Service may be cut off when delinquent for nonpayment of bills.
  - (5) Errors in billing or meter readings should be reported promptly to the utilities department, so as to facilitate immediate correction of such bill.
- (F) *Reinstatement following discontinued service.*
- (1) When service has been cut off or discontinued for nonpayment of current bills, service will be restored upon prompt payment of unpaid bills, plus a service fee of twenty dollars (\$20.00) for reinstatement; provided that full settlement is made within fifteen (15) days from date of discontinuance of such services. Said service fee shall also be payable in the event the city attempts to restore service but is unable to do so due to meter obstruction.
  - (2) If service is discontinued for more than fifteen (15) days, by request or otherwise, the street cock will then be turned off and the meter removed from the premises. Should an applicant at a later date request renewal of service to said premises, service will be restored upon full payment of all bills due for service to the premises at the time of discontinuance and a reinstatement charge of seventy-five dollars (\$75.00). New applicants shall pay seventy-five dollars (\$75.00) to have service restored.

**Subsection 11-1-5. Water Service Connections and Main Extensions Inside and Outside the City Limits.**

(A) *Definitions.* For the purpose of this section, the following words and phrases shall have the meaning respectively ascribed to them as follows:

*Tapping charges:* A set charge to cover cost of meter, material and labor.

*System development charge:* An equitable and proportionate charge made at the time service is requested to cover the cost of capital improvements for raw water supply, transmission mains, ground storage facilities, pumping facilities and treatment facilities required to provide service to new connections to the water system by new users.

*Service connection charge:* An equitable and proportionate charge made at the time water service is requested to cover the cost of distribution lines furnished by the system needed to serve an area. (This charge shall not be applicable where the developer installs the distribution lines at his own expense or where the cost of the distribution lines are paid for by the assessment method.)

*Equivalent unit:* A living accommodation for a single family, whether a single family residence or a residence in a multifamily building.

(B) *Distribution lines.* Connection charges are established as follows:

- (1) Single family residences: Three dollars eighty-seven cents (\$3.87) per front foot. This service connection charge shall provide service to one building (single family residence) on any lot regardless of depth.
- (2) Multifamily, commercial, industrial: Three dollars eighty-seven cents (\$3.87) per front foot of each building lot for a maximum depth of one hundred fifty (150) feet, plus \$0.0155 per square foot thereafter.
- (3) Where a lot is more than one hundred fifty (150) feet in depth, for each additional building constructed beyond the one hundred fifty (150) feet, there shall be an additional service connection charge based on the width and area of the lot on which the building is built, as more fully set forth in subparagraph (B)(2) of this subsection 11-1-5.
- (4) The City of Naples Building Department shall designate size of lot in the event of a dispute as to the size of the lot.

(C) *Transmission mains.* Construction of extensions of transmission mains shall be individually evaluated by the mayor and city council.

(D) *Extensions to the water distribution system.* Extensions to the city's water distribution system shall be paid for by the applicant on the basis of the above-stated connection charges. Should the connection charges received from an extension project be less than the estimated project cost, a contribution for the differences shall be required from the applicant. Said contribution shall be refundable from connection charges received annually for the extension over a period not to exceed three (3) years.

(E) *Applicability.*

- (1) Connection charges and connections are payable prior to construction of the owners.
- (2) Where developers install distribution lines at their own expense, there shall be no connection charge to individual lot owners.
- (3) Where a developer or property owner is required by the city to install a distribution line with a pipe size larger than twelve (12) inches in diameter, the city will reimburse the developer or property owner for the difference between the cost of installation for a twelve-inch diameter line and the cost incurred for the larger line required. The developer or property owner is responsible for all costs for lines up to and including twelve-inch diameter lines which are hereby defined as "distribution lines." Lines over twelve (12) inches in diameter are hereby defined as "transmission lines."

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(F) *Meters.*

- (1) Meter tapping charges shall be as follows:

<i>Meter Size</i>	<i>Meter Tapping Charge</i>
5/8" .....	\$173.00
3/4" .....	188.00
1" .....	243.00
1 1/4" .....	322.00
1 1/2" .....	374.00
2" .....	519.00

- (2) For meters larger than two (2) inches, the tapping charge shall be based on materials and labor costs at the time of installation.
- (3) All necessary meters will be furnished by the city and shall remain the property of the city.
- (4) Meters must be left accessible to city employees at all times.
- (5) When any customer who has a water meter makes application to the water department for the installation of a larger meter to replace his smaller meter, he shall be given credit for the tapping charges paid on the smaller meter in accordance with the above schedule. There shall be no refunds or credits given to any customer requesting a smaller meter and no tapping charge will be assessed against a customer requesting a smaller meter.
- (6) The customer is liable to the city for any damage done to the equipment used in his service, except damage done by city employees.

(G) *Water system development charge.*

- (1) System development charges shall be as follows:

<i>Meter Size</i>	<i>Minimum Equivalent Units per Meter Size</i>	<i>System Development Charge</i>
5/8"	1	\$ 500.00
3/4"	1	500.00
1"	2.5	1,250.00
1 1/4"	4	2,000.00
1 1/2"	5	2,500.00
2"	10	5,000.00
3"	20	10,000.00
4"	30	15,000.00
6"	100	50,000.00
8"	175	87,500.00

<i>Meter Size</i>	<i>Minimum Equivalent Units per Meter Size</i>	<i>System Development Charge</i>
10"	275	\$137,500.00
12"	475	237,500.00

- (2) The rates as set forth in the above table of charges shall apply by minimum equivalent units for single family residences and multifamily residences. Additional equivalent units above those specified will be charged at the rate of three hundred twenty-five dollars (\$325.00) per unit.
- (3) The rates as set forth in the above table shall apply to all business and institutional users.
- (4) The system development charges set forth in this subsection 11-1-5(G) shall be paid in full prior to connection.
- (5) The system development charge for public cul-de-sacs consisting of an area not exceeding one thousand (1,000) square feet shall be one hundred sixty-two dollars and fifty cents (\$162.50).
- (6) All past and future monies received from the system development charge, plus interest, if any, shall be deposited in a water capital reserve fund and a separate accounting shall be kept by the city's finance department for all monies collected under the system development charge set forth in this paragraph. The monies collected shall be used solely for capital improvements for raw water supply facilities, transmission mains, ground storage facilities, new pumping facilities, new treatment facilities, and constructing new additions to the city's water distribution system required to provide service to new connections to the water system by new users. Such funds shall not be used for improving, updating or bringing the present system into compliance with any change in law brought about by reason of action of any governmental authority.
- (7) The city council shall review the system development charge annually to determine that said charge is equitable and proportionate to the current cost for providing new connections to the system for new users.
- (8) Backup systems mandated by state regulations and installed to provide emergency water supplies for hospitals and nursing homes shall be exempt from the charges set forth in this paragraph, if it can be shown that the installation of said emergency facility will not increase the demand on the city's water system.
- (9) All prior system development charge funds collected under and pursuant to this paragraph, as amended from time to time, shall be used and administered pursuant to this paragraph as constituted in this section. Under no circumstances shall any system development funds collected under the terms of any previous ordinance or under the terms of this paragraph, as previously amended, be expended for any purpose other than those specified in this paragraph. All system development charges previously collected under such ordinances and this paragraph shall be deemed to be recaptured.

(H) *Hydrant service.*

- (1) Fire hydrant rentals which are connected to the City of Naples Water System shall be ten dollars (\$10.00) per year per hydrant installed. When water is sold direct from hydrant, the minimum charge shall be ten dollars (\$10.00) per ten thousand (10,000) gallons or less, all above, at one dollar (\$1.00) per thousand (1,000) gallons.
- (2) Charges for fire line or fire sprinkler service in buildings connected to the City of Naples Water System shall be ten dollars (\$10.00) per year.
- (3) Application for fire hydrant installation shall be filed with the customer service department. The applicant shall execute an agreement agreeing to pay all costs for installation of the hydrant. The applicant shall furnish a letter of approval from the appropriate fire department or district approving the location and agreeing to accept ownership and responsibility for maintenance of the hydrant. The hydrant shall be installed in accordance with city specifications. The City of Naples Water System shall be responsible for maintenance of the hydrant valve and shall retain ownership of said valve. The use of water from the hydrant by the fire department or district shall be limited to those uses relating to fire department operations.

**Subsection 11-1-6. Water Reuse System.**

The rates for use of the city's water reuse system shall be as follows: Six cents (\$0.06) per one thousand (1,000) gallons.

**Subsection 11-1-7. Rates, Fees, Charges for Consumers Outside City.**

The rates, fees and charges for consumers of water or sewer services outside the boundaries of the city shall be the same as for consumers inside the municipal boundaries, except that, in addition thereto, a surcharge equal to twenty-five (25) percent of such rates, fees and charges shall be levied upon and paid by the consumers outside the boundaries of the city.

**Subsection 11-1-8. Charges for Garbage and Refuse Pickup.**

(A) *Definitions:* For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

*Garbage:* Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

*Type I refuse:* Garbage, combustible rubbish from households, stores and businesses, such as, but not limited to, paper, rags, boxes, plastics, bedding, excelsior, rubber and leather, and all noncombustible rubbish such as, but not limited to, tin cans, ceramic and glass.

*Type II refuse:* Trash which includes all horticultural trimmings and all accumulations of grass, weeds, palm fronds, leaves, flowers, shrubs, vines, tree limbs and other similar accumulations incidental to yard keeping.

*Type III refuse:* Industrial waste and trash which includes waste, debris, and materials accumulated from the alteration and construction of buildings, residences, apartments, roads, driveways and other structures.

*Garbage can:* A cylindrical gauge steel, plastic or galvanized receptacle closed on one end and open at the other with a tightfitting solid top of a capacity not to exceed thirty (30) gallons.

*Container:* A detachable metal container designed and intended to be mechanically dumped into a packer type garbage truck and varying in size from two (2) cubic yards to eight (8) cubic yards.

*Kitchen facility:* A facility for preparing food containing a sink with running water, a stove or refrigerator, built-in or portable.

(B) *In general:*

- (1) Fees for new occupancies will be fixed on a prorated basis, commencing on the date of issue of certificate of occupancy or evidence of occupancy.
- (2) The fact that any place of abode or any place of business is occupied shall be prima facie evidence that garbage and type I and II refuse is being produced and accumulated upon such premises, and that the fees for the collection and disposal thereof are due the city. It shall be the duty of the city to inspect such premises and remove therefrom any and all garbage and type I refuse found thereon, provided that the required fees have been paid by such resident or occupant, or to notify the property persons if such removal is not the duty of the city.
- (3) Billing and collection: The annual garbage and type I and II refuse fee for each of the premises to which the city supplies water and sewer service shall be billed and collected in the same manner and at the same time as water and sewer service is billed and collected. The annual garbage and type I and II refuse fee for each premise to which the city does not supply water and sewer service shall be billed and collected monthly in advance in accordance with the water department billing cycle and shall be payable by occupant or owner at city hall. Any person, firm or corporation failing for any reason or refusing to pay the charges provided for herein, after having been duly billed for same by the city, shall be deemed guilty of violating the provisions hereof and all garbage and refuse collection services and water service provided by the city to the premises for which the charges are past due and shall be terminated.
- (4) When fee payable: The annual fees prescribed herein are payable in advance for one year, beginning October 1 of each year; however, billing will be on a monthly basis and bills will become delinquent if not fully paid within sixty (60) days after billing date.
- (5) Refuse type III shall be removed by the owner or contractor responsible for such refuse and shall not be included in the collection service furnished by the city.
- (6) The utilities director, with the approval of the city manager, shall have the authority to make regulations concerning the days of collection, number of col-

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lections, location of garbage cans or whenever he deems it advisable, in lieu of garbage cans, to determine the number, sized, and location of containers and such other matters pertaining to the collection, conveyance and disposal as he shall find necessary and to change and modify the same after notice; provided that such regulations are not contrary to the provisions hereof.

- (7) The property owner is responsible for payment of all charges for garbage and refuse collection and disposal service, unless the water department is notified of all tenant charges and new services.

(C) *Schedule of fees for collection and disposal of garbage and refuse Type I.* The following schedule of garbage and refuse type I collection fees is hereby adopted:

- (1) Garbage can rates, minimum rates per year, two (2) pickups per week:
- (a) Single family residence—Ninety seven dollars and fifty-six cents (\$97.56) per year.
  - (b) Multifamily residence—Eighty-four dollars and eighty-four cents (\$84.84) per year.
  - (c) Business or institution: Rooms (in motels, hotels and apartments, no cooking facilities): Ten dollars and sixty-nine cents (\$10.69) per year per room.
  - (d) Other: Businesses or institutions not covered by the above schedule which are using garbage cans shall be charged at the rate of fifty-three dollars and forty-six cents (\$53.46) per year up to two (2) thirty-gallon cans and twenty-three dollars and twenty-six cents (\$23.26) per year for each additional can.
  - (e) Garbage and refuse type I shall be placed in a suitable garbage can at a convenience location for collection and removal by the city or its duly authorized agent or representative. Such garbage can shall be an approved receptacle with cover and shall not exceed thirty-gallon capacity. Such cans shall be kept in good repair at all times and receptacles with leaking bottoms will not be serviced after verbal notice by the utilities director or his agent to replace such receptacles. Service will be resumed when defective receptacle is replaced.
- (2) Container service rates shall be as follows:

(a)

Container size	Pickups Per Week—Monthly Charge				
	2	3	4	5	6
2 cu.yd.	\$ 42.35	\$ 63.54	\$ 84.69	\$105.86	\$127.03
3 cu.yd.	63.52	95.28	127.04	158.80	190.56
4 cu.yd.	84.69	127.03	169.37	211.71	254.05
6 cu.yd.	127.04	190.56	254.08	317.60	381.12
8 cu.yd.	169.39	254.08	338.77	423.46	508.15

- (b) There will be a charge of fifty dollars (\$50.00) for each pickup made in addition to the scheduled pickups if such additional pickup is requested by the owner-operator of the establishment at which the container is located.
- (c) Multiusers:

<i>Container size</i>	<i>Pickups Per Week—Monthly Charge</i>				
	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
1 cu.yd.	\$ 21.18	\$ 31.76	\$ 42.35	\$ 52.93	\$ 63.52

Offices and businesses generating less than eight (8) yards per month and sharing a container with others will be charged a minimum of eight dollars and thirteen cents (\$8.13) per month, plus one dollar and sixty-three cents (\$1.63) per yard for every yard between one yard and eight (8) yards per month.

- (d) Change in level of service; size of containers. The level of service insofar as it relates to the size of container may be changed and the monthly charge therefor not more than two (2) times per twelve-month period and not closer together than a four-month period of time between changes in level of service. Such change shall be effectuated by the owner-operator executing proper forms provided by the city and making payment of a fifty dollar (\$50.00) fee for effectuating such change in size of container; provided, however, that under no circumstances may the level of service and the monthly charge therefor be reduced below the minimum level of service and charge therefor set forth above.
- (e) New accounts. Billing will commence on new services when an occupancy permit is issued or when the sewer service charge begins, whichever is sooner.
- (3) Schedule of fees for collection and disposal of refuse type II: The following schedule of refuse type II collection fees is hereby adopted:
- (a) Single-family residence: Thirty-eight dollars and twenty-eight cents (\$38.28) per year.
- (b) Multi-family residence: Thirty-two dollars and twenty-eight cents (\$32.28) per year per living unit.
- (c) All bagged or bundled refuse type II, which includes horticultural trimmings and all accumulations of grass, weeds, palm fronds, leaves, flowers, shrubs, vines, tree limbs, and other similar accumulations incidental to yard keeping, shall be placed at a convenient location for collection and removal by the city or its duly authorized agent or representative. Bagged horticultural material shall be placed in plastic bags of no less than one and five-tenths (1.5) millimeters thickness. Any single bag shall not exceed thirty (30) pounds and shall be securely tied or sealed. Bundled tree limbs, palm fronds, etc., shall be tied at both ends with total length not to exceed four (4) feet; individual tree limbs shall not exceed four (4) inches in diameter.

- (d) Refuse type II which is not bagged or bundled in accordance with the above, including palm fronds, shrubs, tree limbs and other similar accumulations incidental to yard keeping shall be placed for collection at the curb of street or alley adjacent to the right-of-way in front of the property from which trash is generated. Such trash and horticultural trimmings shall not be placed in front of property belonging to another. No grass clippings, weeds, leaves, flowers shall be placed at curb side whether bagged or not.
- (4) Collier County landfill charges: In addition to the above-stated charges for garbage and refuse, each customer shall be charged an amount that represents their prorated share of fees charged to the city by Collier County for utilization of the Collier County landfill. This charge will be computed each time landfill charges are changed by the county. Said amount shall be added to the amounts specified hereinabove on each customer's bill.

**Section 11-2. Planning Advisory Board Petition Fees.**

Administrative Appeal .....	\$ 250.00
Comprehensive Plan Amendment .....	1,000.00
Conditional Use .....	500.00
Development and/or Annexation Agreement .....	1,000.00
Development of Regional Impact (or substantial deviation thereto) .....	3,000.00
Plus \$30.00 per acre	
Development of Significant Environmental Impact .....	1,000.00
Plus \$30.00 per acre	
General Development and Site Plan Review .....	350.00
Plus \$25.00 per acre	
Nonconformity (expand or change) .....	350.00
Rezone—Regular .....	500.00
Plus \$30.00 per acre	
Rezone to Planned Development (includes site plan review) .....	1,000.00
Plus \$30.00 per acre	
Subdivision—Preliminary .....	350.00
Subdivision—Final plat .....	200.00
Vacation (alley, street, plat) .....	200.00
Variance from terms of zoning requirements .....	350.00

If more than one petition is filed at the same time and for the same property and project, the highest full petition fee and one-half (1/2) the fee for each other petition shall be charged.

**Cross reference—**Planning advisory board, § 3-25.

**Section 11-3. Building Division Fees.**

**Subsection 11-3-1. Building Permit Fees.**

(A) On all buildings, structures, or alterations requiring a building permit, as set forth in Section A103.7 of the Standard Building Code, a fee shall be paid in accordance with the following schedule:

- (1) Where the valuation does not exceed fifty dollars (\$50.00), no fee shall be required unless an inspection is necessary, in which case there shall be a fee of twelve dollars (\$12.00).
- (2) For a valuation over fifty dollars (\$50.00), up to and including five hundred dollars (\$500.00), the fee shall be twelve dollars (\$12.00).
- (3) For a valuation over five hundred dollars (\$500.00), up to and including two thousand dollars (\$2,000.00), the fee shall be twenty dollars (\$20.00).
- (4) For a valuation over two thousand dollars (\$2,000.00), up to and including fifty thousand dollars (\$50,000.00), the fee shall be twenty dollars (\$20.00) for the first two thousand dollars (\$2,000.00), plus seven dollars and fifty cents (\$7.50) for each additional thousand or fraction thereof.
- (5) For a valuation over fifty thousand dollars (\$50,000.00), up to and including one million dollars (\$1,000,000.00), the fee shall be three hundred eighty dollars (\$380.00) for the first fifty thousand dollars (\$50,000.00), plus three dollars and fifty cents (\$3.50) for each additional thousand or fraction thereof.
- (6) For a valuation over one million dollars (\$1,000,000.00), the fee shall be three thousand seven hundred five dollars (\$3,705.00) for the first one million dollars (\$1,000,000.00) plus three dollars (\$3.00) for each additional thousand or fraction thereof.

(B) Moving of building or structure. For the moving of any building or structure, the fee shall be thirty-one dollars and fifty cents (\$31.50).

(C) Demolition of building or structure. For the demolition of any building or structure, the fee shall be thirty-one dollars and fifty cents (\$31.50).

(D) Determination of valuation. The valuation or cost of construction shall be determined by using either the contractor's estimate of the cost of construction or the most recent Building Valuation Data Table as published by the Southern Building Code Congress International, Inc., in its "Southern Building" publication, whichever is greater.

(E) Water management plan review. Any building permit requiring water management review will have an additional fee of sixty-five dollars (\$65.00).

**Cross reference**—Standard building code adopted, § 5-2-1.

**Subsection 11-3-2. Electrical Permit Fees.**

(A) Any person, firm or corporation installing or constructing any electrical wiring or equipment shall be required to obtain a permit therefor and to pay a fee in accordance with the following schedule:

Minimum permit fee:

Commercial .....	\$20.00
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One- and two-family .....	\$10.00
Each electrical outlet .....	0.20
Each outlet controlling window-type air conditioning .....	0.50
Continuous receptacle strip, per outlet .....	0.15
Each service installation:	
200 amps or change service .....	10.00
Each 100 amps, over 200 amps .....	2.00
Temporary pole for construction use only .....	10.00
Motors:	
Not over 1 hp .....	0.50
Over 1 hp but not over 3 hp .....	1.50
Over 3 hp but not over 5 hp .....	2.00
Over 5 hp but not over 10 hp .....	3.00
Over 10 hp .....	4.00
25 hp .....	5.00
50 hp .....	6.00
75 hp .....	8.00
Over 75 hp .....	10.00
Generator per kw .....	0.10
Sign outlet .....	5.00
Each heating appliance:	
Up to 1 kw .....	1.00
Over 1 but not over 5 kw .....	2.00
Over 5 but not over 10 kw .....	3.00
Over 10 but not over 15 kw .....	4.00
Over 15 but not over 25 kw .....	5.00
Over 25 kw .....	6.00
Water heater .....	1.00
Dryer .....	1.00
Dishwasher .....	1.00

Disposal .....	\$ 1.00
Electric range .....	2.00
Cooktop .....	2.00
Built-in oven .....	1.00
X-ray .....	2.00
Oil burner units .....	2.00
Exhaust fan:	
Under 1/4 hp .....	0.20
1/4 to 1 hp .....	1.00
Each temporary panel .....	1.00
Washers (clothes) .....	1.00
Dimmer switch .....	1.00
Garage door operator .....	1.00
A/C compressor, each ton .....	2.00
Air handler .....	1.00
Pool pump .....	2.00
Pool light .....	2.00
Heat lamp .....	1.00
Pool steel grounding .....	5.00
Time switch .....	1.00
Power transformer used in buildings changing from higher voltage to 110:	
For each 1p kva or fraction thereof .....	1.00
Electric elevator .....	10.00

(B) Additional inspection trips. When additional inspection trips are necessary due to any of the following reasons, a charge of five dollars (\$5.00) shall be made for each trip:

- (1) Wrong address.
- (2) Inspection of previously rejected installation.
- (3) Additional work done after inspection.
- (4) Work not ready for inspection when called.

**Cross reference**—National Electrical Code adopted, § 5-2-4.

**Subsection 11-3-3. Plumbing Permit Fees.**

Any person, firm or corporation installing any plumbing fixtures, appliances or equipment shall be required to obtain a permit therefor and to pay a fee in accordance with the following schedule:

Minimum permit fee .....	\$10.00
Water closets, each .....	2.50
Bathtubs, each .....	2.50
Showers, each .....	2.50
Sinks, each .....	2.50
Laundry trays, each .....	2.50
Lavatories, each .....	2.50
Service sinks, each .....	2.50
Drinking fountains, each .....	2.50
Wash sinks, each .....	2.50
Urinals, each .....	2.50
Floor drains, each .....	2.50
Area drains, each .....	2.50
Roof drains, each .....	2.50
Water heaters, each .....	2.50
Dishwashers, each .....	2.50
Disposals, each .....	2.50
Washing machines, each .....	2.50
Bar sinks, each .....	2.50
Ice makers, each .....	2.50
Bidets, each .....	2.50
Sump pumps, each .....	2.50
Water softeners, each .....	2.50
Grease traps, each .....	5.00
Gas outlets, each .....	1.50
Installation or alteration of water piping and/or treatment equipment, minimum .....	5.00
Alteration of drainage or vent piping, minimum .....	5.00

Underground gas, gasoline, or fuel oil tank, each .....	\$ 5.00
Lawn sprinkling system connected to city water, each .....	5.00
Sewer tap inspection, each .....	5.00
Vacuum breaker, each .....	2.50
A/C units connected to sewer, each .....	2.50
Inspection fees for plumbing installations not specifically named above, per hour .....	6.25

**Cross reference**—Standard plumbing code adopted, § 5-2-3.

**Subsection 11-3-4. Mechanical Permit Fees.**

(A) *New H.A.R.V. systems.*

New H.A.R.V. systems.....\$3.00 per ton

(B) *Modifications to existing H.A.R.V. and solar heating systems.*

First \$500.00 .....	\$5.00
Up to \$1,000.00 .....	\$2.00 more (\$7.00)
Every \$1,000.00 or fraction thereof .....	\$2.00 additional

**Cross reference**—Standard mechanical code adopted, § 5-2-2.

**Subsection 11-3-5. Antenna Permit Fees.**

No permit for the installation, construction, or alteration of any mast, tower, antenna or related structure shall be issued until a fee of fifteen dollars (\$15.00) shall be paid to the city. Any person commencing work on any such structure before obtaining the necessary permit from the city shall be subject to the fine and imprisonment as provided in section 1-8 of the Code of Ordinances.

**Cross reference**—Supplemental standards regarding satellite/antenna, § 9-1-16.

**Subsection 11-3-6. Well Permit Fees.**

Any person applying for a permit to dig or drill a well or sand point well shall, before receiving such permit, pay the following fee to the city:

\$3.00 for a 2" well.

\$4.00 for a 3" well.

\$4.00 for all wells over 3".

**Cross reference**—Wells, § 5-8.

**Subsection 11-3-7. Driveway Permit Fee.**

The fee for obtaining a permit for construction of driveways, drainage ditches, curbs, gutters, sidewalks and other construction within the city right-of-way shall be twenty dollars (\$20.00). Permits may be obtained from the community development department.

**Cross reference**—Driveways, § 8-4.

**Subsection 11-3-8. Radon Surcharge.**

Pursuant to Chapter 10D-91, Florida Administrative Code, a surcharge of one cent (\$0.01) per square foot shall be assessed on new construction and on additions, alterations, or renovations to existing buildings for which a municipality normally issues building permits. For new construction, the surcharge shall be computed on the under-roof floor area. For additions, the surcharge shall be computed on the under-roof floor space being added. For alterations or renovations, the surcharge shall be computed on the changed under-roof floor space. For the purposes of this subsection, "under-roof floor space" shall mean the gross constructed floor area covered by a roof that provides shelter, plus any area adjacent to but outside of the enclosing walls that has a constructed floor and is covered by a sheltering roof contiguous with the building. This shall include the gross floor area of each floor of a multiple story building. Walkways are not included in this definition.

**Subsection 11-3-9. Impact Fees Imposed by Collier County.**

As authorized by Resolution 89-5721, effective January 18, 1989, the City of Naples has signed an interlocal agreement with Collier County for the collection within the city limits of the impact fees imposed by Collier County. For each residential dwelling unit, the charge is one hundred twenty-eight dollars (\$128.00) for regional parks and one hundred seventy-nine dollars (\$179.00) for library system impact fees. These fees are paid to the city at the time of building permit issuance and remitted to the county per the interlocal agreement.

**Subsection 11-3-10. Miscellaneous Building Division Fees.**

Temporary use permit application fee (A separate fee shall be charged for each initial application and for each request for an extension of time.)	\$25.00
Garage sale permits .....	No fee

**Subsection 11-3-11. Contractor Licensing Fees.**

The following fees shall be paid upon submittal of a competency card application, upon the issuance of the initial competency card and annually on the first day of October for renewal of a certificate of competency:

Each competency card application.....	\$10.00
Initial competency card and each annual renewal:	
Major trades .....	\$75.00
Specialty trades .....	50.00
Journeyman.....	15.00

Where a certificate of competency has been revoked or has expired for any reason, the board may require complete reexamination before a certificate of competency may be renewed or reinstated.

**Cross references**—Contractor licensing, § 3-51 et seq.; fees for competency cards, § 3-55.

**Subsection 11-3-12. Penalty for Commencing Work Before Obtaining Permit.**

If any person commences any work on a building or structure before obtaining the necessary permit, he shall be subject to a penalty of quadruple the permit fees.

(Ord. No. 90-6098, § 1, 4-18-90)

**Editor's note**—Ord. No. 90-6098, § 1, adopted April 18, 1990, amended Art. XI, § 11-3, by the addition of provisions which have been designated at the discretion of the editor as § 11-3-12.

**Section 11-4. Natural Resources Fees.**

**Subsection 11-4-1. Variances from the State's Coastal Construction Control Line.**

All administrative and advertising costs pertaining to such petitions shall be borne by the petitioner.

**Subsection 11-4-2. Permit for Construction Activities Seaward of the Coastal Construction Control Line.**

(A) The following classes or types of construction activities seaward of the coastal construction setback line do not require a variance from the city council, but they must receive a permit in accordance with prescribed procedures from the city manager or his designee.

- (1) Dune nourishment, dune restoration or construction, including revegetation, provided less than one hundred (100) cubic yards of sand/sediment will be required to affect the nourishment, construction or restoration.
- (2) Landscaping and beach or dune stabilization projects, provided that less than one hundred (100) cubic yards of sand/sediment will be excavated and/or relocated on the site.
- (3) Limited grading not to exceed one (1) vertical foot from existing average grade elevation, and the removal and relocation of windblown sediment.
- (4) Beach vehicular ramp maintenance.
- (5) Beach cleaning operations.
- (6) Removal of any rigid structure or loose debris not to include the permanent removal of beach and dune sediment.
- (7) Placement of temporary sandbag structures.
- (8) Emergency construction for the protection of existing upland structure in danger of collapse from anticipated high frequency storm conditions or where a structure is undergoing progressive structural failure.
- (9) Oil spill clean-up operations.

- (10) Construction, maintenance or repair of shore-normal, wooden, elevated beach/dune walkover structures meeting Florida Department of Natural Resources standards, but not including viewing decks.
- (11) Construction or repair of beach access stairs meeting Florida Department of Natural Resources standards.
- (12) Installation of sand fencing.
- (13) Temporary excavation for installation or repair of subgrade utilities including water, sewer, electrical and gas lines.
- (14) Placement of sand filled material and planting of vegetation for the repair of small isolated dunes, to include the filling of blow-outs and other low areas of the beach/dune system.
- (15) Placement of sand fill material and sand retention geotextiles immediately landward of existing rigid coastal protection structures.
- (16) Routine maintenance or repair of stormwater discharge lines.
- (17) Removal of collected windblown sand provided that it is spread evenly on the beach or formed into a dune configuration.
- (18) Installation of security fencing around a swimming pool, provided it will create no adverse impacts and will not impede public pedestrian movement, as elaborated in Chapter 3 of this code.

(B) Fee. The permit fee for such activities is seventy-five dollars (\$75.00).

**Subsection 11-4-3. Fees for Obtaining Permits for Dredge and Fill and Other Coastal Construction.**

No dredging or filling shall be performed in, upon or contiguous to any inland water area of the City of Naples until approval of such work has been obtained in accordance with the procedures and requirements set forth in Chapter 10 of this code. Each application for approval shall be accompanied by payment of a seventy-five dollar (\$75.00) fee.

**Section 11-5. Fees for Board of Appeals.**

Notice of appeal for flood elevations, decisions of the building and zoning administrator, and Standard Building Code shall be filed by the applicant on a form provided by the building and zoning division and shall be accompanied by a fee of seventy dollars (\$70.00).

**Cross reference**—Board of appeals, § 3-21.

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This table contains legislation which amends the Comprehensive Development Code as adopted by Ordinance No. 89-5981, on November 1, 1989.

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89-6003	12- 6-89	1	3-85-5
89-6004	12- 6-89	1	10-3-2(C)(19)
90-6084	3-21-90	1	10-3-2(C)(20)
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