COUNCILMEMBER JEFFERS

02/18/05
02/28/05
05/27/05
06/17/05
08/31/05
09/06/05
11/14/05

ORDINANCE 91 - 05

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE II, DISTRICT REGULATIONS, SECTION 2.1, ESTABLISHMENT OF ZONING DISTRICTS, TO ESTABLISH THE DOWNTOWN CORE DISTRICT, DOWNTOWN GATEWAY DISTRICT, AND DOWNTOWN EDGE DISTRICT; BY AMENDING SECTION 2.6, NON-CONFORMITIES, TO ESTABLISH SUBSECTION .5, NON-CONFORMITIES IN THE DOWNTOWN ZONING DISTRICTS AND MAKE REFERENCE TO REGULATIONS IN SUBSECTION .5 WHEN DEALING WITH REQUIREMENTS FOR NON-CONFORMING STRUCTURES, NON-CONFORMING USES, AND NON-CONFORMING SITE EXCLUDING BUILDINGS; BY AMENDING SECTION 2.7, DISTRICT REGULATIONS, TO ESTABLISH SUBSECTION .15, DOWNTOWN CORE DISTRICT (DC) REGULATIONS, TO ESTABLISH SUBSECTION .16, DOWNTOWN GATEWAY DISTRICT (DG) REGULATIONS, AND TO ESTABLISH SUBSECTION .17, DOWNTOWN EDGE DISTRICT (DE) REGULATIONS; BY AMENDING ARTICLE III, SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 3.2, TEMPORARY USES, SUBSECTION .3, TEMPORARY STORAGE CONTAINERS, TO PROVIDE REGULATION OF TEMPORARY STORAGE CONTAINERS IN THE DOWNTOWN ZONING DISTRICTS; BY AMENDING ARTICLE III, SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 3.3, SPECIFIC USE REGULATIONS, SUBSECTION .2, MULTI-FAMILY RESIDENTIAL, TO PROVIDE THAT CONJOINED RESIDENTIAL STRUCTURES AND DUPLEXES ARE SUBJECT TO STATED REQUIREMENTS, AND TO AMEND PROVISIONS PERTAINING TO DISTANCE BETWEEN BUILDINGS FOR THE DOWNTOWN ZONING DISTRICTS; BY AMENDING SECTION 3.4, OUTDOOR DISPLAY OF MERCHANDISE; TEMPORARY OFF-SITE VEHICLE SALES: SEASONAL FUNDRAISING EVENTS, SUBSECTION .1, TO PROVIDE SPECIFIC REGULATIONS FOR THE OUTDOOR DISPLAY OF MERCHANDISE IN THE DOWNTOWN ZONING DISTRICTS; BY AMENDING SECTION 3.8, GENERAL REGULATIONS FOR LOTS AND YARDS, TO PROVIDE SPECIFIC REGULATIONS FOR CORNER LOTS IN THE DOWNTOWN ZONING DISTRICTS; BY AMENDING SECTION 3.17, SIDEWALKS AND ALLEYS, SUBSECTION .1, COMMERCIAL AND PROFESSIONAL, TO ADD DOWNTOWN ZONING DISTRICTS AS APPLICABLE TO THE REGULATIONS FOR SIDEWALKS AND ALLEYS; BY AMENDING SECTION 3.24, CITY-OWNED RIGHT-OF-WAY, TO INCLUDE DOWNTOWN ZONING DISTRICTS IN THE REGULATIONS REQUIRING OBTAINING PERMITS FOR CURB, GUTTER, SIDEWALK, SOD AND PAVING IN CITY-OWNED RIGHT-OF-WAY AREAS, AND TO ESTABLISH REGULATIONS FOR UTILITIES, INCLUDING TELEPHONE, ELECTRICITY, AND CABLE, TO PROVIDE THAT WIRES BE PLACE UNDERGROUND AT NEW BUILDINGS, AND OTHERWISE PROVIDING FOR PLACEMENT OF UTILITIES WHEN NOT UNDERGROUND; BY AMENDING ARTICLE IV, LAND DEVELOPMENT REGULATIONS, SECTION 4.1, SUBDIVISION REGULATIONS, TO DELETE THE CURRENT SECTION AND REPLACE WITH GENERAL INFORMATION ON THE PURPOSE AND INTENT, ALONG WITH A GENERAL DESCRIPTION OF THE FOUR LAND DEVELOPMENT PROCESSES; AMENDING SECTION 4.2, PLANNED DEVELOPMENT PROJECT PROCEDURE, SUBSECTION .5, PROCEDURES, SUB-SUBSECTION I. SUBDIVISION OF LAND, TO ADD THE PROVISION THAT ALLEYS BE PROVIDED IN RESIDENTIAL BLOCKS IN THE DOWNTOWN ZONING DISTRICTS; AMENDING SECTION 4.4, SITE PLAN REVIEW PROCEDURE, TO PROVIDE THAT ALL SITE PLANS BE REVIEWED RATHER THAN THOSE ONE ACRE OR MORE, TO EXEMPT THE THREE DOWNTOWN ZONING DISTRICTS FROM THE RECREATION SPACE FOR RESIDENTIAL PROPERTY REQUIREMENT, TO ESTABLISH REGULATIONS FOR STORMWATER RETENTION LOCATED WITHIN THE DOWNTOWN CRA, AND TO PROVIDE THAT THE EXECUTIVE DIRECTOR OF THE DOWNTOWN CRA REVIEW ALL SITE PLAN APPLICATIONS IN THAT AREA; BY

AMENDING ARTICLE V, SUPPLEMENTARY DEVELOPMENT REGULATION, SECTION 5.1, SUBSECTION .1, TO ADD AN ADDITIONAL PURPOSE AND INTENT FOR THE DOWNTOWN ZONING DISTRICTS; BY AMENDING SECTION .7, TABLE OF PARKING STANDARDS, TO REFER TO THE PARKING SPACE REGULATIONS FOR THE DOWNTOWN ZONING DISTRICTS; BY ESTABLISHING SECTION .8, DOWNTOWN ZONING DISTRICTS, TO PROVIDE OFF-STREET PARKING REGULATIONS IN THE DOWNTOWN ZONING DISTRICTS; BY AMENDING ARTICLE VI, FLOOD DAMAGE PREVENTION, SECTION 6.2, DEFINITIONS, TO ADD DEFINITIONS OF "FLOOD-PROOFING" AND "MARKET VALUE"; BY AMENDING SECTION 6.5, PROVISIONS FOR FLOOD HAZARD REDUCTION, SUBSECTION B., SPECIFIC STANDARDS, TO PROVIDE REGULATIONS FOR DRY FLOOD-PROOFING IN THE DOWNTOWN DISTRICTS, TO REVISE LIST OF ITEMS PERMITTED BELOW BASE FLOOD ELEVATION, AND TO DELETE SIZE PROVISION FOR MANUFACTURED HOME PARKS STANDARDS; BY AMENDING ARTICLE VII, SIGNS, SECTION 7.4, DEFINITIONS, TO ADD DEFINITIONS OF "MENU BOARD", AND "MENU DISPLAY BOX"; BY AMENDING SECTION 7.6, PROHIBITED SIGNS, TO PROVIDE THAT INFLATABLE OBJECTS AND ADDITIONAL TYPES OF SIGNS ARE ALLOWED IN THE DOWNTOWN ZONING DISTRICTS AS SPECIFIED IN THE DOWNTOWN DISTRICT REGULATIONS; BY AMENDING SECTION 7.7, EXEMPT SIGNS, TO ADD MENU DISPLAY BOX AS ALLOWED WITHOUT A PERMIT IN PEDESTRIAN COMMERCIAL (C-1), THOROUGHFARE COMMERCIAL (C-3), PROFESSIONAL OFFICE (P-1), INDUSTRIAL (I-1), AGRICULTURAL (A), AND WORSHIP (W) ZONING DISTRICTS, AND TO ESTABLISH A LIST OF SIGNS ALLOWED WITHOUT A PERMIT IN THE DOWNTOWN ZONING DISTRICTS; BY AMENDING SECTION 7.8, SIGNS WHICH REQUIRE PERMITS, TO REFERENCE THE RESTRICTIONS AND STANDARDS IN THE DOWNTOWN ZONING DISTRICT REGULATIONS FOR FREESTANDING SIGNS, MARQUEE SIGNS, WALL SIGNS, INFLATABLE OBJECTS, FASCIA SIGNS, AND AWNING SIGNS, WITH REFERENCE TO STANDARDS FOR THE DOWNTOWN ZONING DISTRICTS; BY AMENDING SECTION 7.9, REQUIREMENTS APPLICABLE TO ALL SIGNS, TO PROVIDE THAT LIGHTED SIGNS ALSO COMPLY WITH REGULATIONS FOR THE DOWNTOWN ZONING DISTRICTS; BY AMENDING SECTION 7.12, NONCONFORMING EXISTING SIGNS, TO ESTABLISH REGULATIONS FOR NONCONFORMING EXISTING SIGNS IN THE DOWNTOWN ZONING DISTRICTS; BY AMENDING ARTICLE VIII, ADMINISTRATION, SECTION 8.7, AMENDMENTS, SUBSECTION .6, AMENDMENT PROCEDURES, TO PROVIDE THAT THE EXECUTIVE DIRECTOR OF THE DOWNTOWN COMMUNITY REDEVELOPMENT AGENCY REVIEW APPLICATIONS AND PROVIDE RECOMMENDATIONS FOR AMENDMENTS THAT PERTAIN TO THE DOWNTOWN CRA; BY AMENDING ARTICLE VIII, ADMINISTRATION, SECTION 8.8, SPECIAL EXCEPTIONS, SUBSECTION .6, PROCEDURES, TO PROVIDE THAT THE EXECUTIVE DIRECTOR OF THE DOWNTOWN COMMUNITY REDEVELOPMENT AGENCY REVIEW APPLICATIONS AND PROVIDE RECOMMENDATIONS FOR SPECIAL EXCEPTIONS THAT PERTAIN TO THE DOWNTOWN CRA; BY AMENDING ARTICLE XI, DEFINITIONS, TO AMEND THE DEFINITIONS OF DWELLING UNIT, TYPES, AND STREET; TO ADD DEFINITIONS OF BALCONY, BUILDING FRONTAGE, BUILD-TO ZONE, CIVIC BUILDING, COLONNADE, CORNICE, COURTYARD, CUPOLA, DOWNTOWN COMMUNITY REDEVELOPMENT PLAN, EXPRESSION LINE, FAÇADE, LINER BUILDING, PARKING STRUCTURE, PLAZA, PORCH, STOOP, AND STORY; AND TO ADD CROSS-REFERENCES TO DUPLEX, MULTIPLE FAMILY (MULTI-FAMILY), AND SINGLE-FAMILY RESIDENCE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. Article II, District Regulations, Section 2.1, Establishment of Zoning Districts, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 2.1 Establishment of Zoning Districts

The City of Cape Coral, Florida is divided into the following zoning districts as shown on the Zoning District Map, Cape Coral, Florida:

• • •

.9 Downtown Districts

DC-Downtown Core District. This district promotes redevelopment of the traditional commercial center of Cape Coral into a more compact and walkable form. Existing commercial and professional buildings will be supplemented with entertainment activities and a wide diversity of housing types to create a vibrant work/live/shop/play district that serves the entire city and region.

DG-Downtown Gateway District. This district promotes redevelopment of the easterly and part of the westerly entrance to the Downtown Community Redevelopment Area where a higher percentage of uses are expected to be water-oriented residential and entertainment uses.

DE-Downtown Edge District. This district promotes redevelopment of the outer portions of the Downtown Community Redevelopment Area into a more compact and walkable form. Existing commercial and professional buildings will be supplemented with entertainment activities and a wide diversity of housing types to create a work/live/shop/play district that enhances and respects the surrounding residential zones.

SECTION 2. Article II, District Regulations, Section 2.6, Non-Conformities, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 2.6 Non-Conformities.

.1 Generally.

All improvements constructed within the Cape Coral City limits prior to January 1, 1975, and which do not conform to the land use and development regulations of the City of Cape Coral as codified in the Cape Coral City Code and this Ordinance, and all improvements constructed within the City of Cape Coral prior to February 13, 1990 which do not conform to the Cape Coral Comprehensive Plan, are hereby declared to be non-conforming improvements. Such non-conforming improvements are hereby declared to be lawful and shall not be required to be altered to conform with such regulations as adopted by the City of Cape Coral, provided, however, that such uses are restricted and subject to the following requirements.

.2 Non-Conforming Structures.

Subject to the following regulations, any structure which lawfully existed prior to January 1, 1975, and which does not conform with all provisions of this Ordinance, or any structure which lawfully existed prior to February 13, 1990, which does not conform to the Cape Coral Comprehensive Plan:

a. Shall not be enlarged, or replaced except in conformance with this Ordinance;

b. May not be repaired or altered which constitute more than 50% of the structure's and site improvement's fair market value, excluding land value; and,

c. If damaged more than 50% of its (structure and site improvements) fair market value excluding land value shall not be restored except in conformance with this Ordinance.

d. See also Section 2.6.5 regarding the Downtown zoning districts.

.3 Non-Conforming Uses

Subject to the following regulations, any use which lawfully existed prior to January 1, 1975, or any use which lawfully existed prior to February 13, 1990, which does not conform to the Cape Coral Comprehensive Plan and which does not conform with all provisions of this Ordinance:

a. Shall not be expanded or extended beyond the scope and area of its operation on the effective date of this Ordinance or amendment thereto.

b. Shall not be changed to another non-conforming use.

c. May be changed to a conforming use.

d. May not, after being discontinued in use for a period of one year or more, be reestablished unless in conformance with all requirements of this Ordinance.

e. See also Section 2.6.5 regarding the Downtown zoning districts.

.4 Non-Conforming Site Excluding Buildings

Subject to the following regulations, any site which lawfully existed prior to February 13, 1990 and does not conform with all provisions of this Ordinance:

a. May not make repairs or alterations which constitute more than fifty percent (50%) of the site's (structure and site improvements), fair market value, excluding land value, except in conformance with this ordinance;

b. If repairs or alterations constitute more than fifty percent (50%) of the site's (structure and site improvements), fair market value, excluding land value, the entire site shall be brought into conformance with this Ordinance; and

c. If the site is enlarged, through acquisition, trade, or lease, the entire site shall be brought into conformance with this Ordinance.

d. See also Section 2.6.5 regarding the Downtown zoning districts.

.5 Non-Conformities in the Downtown Zoning Districts

To implement the Downtown Community Redevelopment Plan, the City of Cape Coral created the Downtown Core, Downtown Gateway, and Downtown Edge zoning districts and made other modifications to this code. Any structure, use, or site in one of the three Downtown zoning districts which lawfully existed prior to the creation of the aforesaid zoning districts and does not conform with the new provisions for such zoning districts shall be deemed to be non-conforming and shall not be required to be altered to conform with these regulations. Such nonconforming structures, uses, or sites can be repaired, altered, enlarged, or replaced in accordance with the relevant requirements of Sections 2.6.2, 2.6.3, and 2.6.4 above, except that the one-year period in 2.6.3 shall be changed to six months.

SECTION 3. Article II, District Regulations, Section 2.7, District Regulations, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

• • •

.15 DC-Downtown Core District

A. Purpose and Intent:

The purpose and intent of the Downtown Core district is designed to promote redevelopment of the traditional commercial center of Cape Coral into a more compact and walkable form. Existing commercial and professional buildings will be supplemented with entertainment activities and a wide diversity of housing types to

create a vibrant work/live/shop/play district that will serve the entire city and region.

B. Permitted Uses:

1. Animal Kennel (indoors only)
2. Assisted Living Facility
3. Automatic Teller Machine (ATM)
4. Automotive Parking Establishment
5. Banks & Financial Establishments - Groups I and II
6. Bed and Breakfast Establishment
7. Boat Parts Store
8. Business Offices - Groups I and II
9. Carryout/Delivery Food Service Establishment
10. Cleaning/Maintenance Services
11. Clothing Store – General
12. Clubs: Fraternal and Membership Organizations
13. Contractors and Builders - Group I
14. Cultural Facilities - Public/Private
15. Day Care Center, Adult
16. Department Store
17. Drug Store
18. Dwellings, Conjoined Residential Structure (shall contain at least three units)
19. Dwellings, Multiple Family (Multi-Family)
20. Essential Services
21. Family Day Care Home
22. Florist Shop
23. Food Stores - Group I
24. Government Uses - Groups I and II
25. Hardware Store
26. Health Care Facilities - Groups I, II and III
27. Hobby, Toy, Game Shops
28. Home Occupations
29. Hospice
30. Hotel/Motel and Resort
31. Household/Office Furnishings - Groups I and II
32. Insurance Company
33. Medical Office
34. Mortgage Broker
35. Motion Picture Theatre
36. Newsstand
37. Non-Store Retailers - Groups I, II, III and IV
38. Package Store
39. Parks - Groups I, II
40. Personal Services - Groups I, II, III and IV
41. Pet Services
42. Pet Shop
43. Pharmacy
44. Photo Finishing Labs
45. Places of Worship
46. Printing Services Establishment
47. Private Park
48. Recreation/Commercial - Groups I and III
49. Religious Facility
50. Rental Establishments - Groups I and II
51. Repair Shops - Groups I and II
52. Research, Development and Testing Labs - Groups II, III and V
53. Restaurants - Groups I, II and III (fast-food restaurants require a Special Exception)
54. Schools – Commercial
55. Schools - Nonprofit, Private, Parochial and Public - Group II

56. Social Services - Group I
57. Specialty Retail Shops - Groups I, II and III
58. Studio
59. Used Merchandise Stores - Groups I and II
60. Variety Store
61. Veterinary/Animal Clinics

C. Special Exceptions:

1. Child Care Facility
2. Bar or Cocktail Lounge
3. Essential Service Facilities – Group I
4. Landscaping Services Establishment
5. Mortuary and Funeral Home
6. Nightclub
7. Radio and Television Stations
8. Repair Shops - Group III
9. Restaurant - Group IV
10. Social Services Group II

D. Special Regulations:

The following are special regulations for the Downtown Core district:

1. Building Placement: Building placement shall be in accordance with the following standards.

   a. Build-to zone: The build-to zone shall be seven (7) to seventeen (17) feet from all property lines that abut streets. Building floors above the first story may be stepped back behind the build-to zone. The first story of a building shall be located in the build-to-zone, except as follows:

   b. Minimum building setbacks shall be as follows:

      (1) On properties that abut a navigable waterway, the building(s) shall be set back a minimum of twenty (20) feet from the navigable waterway.

      (2) On properties that abut an alley, the building(s) shall be set back a minimum of twenty (20) feet from the centerline of the platted alley.

      (3) On properties having a side yard that abuts another property line, the building(s) shall be set back either:

         (a) A minimum of ten (10) feet from the side yard property line; or

         (b) Abut the side yard property line with no setback.

      (4) On properties having a rear yard abutting another property line, the building(s) shall be set back a minimum of ten (10) feet from the property line.

   c. A portion of the first story may be set back beyond the established build-to zone if the space that is set back from the build-to zone is utilized as a courtyard as follows:

      (1) If the courtyard is open to the sidewalk and either unroofed or, if roofed, the roof is at least two (2) stories above ground level, up to 35% of the first story may be set back from the build-to zone.

(2) If the courtyard is open to the sidewalk with a roof that is not more than one (1) story above ground level, up to 65% of the first story may be set back from the build-to zone.

d. On lots at the corner of two (2) streets or at the corner of a street and an alley, visibility triangles shall be maintained in accordance with Section 3.7.

e. Exceptions from build-to zones are permitted to protect non-exotic existing trees with diameters greater than eight (8) inches as measured four feet up from ground level. The build-to-zone shall only be modified to the extent necessary to protect the tree(s).

f. Building frontage: Building frontage shall adhere to the following standards:

(1) For properties that do not abut a navigable waterway, the first story of the building's frontage shall be at least seventy-five (75%) of the lot's width as measured along the front property line. The second story of the building's frontage shall be at least fifty (50%) of the lot's width as measured along the front property line. For adjoining lots that are being developed simultaneously as one (1) site with one (1) or more buildings, this percentage applies to the combination of lots and building frontages.

(2) For properties that abut a navigable waterway, the first three (3) stories of the building's frontage shall not exceed more than 70% of the lot's width as measured along the front property line. The first and second stories of the building's frontage shall be at least fifty percent (50%) of the lot's width as measured along the front property line. The foregoing restriction shall not apply to any portion of the building's frontage that is higher than three (3) stories though the building shall maintain all minimum yards/setbacks. For adjoining lots that are being developed simultaneously as one (1) site with one (1) or more buildings, the foregoing restriction applies to the combination of lots and buildings.

g. Building fronts:

(1) Building fronts shall face the public street.

(2) Properties located on the perimeter of public squares, public plazas or city owned parking lots with building façades facing the public squares, public plazas or city owned parking lots, even if separated by a platted alley, shall have two façade fronts; one that faces the street and one that faces the public square, public plaza or city owned parking lot. Both façade fronts shall meet the transparency requirements and all applicable regulations herein pertaining to building frontage and façade requirements.

2. Building height: Maximum building heights are based on a maximum height and a maximum number of stories. For purposes of this Section, stories used exclusively for parking vehicles count the same as habitable stories. Except as otherwise provided herein for large-footprint buildings, all buildings shall comply with the following:

a. Maximum Height: six (6) stories, with a maximum total height of eighty-five (85) feet.

b. Minimum Height: two (2) stories with a minimum total height of twenty (20) feet. For buildings with frontage along Cape Coral Parkway (including corner buildings with Cape Coral Parkway frontage), the façade along Cape Coral Parkway shall be a minimum of thirty-five (35) feet in height and shall have the appearance of a three (3) story building.

c. The height of the first story shall be a minimum of eight (8) feet and a maximum of sixteen (16) feet. For non-residential or compound use buildings, the floor of the first story shall not be located any higher than three (3) feet above grade. For residential buildings, the floor of the first story shall not be located any higher than six (6) feet above grade. Any area under the floor of the first story shall not be counted as a story and shall not be habitable, and shall be enclosed by walls.

d. Where upper floors are partially omitted to create an atrium or other taller space, the number of stories shall be determined by the portion of the building where the upper floors have not been omitted.

3. Large-Footprint Buildings. Buildings covering more than 25,000 square feet of ground and/or with a building frontage of greater than one hundred and fifty (150) feet shall comply with all requirements of the Downtown Core district except as follows:

a. When surrounded by liner buildings at least twenty (20) feet in height (thirty-five (35) feet in height for corner buildings with frontage on Cape Coral Parkway), large-footprint buildings may be one (1) story in height and are exempt from the façade transparency requirements of Section 2.7.15.G.4. All liner buildings shall meet the façade transparency requirements of Section 2.7.15.G.4. When not surrounded by liner buildings, all large-footprint buildings shall be at least twenty (20) feet in height (thirty-five (35) feet in height for corner buildings with frontage on Cape Coral Parkway), shall have appearance of a three (3) story building with frontage on Cape Coral Parkway, and shall meet the façade transparency requirements in Section 2.7.15.G.4. That portion of a large-footprint building that exceeds the height of a liner building, shall comply with the aforesaid façade transparency requirements and shall have the appearance of a story.

(1) First floor space shall be located at ground level.

(2) Habitable space on the first floor shall adhere to liner building criteria as provided for parking structures.

b. Building façades shall not be separated from public streets by parking lots.

c. Loading docks, service areas, and trash disposal facilities shall be concealed from persons standing on public streets, sidewalks, parks, or plazas adjacent to the property on which the building is located.

4. Flood Damage Prevention shall be as required in Section 6.5.B.2.b. of the Land Use and Development Regulations.

5. Utilities.

a. For new buildings, all onsite utilities including but not limited to telephone, electricity, cable television, and other wires of all kinds shall be placed underground. However, appurtenances to these systems that require above ground installation including, but not limited to, utility panel boxes are exempt from this requirement if the appurtenances are not placed in front yards. When such

appurtenances are located in utility easements abutting a platted alley, they shall be located at least ten and one-half (10½) feet from the centerline of the platted alley. These underground requirements also apply to those improvements to non-conforming structures that exceed the 50% thresholds as described in Sections 2.6.2 and 2.6.5. All utility infrastructures, including electric utility poles and power lines, shall be concealed from public view wherever possible and shall not be located on any property that abuts streets or sidewalks wherever possible. All new electric distribution lines shall be located in utility easements abutting platted alleys and their utility poles shall be positioned so that a minimum clearance of ten and one-half (10½) feet from the centerline of any platted alley is maintained. For properties that do not have a rear platted alley, the electric distribution lines and utility poles shall be located in the rear utility easement wherever possible.

b. On certain blocks where overhead or underground utility lines have been placed in the first six (6) feet beyond the edge of the street right-of-way (where improvements might otherwise be placed in accordance with these regulations) a property owner shall choose one of the following options:

(1) The property owner may relocate the utility lines to the alley or other acceptable location, at the property owner's sole expense and subject to approval by the affected utility provider(s) and the City of Cape Coral; or

(2) The property owner may choose to place a concrete sidewalk, or architectural elements, on the front six (6) feet beyond the edge of the street right-of-way. If overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or front porches may be constructed in this area. If underground lines of any type are in place, the property owner is solely responsible for repairing any damage to lawful encroachments into the six (6) foot easement resulting from maintenance or improvements to utility lines. If water, sewer, or irrigation line(s) are in the easement, then no part of any building on the site shall be located within seven (7) feet of such utility line.

6. Swimming Pools. Swimming pools are permitted provided the pool is in one of the following locations:

a. Indoors;

b. On the roof of the building in which the use is located; or

c. Outdoors, in accordance with the following limitations:

(1) A swimming pool may be located in a rear yard or side yard. Any pool located in the side yard shall be concealed from all streets, excluding platted alleys, by fencing, wall or a combination thereof. See Section 2.7.15.G.8. for regulations concerning planting requirements and setbacks and heights for fences and walls. No swimming pool shall be located in a front yard. All swimming pools shall have a ten (10) foot minimum setback from all lot lines.

(2) No pool, pool enclosure, or screen enclosure shall be located within a utility or drainage easement.

(3) A swimming pool located in the side yard shall be separated from the street by a wall that meets the façade requirements of Section 2.7.15.G.3.c. and the transparency requirements of

Section 2.7.15.G.4., except that window openings need not contain glass.

7. Residential Density: The maximum density of residential units by right is twenty (20) dwelling units per acre.

   a. The following calculation shall be used to determine the maximum number of dwelling units (DU) permitted on a given parcel, with the result rounded to the nearest whole unit:

$$\left(\frac{\text{Parcel Area in Square Feet}}{43{,}560}\right) \text{Allowable Density} = \text{Maximum Number of DU}$$

   b. The density calculation for a compound use building is not affected by floor space in that building that is dedicated to commercial uses.

   c. No more than two thousand twenty-seven (2,027) dwelling units shall be permitted in the Downtown Community Redevelopment Area (CRA) District. The Coastal High Hazard Area of the Downtown CRA shall be limited to two hundred (200) dwelling units.

8. Minimum Size of Dwelling Units. Every dwelling unit shall have at least the following floor area:

   a. Efficiency and one-bedroom units: seven hundred and fifty (750) square feet

   b. For each additional bedroom: one hundred and fifty (150) square feet

9. A maximum Floor To Lot Area Ratio (FAR) of 2.0 is permitted by right within the Downtown Core zoning district.

10. Downtown CRA Development Incentive Program (DCDIP): Development incentives are opportunities offered to property owners and developers as a means to meet specific development goals while increasing the quality of development and providing benefits to the community at large. Such incentives shall not be considered an inherent right but a potential opportunity if certain conditions are met. Site and/or area-wide constraints, public facility capacity limitations, and/or regulatory controls may limit the achievement of densities and intensities offered under this program. Residential density and/or non-residential intensity (FAR) in addition to the baseline densities and intensities permitted herein, may be granted through participation in the Downtown CRA Development Incentive Program (DCDIP) as follows:

   a. Eligible Residential Density and Improvement Required. Additional residential density, greater than twenty (20) units per acre and up to a maximum total of forty (40) dwelling units per acre may be available through participation in the DCDIP. For each residential unit requested in excess of twenty (20) dwelling units per acre up to a maximum of forty (40) dwelling units per acre, participants in the DCDIP shall be required to provide one or more improvements pursuant to this Section. The value of the on-site and/or off-site improvements for purposes of the DCDIP shall be established by resolution of the City Council. Overall density limitations of the Downtown CRA as well as other factors may limits the availability of the maximum density on any particular development site.

   b. Eligible Non-Residential Development and Improvement Requirements. Additional commercial development, greater than two (2.0) FAR up to a maximum of four (4.0) FAR may be available through participation in the DCDIP. For each increase of 0.1 FAR

per acre exceeding the baseline FAR, participants in the DCDIP shall be required to provide one or more improvements pursuant to this Section. The value of the on-site and/or off-site improvements for purposes of the DCDIP shall be established by resolution of the City Council.

c. Categories of DCDIP Development Incentives. A variety of development incentives in several different categories, that are not mutually exclusive, are eligible for consideration in the DCDIP. Some development incentives may fall within more than one category of development incentive. The following categories of incentives are those from which participants in the DCDIP may provide improvements in order to be eligible for increased density and/or intensity pursuant to this Section:

(1) Superior site design and quality development. Through participation in the DCDIP, development in excess of baseline densities and/or intensities may be available if a development exceeds the minimum standards of quality for site design that are required for development in the Downtown Core zoning district because the physical layout, orientation, and design of a proposed development greatly affects the on-site activities, the connectivity to off-site uses and activities, and the overall neighborhood character and aesthetic appreciation of the development. Factors to be considered in regard to whether a development offers the superior site design and quality necessary to achieve increased density and/or intensity under the DCDIP include, but are not limited to, the following:

(a) Connectivity – whether the on-site placement of uses, development, and pathways realizes and complements connections among on-site and off-site uses;

(b) Clustering – whether the design of the development concentrates development and/or uses so as to increase on-site open space areas and/or preservation;

(c) Exterior Design and Materials – whether the exterior design and materials of the development, such as facades, fenestrations, colonnades, awnings, arcades, balconies, building recesses, and other ornamental or design features, will exceed in quality and/or quantity those required by the Land Use and Development Regulations or other regulations so as to mitigate the effects of any increase in building bulk and/or height that would result from an increase in density and/or intensity;

(d) Orientation – whether the building(s) or other features of the development are oriented to maximize the activities occurring in the development; whether the development is oriented so as to maximize the availability of and access to public parks, public squares, public plazas, open space, community facilities, and vistas so as to create a sense of cohesiveness and community;

(e) Underground Utilities – whether the development is utilizing underground utilities to a greater extent or degree than would be otherwise required by the Land Use and Development Regulations or other regulations so as to enhance the aesthetic value of the community and so as to provide additional protection

of the utilities from the effects of the elements, including but not limited to, hurricanes, fires, etc.

(2) Preservation of Natural Resources – whether the development will preserve, enhance, and/or expand beyond the level required by local, state, and/or federal regulations natural resources, particularly wetlands and upland habitats that support threatened and endangered species and/or mature tree stands, because these resources are beneficial to the ultimate users of the development site, the surrounding community, the City as a whole, and the region.

(3) Public Open Space and Recreational Areas – whether the development will provide on-site open space, landscaping, and buffering that exceeds any such features that may be required by the City Land Use and Development Regulations or other regulations. In addition, this category includes consideration of whether the development will contribute passive and/or active recreational areas and facilities to mitigate the effects of any increased density and/or intensity, particularly when such recreational areas and/or facilities connect to existing public recreational areas and/or contribute to the achievement of target areas and facilities identified in the City's Master Park Plan.

(4) Community Facilities – whether the development will provide community facilities that would support a thriving urban center and would be beneficial to the vitality of the Downtown CRA. Community facilities that would be eligible for consideration in this category may be public, private, or a combination of public and private in nature and would include, but not be limited to, government and public facilities, educational facilities, day care and special needs facilities, hurricane shelters, dedicated land and/or facilities in non-flood prone areas (even outside of the Downtown CRA boundaries), civic centers, libraries, and theatres. Factors such as the demographic need in a given area, the service need in a given area, the stated public needs and objectives, and contextual suitability for the proposed facilities would be shall be considered in the evaluation of elements in this category.

(5) Affordable Housing – whether the development will provide affordable housing opportunities either on-site or off-site. Factors such as the quality and quantity of the affordable housing opportunities offered and the suitability of area to support population needs shall be considered in evaluating proposed affordable housing contributions under this category.

(6) Transportation Improvements – whether the development will provide transportation improvements that exceed in quality and/or quantity those required under the City Land Use and Development Regulations or any other regulations. Transportation Improvements that would be eligible for consideration in this category would include, but not be limited to, provision of land to support existing and proposed rights-of-ways located on-site and/or off-site that have been identified as needed by the City; physical construction of and/or payments for right-of-way improvements on-site and off-site in excess of those required by the City or other agency; provision of streetscape improvements such as plantings and street furniture; provisions of traffic control measures such as signalization; mass transit services or

facilities such as bus shelters and/or tram or water taxi services; and bicycle racks and storage lockers.

(7) Enhanced Waterfront Access and Use – whether the development will provide new and/or enhanced opportunities for public access to and use of waterfront resources such as the provision of land and/or facilities that expand existing public parks and facilities; provision of waterfront boardwalks, esplanades, and/or pathways; the provision of sitting areas and other passive-related improvements; the provision of piers, docks, and boat launch sites; the provision of parking lots or parking structures at or adjacent to waterfront locations, serving the general public; and the creation and/or expansion of man-made lakes that enhance use areas available to the public.

(8) Public Improvement Fund – whether the property owner (or the developer on behalf of the owner, if someone other than the owner is acting as the developer of the property) makes a monetary contribution to the City Public Improvement Fund (PIF). If a monetary contribution to the PIF is approved pursuant to this Section, the PIF payment shall be paid after approval of the development and prior to the issuance of any building permit(s) for the development. The City will use monies in the PIF to make public improvements within the Downtown CRA so as to mitigate the effects of any increased density and/or intensity that may occur in the Downtown CRA Such public improvements would include, but not be limited to, public parks, bike and/or pedestrian paths, greenbelt and nature trails, landscaping, government facilities and infrastructure improvements. The City Manager or his or her designee shall prepare an annual report identifying the amount of money collected under this program each year, the amount of money in the fund, current and proposed expenditures, and projects funded and proposed to be funded through the PIF together with the time frame in which anticipated projects are proposed to be accomplished.

(9) Land Assemblage – whether the development involves the assembly of not less than three (3) acres of land that is at least 250 feet deep along at least fifty (50%) percent of the site's frontage. In order to be considered an assembly of land within this category, the minimum (3) acre land area must have been attained after December 1, 2005 as the result of an amalgamation of smaller parcels. Points will awarded under this category based on the amount of land assembled, the number of platted lots assembled, the amount of non-residential development proposed, and the location of the property.

d. The City Council will adopt a Resolution that identifies the formula that determines the contribution amount of amenities/improvements necessary to achieve the increased density and/or intensity as permitted. The formula is based on the value of construction at base density/intensity, the assessed value of the land, the increase in density and/or intensity and a density and/or intensity factor to be determined by City Council. Cost of the proposed amenity/improvement in relation to the contribution amount required for the requested density and/or intensity through the formula provided in the Resolution may not be at a dollar for dollar basis. Value of amenity/improvement will further be evaluated based on a point/weight system of the public benefit of the amenity/improvement. The Resolution will further define the point/weight system that determines the public benefit. Factors that

may affect the point/weight system include, but are not limited to, the category of creditable activity provided in relation to other categories and the community, neighborhood and/or City-wide value of the proposed amenity/improvement.

e. Credit Points. Each increment of density over the baseline density or increment of intensity over the baseline FAR shall require an award of one hundred (100) credit points. For purposes of this Section, one (1) dwelling unit shall constitute an increment of density and one thousand (1,000) square feet shall constitute an increment of intensity. In no event shall credit points be applied to more than one increment at a time.

f. Applications for Development Incentives. To apply for excess density and/or intensity through the DCDIP program, a property owner shall submit an application to the City Department of Community. The application shall be accompanied by a fee that will be set by the City Council and that shall be an amount that is adequate and reasonable for the administrative expenses incurred by the City in the review of the application. The application shall contain the following information:

(1) The application shall be on a form supplied by the Department of Community Development and shall be accompanied by all applicable supporting information and/or attachments including, but not limited to, all applicable site plan and/or planned development project documents related to the proposed development for which increased density and/or intensity is sought; operations and maintenance plans; schematic architectural drawings; floor plans; elevations and perspectives; and/or public benefits assessment(s).

(2) The application shall identify the amount of money, if any, proposed for contribution to the PIF. If approved, the PIF payment shall be paid after approval of the development and prior to the issuance of any building permit(s) for the development.

(3) Documentation related to any improvements or amenities in any of the categories of development incentives eligible for consideration under the DCDIP, including, but not limited to, detailed drawings that clearly indicate baseline residential density and/or non-residential intensity, as well as development associated with proposed enhanced densities and intensities.

(4) Proof of ownership of the land upon which the development for which enhanced density and/or non-residential intensity is sought together with proof of ownership and/or other control of any property for which off-site improvements are sought for consideration under the DCDIP.

g. Standards for Approval of Enhanced Density and/or Enhanced Intensity pursuant to the DCDIP. The City Manager or his or her designee shall have the authority to approve or disapprove all requests for enhanced density and/or intensity pursuant to the DCDIP based on whether the proposed public benefit to be gained by the development incentive(s) pursuant to the DCDIP have sufficient merit to justify the approval of the requested enhanced density and/or intensity. The criteria that the City Manager or his designee shall consider in making a decision about an application pursuant to the DCDIP shall include, but not be limited to, the following:

(1) the degree, if any, to which any proposed amenity or improvement meets or exceeds the goals and objectives within the City's Comprehensive Plan, the Downtown CRA Master Plan, and all other City regulations;

(2) The size and quality of any proposed amenity or improvement;

(3) The degree of public accessibility to any proposed improvement and/or amenity;

(4) The quality of the design of any proposed improvement or amenity based on its relationship to the principal use of the development, the location of the subject property, the adjacent properties and uses, street frontage(s), and City regulations, as applicable;

(5) The degree, if any, by which the proposed improvement or amenity preserves, enhances, expands, and or protects the environment, including views, pedestrian environment, landscaping, and relaxation areas as well as the potential public enjoyment of the Downtown CRA; and

(6) The amount by which the requested density and/or intensity would exceed the baseline density and/or intensity otherwise available for the development.

h. Requests for increased density and/or increased intensity shall only be considered with respect to a specific proposed development. If granted by the City, an increase in density and/or an increase in intensity shall be applied only to the development with respect to which such increase(s) were sought. Excess density and/or intensity awarded under the DCDIP program are not transferable. In the event the development project for which an increase in density and/or intensity is sought will be considered for approval at a public hearing of the Planning and Zoning Commission/Board of Zoning Adjustment and Appeals and/or the City Council, such as in the case of Planned Development Projects (PDPs), then the development incentive proposals and the issue of any increased density and/or intensity shall be considered as a part of such public hearing and any resulting development order.

i. The City Manager shall prepare and submit to the City Council an annual report identifying and describing all activities, funds and improvements under the DCDIP. Proposed improvements in the Downtown CRA, through expenditures of the PIF, shall be approved only by the City Council consistent with existing financial policies and requirements.

11. a. Parking Requirements: Except for sites located, as of December 1, 2005, within twenty-five (25) feet, excluding alleys and walkways, of any of those dedicated City parking areas identified in section 2.7.15.D.11.f.(1) below (hereafter "Parking Area Sites"), properties with more than fifty (50) feet of frontage shall provide on-site at least the minimum on-site required parking, based on their use(s), identified in the Parking and PILOP Table below. The balance of the minimum total parking required for such properties, based on their use(s), may be satisfied by providing additional on-site parking (beyond the minimum amount), off-site parking through satellite parking agreements, and/or contributions to the Payment in Lieu of Parking (PILOP) fund (PILOP fees). Properties with fifty (50) feet or less of frontage shall be required to provide the minimum total parking required, based on their use(s), but they shall not be required

to provide any part of such minimum total parking on-site; instead, all or part of their minimum total required parking may be satisfied by providing on-site parking, off-site parking through satellite parking agreements, and/or PILOP fees. If a site engages in shared parking, such shared parking shall not be applied toward any minimum parking requirement.

PARKING AND PILOP TABLE			
	Column (A)	Column (B)	Column (C)
Development Use	Minimum Total Parking Requirements	Minimum On-Site Parking Requirements	PILOP Fees
Residential	1.5 per unit	1 per unit	Provide A = no fee Provide B = (A-B) x fee Provide >B but < A, multiply difference x fee
Non-Residential	75% of required Parking in Art. V, Section 5.1.7	50% of Column A	Provide A = no fee Provide B = (A-B) x fee Provide >B but < A, multiply difference x fee

b. When a site other than a Parking Area Site is altered so that the minimum total parking requirement for the site, pursuant to the Parking and PILOP Table contained in Section 2.7.15.D.11.a. is increased, but the area of the site is neither decreased nor increased, then the site shall provide the minimum on-site parking requirement and minimum total parking requirement for the site in accordance with the Parking and PILOP Table contained in Section 2.7.15.D.11.a. less any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof. A site is altered, for purposes of this Section, when any use located on the site is changed, any structure located on the site is modified, or the land area of the site is changed.

c. In the event the area of a site other than a Parking Area Site is increased as the result of the acquisition of property that was not a part of a Parking Area Site as of December 1, 2005, any PILOP fees previously paid as the result of the use(s) or structure(s) located on the conveyed property shall be treated in the same manner as any PILOP fees, if any, previously paid by the receiving site provided that the minimum total parking requirements for the conveying site decrease as the result of the conveyance of property. If the minimum total parking requirements for the conveying site do not decrease as the result of the transfer, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the enlarged (receiving) site.

d. In the event the area of a site that is not a Parking Area Site is decreased, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the receiving site unless the minimum total parking requirements for the conveying site decrease as the result of the transfer. If the minimum total parking requirements for the conveying site decrease as the result of the transfer, and the conveying site had previously paid PILOP fees pursuant to this Section, then any such PILOP fees that are unnecessary to defray the decreased total parking requirements of the conveying site shall be applied toward the parking requirements of the receiving site.

e. In the event the area of a site other than a Parking Area Site is increased as the result of the acquisition of property that was a part

of a Parking Area Site as of December 1, 2005, the increase in area that results from such acquisition shall, for purposes of this Section, be treated as a Parking Area Site.

f. For Parking Area Sites, the following parking and PILOP regulations shall apply:

(1) Each of the following dedicated City parking areas in the Downtown CRA is hereby assigned a parking allocation factor as follows:

Dedicated City Parking Area	Surrounding Blocks and Lots		Parking Allocation Factor
	Lots	Block	
Parking Area 1	1 through 24	62	0.000655
Parking Area 2	1 through 24	62A	0.001135
Parking Area 3	1 through 17	63A	0.001040
Parking Area 4	1 through 30	63	0.001515
Parking Area 5	1 through 61	64	0.001501
Parking Area 6	1 through 34	356	0.001572
	1 through 30	357	
Parking Area 7	11 through 14	56A	0.001330
	1 through 11	56B	
	1 through 14	56C	
	1 through 10	G	

(2) For purposes of this Section, when a "parking credit" must be calculated for a Parking Area Site, such parking credit shall be calculated by multiplying the area of the site (in square feet) by the Parking Allocation Factor related to the dedicated City parking area upon which the site is located.

(3) When the area of a Parking Area Site changes, the following shall apply:

(a) In the event the area of a Parking Area Site is increased as the result of the acquisition of property that was not a part of a Parking Area Site as of December 1, 2005, the increase in area that results from such acquisition shall, for purposes of this Section, be treated in the same manner as property, no part of which comprised a Parking Area Site.

(b) In the event the area of a Parking Area Site is increased as the result of the acquisition of property that was a part of a Parking Area Site as of December 1, 2005, any PILOP fees previously paid as the result of the use(s) or structure(s) located on the conveyed property shall be treated in the same manner as any PILOP fees, if any, previously paid by the receiving site provided that the minimum total parking requirements for the conveying site decrease as the result of the conveyance of property. If the minimum total parking requirements for the conveying site do not decrease as the result of the transfer, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the enlarged (receiving) site.

(c) In the event the area of a Parking Area Site is decreased as the result of the conveyance of property

that was a part of a Parking Area Site as of December 1, 2005, regardless of whether such conveyance is to another Parking Area Site or to a property that is not a Parking Area Site, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the receiving site unless the minimum total parking requirements for the conveying site decrease as the result of the transfer. If the minimum total parking requirements for the conveying site decrease as the result of the transfer, and the conveying site had previously paid PILOP fees pursuant to this Section, then any such PILOP fees that are unnecessary to defray the decreased total parking requirements of the conveying site shall be applied toward the parking requirements of the receiving site.

(4) A Parking Area Site is altered, for purposes of this Section, when any use located on the site is changed, any structure located on the site is modified, or the land area of the site is changed. Although a Parking Area Site shall not be required to provide on-site parking, when such site is altered so that the minimum total parking requirement for the site, pursuant to the Parking and PILOP Table contained in Section 2.7.15.D.11.a., is increased, the parking requirement for the site shall be determined in accordance with the following:

(a) Parking Area Sites that are undeveloped as of December 1, 2005

(i) A Parking Area Site that is undeveloped as of December 1, 2005, the area of which has not changed and which is being initially developed after December 1, 2005, shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.15.D.11.a. less a parking credit calculated pursuant to Section 2.7.15.D.11.f.(2). The site would need to meet the aforesaid parking requirement prior to receiving a Certificate of Occupancy (for residential uses) or a Certificate of Use (for non-residential uses). If the land area of the Parking Area Site increases prior to the initial development of the site, then the requirements of this Section shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors such as whether it was previously developed and/or had previously paid PILOP fees.

(ii) After such a Parking Area Site has been initially developed pursuant to this Section, any further alteration of the site that would result in an increase to the minimum parking requirement for the site, pursuant to the Column (A) of the Parking and PILOP Table contained in Section 2.7.15.D.11.a., but which neither increases nor decreases the area of the site, shall require that the site provide the

minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.15.D.11.a. less the parking credit calculated pursuant to Section 2.7.15.D.11.f.(2) and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof.

(iii) After the initial development of such a site, if the area of the site increases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.15.D.11.a. less a parking credit (to which the site would be entitled based on its land area at the time of such further alteration) and any PILOP fee(s) previously paid to offset the parking requirement of the site, including any PILOP fee(s) paid with respect to the expanded area of the site, in accordance with Section 2.7.15.D.11.f.(3).

(iv) Alternatively, if, after the initial development of such a site, the area of the site decreases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table less a parking credit and any PILOP fee(s) previously paid to offset the parking requirement of any use(s) or structure(s) located on the area of the site remaining after the decrease(s) in area, in accordance with Section 2.7.15.D.11.f.(3).

(b) With respect to Parking Area Sites that are developed and occupied as of December 1, 2005, the following shall apply:

(i) The first time such a site is altered after December 1, 2005, if the alteration would result in an increase in the minimum parking requirement for the site of more than twenty-five (25%) over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, the site shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.15.D.11.a. less a parking credit calculated as provided in Section 2.7.15.D.11.f.(2).

(ii) Alternatively, if such an alteration of the site would result in an increase in the minimum parking requirement for the site of not more than twenty-five (25%) percent over the

amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, then the alteration of such site shall require the site to provide the minimum parking required for the site (pursuant to the Table) less the amount attributed to the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for the site as of that date. Further alterations to the site that do not, either singularly or cumulatively, increase the minimum parking requirement for the site by more than 25% over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, shall require the site to provide the minimum parking required for the site (pursuant to the Table) less the amount attributed to the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for the site as of that date and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area any PILOP fee(s) applicable pursuant to Section 2.7.15.D.11.f.(3).

(iii) If further alterations to a site, cumulatively, increase the parking requirement for the site by more than twenty-five (25%) percent over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use as of that date (or, for residential uses, the residential occupancy in effect for such site as of that date), then the alteration of such site that would result in the increase by more than 25% shall require the site to provide the minimum parking required for the site (pursuant to the Table) less a parking credit calculated as provided in Section 2.7.15.D.11.f.(2), based on the area of the site at the time of the alteration that would result in the more than 25% increase, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to Section 2.7.15.D.11.f(3).

(c) With respect to Parking Area Sites that are developed and unoccupied as of December 1, 2005, the following shall apply: The first time such a site is occupied following December 1, 2005, the site shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section

2.7.15.D.11.a. less a parking credit calculated by multiplying the area of the site (in square feet) by the Parking Allocation Factor related to the dedicated City parking area upon which the site is located. The site would need to meet the aforesaid parking requirement prior to receiving, for non-residential uses, a Certificate of Use and, for residential uses, prior to any residential occupation of the structure. If the land area of the Parking Area Site increases following December 1, 2005, but prior to the occupancy of the site, then the requirements of this Section shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors such as whether it was previously developed and/or had previously paid PILOP fees.

(d) If the structure(s) located on any Parking Area Site are demolished, razed, and/or relocated to a site other than a Parking Area Site, then any subsequent redevelopment of such Parking Area Site shall require the site to provide the minimum parking required for the site (pursuant to the Table) less a parking credit calculated as provided in Section 2.7.15.D.11.f.(2), based on the area of the site at the time of the redevelopment, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to Section 2.7.15.D.11.f.(3). After such redevelopment is completed, any alteration(s) to the site shall be treated, for purposes of determining the parking requirements of the site, in the same manner as alteration(s) of any other developed Parking Area Site under this Section.

(5) With respect to each dedicated City parking area located in the Downtown CRA, the City Council shall, by Resolution, identify all sites that would be Parking Area Sites regulated by this Section and also, for all such sites that are developed as of December 1, 2005, identify the minimum parking requirement for the use(s) and/or structure(s) on the site as of December 1, 2005 as though such sites were within each of the Downtown zoning districts.

g. For purposes of this Section, a satellite parking arrangement exists when the minimum total parking (excluding on-site parking) required for a site is to be provided on a site at a location different from the site which will be served by the parking as required in Section 2.7.15.D.11.a. When all or part of the minimum total parking (excluding on-site parking) required for a site is to be satisfied by one or more satellite parking arrangements, such satellite parking arrangements shall comply with the requirements of this Section as follows:

(1) Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet from a public entrance to the principal building which contains the use associated with such satellite parking, except that no satellite parking area shall be located across Del Prado Boulevard or Cape Coral Parkway from the use it is serving. When the site that contains the use(s) to be served by the satellite parking offers valet parking at all times that such use(s) are open to the public so that valets will transport the vehicles of patrons of such use(s) to the satellite parking site(s) and such valet

service is documented in an agreement entered into by the City and the owners of the property to be served by the satellite parking and of the property offering the satellite parking, then the satellite parking site(s) may be located more than 1,320 feet from a public entrance to the principal building containing the use served by such valet parking. The aforesaid agreement shall be in addition to the agreement required by Section 2.7.15.D.11.g.(4) and shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the property to be served by the valet parking. Upon request by the owner of the property to be served by a proposed satellite parking location, the Director of the Department of Community Development may allow satellite parking that does not include valet parking to be located more than 1,320 feet from a public entrance to the principal building which contains the use associated with the proposed satellite parking and/or to be located across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the Director finds that the proposed satellite parking would not be detrimental to the public health, safety, and welfare of the persons utilizing it. Factors which may be considered by the Director in making this determination include, but are not limited to, the following: the proximity of the proposed satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other pedestrian-oriented features at any intersections and any other locations between the proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to be utilized by employees only or by patrons of the use(s) to be served, and the availability of any complementary and/or supplementary services to such parking, such as trolley or tram systems that would provide transportation for the public to and from the satellite parking area and the use(s) to be served. If the Director approves satellite parking at a distance of more than 1,320 feet and/or across Del Prado Boulevard or Cape Coral Parkway, the Director may impose conditions on such satellite parking that would be reasonably designed to mitigate any negative effects from such approval. Examples of such conditions would include, but not be limited to, the requirement that a satellite parking area be clearly identified for only employee parking, the requirement that a pedestrian walkway between the parking area and the use(s) it serves be covered so as to protect pedestrians from the elements, and that any supplementary and/or complementary services be continued so long as the satellite parking is being used.

(2) The satellite parking area and the site which contains the use associated with such satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The submitted plan shall show the pedestrian connection(s) between the two sites and shall demonstrate that all pedestrian connections have sidewalks, or other paved walkways, dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance between the sites is not more than 1,320 feet when measured from a public entrance to the principal building (on the site to be served by the satellite parking) to the closest point on the proposed satellite parking site.

(3) Satellite parking on the off-site parcel shall not be allowed if the proposed satellite parking spaces are satisfying a minimum parking requirement for the off-site parcel; such satellite parking spaces shall only be counted if they are above

and beyond the minimum parking requirement for the off-site parcel.

(4) The owner of the off-site parcel of land (and, the owner of the land intended to be served by such off-site parking, if different than the owner of the parcel to be used for parking) shall enter into an agreement with the City, which shall be recorded in the public records of Lee County, Florida at the expense of the owner of the land intended to be served by the off-site parking.

(5) The off-site parking area shall never be sold or transferred except in conjunction with the sale of the parcel served by the off-site parking facilities unless:

(a) The parcel to be sold or transferred will continue to be used as provided in the off-site parking agreement and the new owner or transferee executes a consent to assume and to be bound by the obligations of the owner of the parcel used for parking as provided in the agreement; or

(b) A different parcel complying with the all provisions of the City of Cape Coal Code of Ordinances and Land Use and Development Regulations and subject to a recorded off-site parking agreement as specified herein is substituted for the parcel of land subject to the off-site parking agreement; or

(c) The parcel being served by the off-site parking no longer requires the parking as evidenced by a written statement executed by the parties executing the off-site parking agreement and as approved by the Director of the Department of Community Development. The aforesaid statement shall be recorded in the public records of Lee County at the expense of the owner of the parcel formerly being served by the off-site parcel.

h. Although the City may not require a development to provide more than the minimum total parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.15.D.11.a., the Director of the Department of Community Development may reduce the number of on-site parking spaces to be required for a site if he or she finds that such a reduction is warranted based upon one (1) or more of the factors identified in Section 5.1.2.B.3.

i. PILOP fees shall be charged on a per parking space basis. PILOP fees shall be used to improve public parking and provide for structured parking, access, and egress in the Downtown CRA as well as to provide services that are complementary to and/or supplementary to such parking, access, and egress in the Downtown CRA. Examples of such complementary and/or supplementary services might include, but not be limited to, public transportation services such as trolley or tram systems that would provide transportation for the public to and from parking areas and other locations in the Downtown area. PILOP fees are non-refundable; once PILOP fees have been paid to the City as required pursuant to this Section, a change in the minimum on-site or off-site parking requirements for a site as the result of either alterations to the site or changes in the type or intensity of development located on the site so as to result in a decrease in the amount of parking required for such

development shall not result in any refund of previously paid PILOP fees.

j. The minimum total parking requirements, the minimum on-site parking requirements, and PILOP fees shall be reviewed on an annual basis to ensure sufficient parking and fees are provided to meet the parking demand of the Downtown CRA. The City Manager or his designee shall prepare an annual report describing fees collected under the PILOP program, on-site parking provided through development under this section, an assessment of parking capacity and demand for the Core district of the Downtown CRA, and improvements made and anticipated under the PILOP.

k. All parking provisions and requirements included in Article V except where superseded by this Section shall apply.

12. Parking Location. Off-street parking spaces shall be located only in the rear or side yard. If parking is located in the side yard, it shall be concealed from all streets, excluding platted alleys, by opaque landscaping, fencing, wall or any combination thereof in accordance with Section 2.7.15.G.8. and shall have a ten (10) foot setback from the building line. For off-street parking spaces located on surface lots, the minimum setbacks from alleys are as follows:

Parallel to alleys	No part of the parking space shall be closer than fifteen (15) feet from alley centerline
All others	No part of the parking space shall be closer than twenty (20) feet from alley centerline

13. Parking Ingress/Egress:

Curb cuts along Cape Coral Parkway in the Downtown Core district shall be prohibited unless:

a. Lot frontages are one hundred and fifty (150) feet or greater and 100% of the required residential parking and 50% of the commercial/professional is provided on-site;

b. A shared curb cut between adjacent parcels is provided with a combined lot frontage of one hundred and fifty (150) feet at the property lines and a signed agreement by all property owners is provided; and

c. No other ingress/egress can adequately service the development parcel as determined by the Community Development Director based on a review by the City's Department of Public Works.

14. Surface water management facilities located within the Downtown CRA shall adhere to the following criteria:

a. Surface water management facilities shall be concealed wherever possible.

b. Open surface water management facilities shall not be permitted to be located in front of the principal structure.

c. Surface water management facilities are prohibited in utility easements except as follows:

(1) Above ground surface water management facilities may be located in utility easements so long as the utility easement is

located at least ten (10) feet from the centerline of the platted alley; or

(2) Above ground surface water management facilities may be located in utility easements so long as the utility easement abuts neither a street nor a platted alley.

d. Surface water management facilities shall not be visible from any street, sidewalk, public plaza or courtyard. If surface water management facilities are used in side yards, they shall be located behind the front building line and completely screened from view with fencing, walls or approved landscaping.

e. Underground surface water management facilities may be located under paved surfaces including parking lots and along unpaved edges of off-street parking and circulation facilities. Retention and water treatment areas may also be concealed under parking structures, patios, porches, courtyards, and paved areas for commercial type trash receptacles. Underground surface water management facilities may also be located under landscaped islands located in off-street parking and circulation facilities, along unpaved edges of off-street parking and circulation facilities, concealed under parking structures, patios, porches, courtyards, and other green areas subject to the design criteria for underground systems.

15. Streetscape Materials

Developments are strongly encouraged to pave the space between principal buildings and front property lines with appropriate sidewalk materials, including but not limited to concrete, stamped concrete or brick pavers. Developments are further encouraged to place sidewalk amenities such as benches, fountains, outdoor dining tables and landscaping planters within this area, except that these amenities are prohibited within three (3) feet of any property line abutting a City sidewalk. In providing these elements, attention should be paid to maintaining large sidewalks rather than dividing them with sidewalk amenities. Developments are encouraged to maintain a minimum eight (8) foot contiguous sidewalk to accommodate pedestrian flows. In the event that improvements are placed within the front six (6) foot public utility easement the City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments within the aforesaid easement that result from maintenance of public infrastructure improvements.

16. Landscaping

a. Purpose and Intent

This section is established to provide general landscape regulations that are appropriate for urban areas. The use of water conserving landscaping is strongly encouraged. The principles of Xeriscape-planning and design, soil improvement, efficient irrigation, limited turf areas, mulches drought tolerant plants and appropriate maintenance should be utilized in all new construction and landscape renovations so as to provide the most green with the least water and create a landscape that can survive largely undamaged in case of short term water restrictions.

b. Definitions

As used in this Section, the following words and terms shall have the following meanings unless some other meaning is plainly stated:

Encroachment: Encroachment is defined as any protrusion of a vehicle outside of a parking space, display area or accessway into a landscaped area.

Groundcloth: Materials used to control weed growth in landscaped areas that allow water and nutrients to pass through. Impermeable materials are prohibited.

Groundcover: Any low growing plant, twenty-four (24) inches or less, which can be used to cover areas where sod or turf is not desired or will not grow.

Landscaping: Landscaping shall consist of any of the following materials or combination thereof: grass, ground covers, shrubs, vines, hedges, trees or palms; and nonliving durable material commonly used in landscaping, but excluding paving and artificial flora.

Mulch: Non-living materials, either organic or non-organic, placed in landscaped areas that aid in moisture retention, weed control, and soil improvement.

Shrubs: Shrubs required by this Section shall be self-supporting woody, deciduous or evergreen species.

Trees: For the purpose of this Ordinance, a tree shall be defined as a self-supporting, woody plant of a species which normally grows to a minimum height of fifteen (15) feet, with an average canopy of greater than fifteen (15) feet, and having a trunk which can be maintained in a clean condition up to and over five (5) feet at maturity.

Vines: Vines are plants which normally require support to reach mature form.

Xeriscape: A landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis, the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance. Xeriscapes shall be green, functional, and preserve the intent of this Section.

c. Landscape Requirements

(1) Landscape Plan Required; Submittal Requirements. All Building Permit, Special Exception and Variance Applications shall contain a landscaping plan illustrating a site layout that conforms with the requirements of this Section. Where an existing building and site design preclude meeting the landscaping requirements, this provision shall not apply. In such cases, all existing landscaping must be improved or maintained. No parking lot shall be approved for construction or building permit issued until a Landscaping Plan, where required by this Section, has been approved. All Landscaping Plans shall include the following in clear detail:

(a) Location, spacing, diameter, overall height and type of existing and proposed trees.

(b) Types, quantity, sizes, spacing and height of proposed bushes and shrubs.

(c) Types and amounts as well as placement of proposed landscaping materials.

(d) Treatment, amount, and type of material to be used within areas not landscaped.

(e) Identify method of irrigation, if applicable.

(f) Location of utility lines and easements.

(g) Provision of additional information which would assist in conveying the intentions of the applicant.

(h) Extant right of way street trees must be shown on plans if applicable.

d. Quality of Materials

All plant materials and trees shall meet or exceed the standards for Florida No. 1 as specified in "Grades and Standards for Nursery Plants", Part I, 2963, and Part II, State of Florida, Department of Agriculture, Tallahassee, as amended, or equal as approved by the Director.

e. Compliance Required Prior to Issuance of Certificate of Occupancy

A Certificate of Occupancy shall not be issued until after the Director has determined that the applicant has complied with the provisions of this section.

f. Maintenance

(1) Each structure shall be inspected by the City six (6) months after the Certificate of Occupancy is issued for compliance with the minimum standards of this Landscape Ordinance, and each structure shall be inspected by the City one (l) year after the six (6) month inspection and each year thereafter to determine compliance with the minimum standards of this Landscape Ordinance.

(2) The owner, of the real property is to maintain the site landscaping in accordance with the standards contained herein. Failure to comply with this requirement shall constitute a violation of the City of Cape Coral's Code of Ordinances, and would subject the aforementioned party to any penalty imposed by law.

g. General Limitations

(1) Overhead power line radius. Trees within twenty (20) feet of existing overhead power lines shall be maintained to a maximum height of less than twenty (20) feet or shall be subject to trimming and cutting by the power company. However, palm trees within fifteen (15) feet of existing overhead power lines are prohibited except for pygmy date palm, areca palm, Christmas palm, paurotis palm, and other species that attain a height of less than twenty (20) feet when mature.

(2) Tree size. Trees shall be species having an average mature canopy of greater than fifteen (15) feet and having trunks which can be maintained in a clean condition over five (5) feet of clear wood. All shade trees other than palm trees shall have a minimum clear trunk height of eight (8) feet at planting. In addition, all trees other than palm trees shall have a diameter of two (2) inches when measured at a height

of six (6) inches above the ground. Palm trees shall have a trunk base diameter of seven (7) inches when measured at ground level which does not include any portion of the root-ball.

h. Prohibited Trees. The following trees are prohibited for planting in the Downtown Core district: Brazilian Pepper, Australian Pine, Carrotwood, Earleaf Acacia, all Melaleuca species, all Eucalyptus, except Eucalyptus Anera and Torelliana.

i. Inoculation of palm trees susceptible to lethal yellowing disease.

(1) All property owners within the Downtown Core district are hereby encouraged to inoculate all palm trees susceptible to infection from lethal yellowing disease every four (4) months with terramycin.

(2) Trees found to be diseased shall be removed by the property owner within five (5) days said trees are found to be diseased.

(3) Upon failure of the property owner to remove diseased trees within five (5) days said trees are found to be diseased, the City shall remove said trees at cost to the property owner.

(4) Local organizations are hereby encouraged to promulgate programs for owner inoculation of trees.

j. The City may require a property owner to install a root barrier in the event the City determines that the location of a tree in an area abutting a sidewalk may have a detrimental effect on the physical integrity of the sidewalk. The root barrier shall be of a type which will prevent such detrimental effect on the physical integrity of the sidewalk. In making the determination as to whether a root barrier shall be required, the City shall consider the following criteria:

(1) Type (species) of tree.

(2) Location of tree.

(3) Proximity of tree to sidewalk.

In the event a public sidewalk is to be installed in an area adjacent to extant trees, then the City may require the owner of the property on which the tree is located to install a root barrier prior to the installation of the sidewalk. Factors to be considered shall be the same as those stated in Section 2.7.15.D.16.j.(1) through (3).

k. Retention/Detention Areas

(1) Planting of trees and shrubs in retention/detention areas may be permitted provided that:

(a) The placement of the trees and shrubs does not interfere with the volume of storage required for the retention/detention areas.

(b) The placement of the trees and shrubs does not interfere with the required side slopes of the retention areas.

(c) The placement of the trees and shrubs does not interfere with or impede the flow of runoff in the retention/detention area.

(2) All retention/detention areas must be stabilized with sod unless an alternative method is specifically permitted prior to plans approval. However, organic mulch will not be permitted in or adjoining retention/detention areas.

l. The following landscaping requirements apply to all properties in the Downtown Core District.

(1) One shade tree shall be provided for each five (5) parking spaces required. Landscaping islands are not required, however, each tree shall be planted in a planting area of twenty-five (25) square feet with a minimum dimension of five (5) feet. Each such landscaping planting area shall be landscaped with sod, ground cover, or other landscaping material (excluding paving) in addition to the required tree.

(2) All sites must have one tree for each one thousand five hundred (1,500) square feet of gross land area. Such trees may be planted singularly or grouped together. Each tree shall be planted in a planting area of twenty-five (25) square feet with a minimum dimension of five (5) feet. Each such planting area shall be landscaped with sod, ground cover or other landscaping material (excluding paving) in addition to the required tree.

(3) Palm trees shall constitute no more than fifty (50) percent of the required trees planted in connection with new construction.

(4) Trees shall not be permitted in front yards, unless approved as a deviation within Planned Development Projects, provided that applicable deviation criteria contained within this Ordinance are met.

(5) In the event that the planting requirements in this Section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund. Such site constraints shall include, but not necessarily be limited to, size of site or access or circulation requirement making plantings impracticable, or extant site layout. The City Council shall, by Resolution, establish a fee based on the average cost of the aforementioned plantings. The City will use the funds in the Downtown CRA Tree Fund to provide and/or enhance the landscaping and vegetation in public areas of the Downtown CRA.

To qualify to pay an in lieu of planting fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of planting fee meeting planting requirements.

(6) When parking areas are provided in side yards, the required setback for said area shall be a landscaped area with shrubs and ground cover plants with a minimum eighty (80) percent coverage of such landscaped area at time of planting.

(7) Sod or turf areas which are visible from streets (excluding alleys) shall be planted with trees, shrubs, or groundcover. At a minimum, the sod or turf area(s) shall include low-lying shrubs or ground cover plants with a minimum 50 percent coverage of the sod or turf area at time of planting. To determine whether a sod or turf area is visible from a street,

the subject parcel shall be viewed at a 90 degree angle from the street, and any sod or turf area which is not behind a building, wall, fence, or opaque hedge planted in accordance with landscape buffering criteria contained in this Section shall be deemed to be visible from the aforementioned street. Exceptions to this regulation may be made where sod or turf areas are utilized as public parks or plazas, or recreational and/or open spaces approved as part of the Downtown CRA Development Incentive Program.

17. Trash Receptacles

Commercial type trash receptacles. For purposes of this Section, "commercial type trash receptacles" shall mean and include, but not be limited to, the covered containers supplied by the City refuse collection franchisee that are designed and intended to be mechanically dumped into a packer-type sanitation vehicle, regardless of whether such containers are used for the collection and/or disposal of solid waste or other refuse or for the collection and/or disposal of recycling materials, as well as covered containers that are designed and intended to be used for compaction of materials such as cardboard boxes. All commercial type trash receptacles are required to meet the following standards:

a. Except as otherwise provided herein, no commercial type trash receptacle shall be located in the front yard or within any public right-of-way and/or drainage easement. Commercial type trash receptacles may be located in a side or rear yard and may be located within a public utility easement adjoining the side lot line only if a building is built with a zero (0) foot setback to the aforementioned side lot line. If a commercial type trash receptacle, its pad and enclosure are located in a public utility easement, the property owner shall be solely responsible for removal of the commercial type trash receptacle, its pad and enclosure as well as for any cost resulting from disturbance, damage, or destruction of the commercial type trash receptacle, its pad and enclosure resulting from work associated with utilities in such easement.

b. All commercial type trash receptacles shall be located so that a sanitation vehicle has physical access to the commercial type trash receptacle that is adequate to ensure the safe servicing of the commercial type trash receptacle by the vehicle. Such access approach shall be sufficient to accommodate a vehicle requiring a minimum clearance width of ten (10) feet and a minimum clearance turning radius of fifty (50) feet when directly accessing a public street. Such access way shall be kept clear and unobstructed at all times. In the event the access way would require a vehicle servicing the commercial type trash receptacle to engage in backing maneuvers in order to exit the receptacle storage area, an apron at least ten (10) feet wide and sixty (60) feet in length adjacent to the commercial type trash receptacle shall be provided as part of the access way.

c. Each commercial type trash receptacle shall be located on a pad that is made of concrete. The elevation of the top surface of the pad shall be the same as the elevation of the access way to the commercial type trash receptacle.

d. All solid waste or other refuse, including but not limited to recycling materials, stored in the commercial type trash receptacle shall be concealed by a lid attached to the commercial type trash receptacle that shall remain in the closed position unless materials are being placed into the commercial type trash receptacle or the commercial type trash receptacle is being serviced. No material shall be permitted to overflow the commercial type trash receptacle.

e. All commercial type trash receptacles that are located on sites approved for development after the effective date of this Section shall be screened from view and/or access by the public on at least three (3) sides by an opaque visual barrier. In the event a commercial type trash receptacle is visible from an adjacent property or an adjacent street, at ground level, then the commercial type trash receptacle shall be screened on the fourth side by an opaque gate that shall conceal the commercial type trash receptacle from view and/or access by the public and that shall be the same height as the visual barrier on the other three (3) sides. The following materials, either singly or in any combination, are the only materials that may be used to form the aforesaid opaque visual barrier and gate:

(1) Wood fencing;

(2) Plastic fencing;

(3) Concrete block and stucco wall; and/or

(4) Brick wall.

The principal structure may be used as screening on one (1) or more sides provided that the commercial type trash receptacle is completely concealed from view.

f. The minimum dimensions for the screened enclosure area shall be twelve (12) feet wide by twelve (12) feet deep and at least six (6) inches higher than the closed commercial type trash receptacle.

g. In the event a commercial type trash receptacle is located within screening that includes a gate, regardless of whether such a gate would have been required pursuant to this Section, the gate shall be of a type that swings 180 degrees and shall have drop pins, hooks, or other devices installed to hold the gate open while the commercial type trash receptacle is being serviced. All gates shall remain closed unless the commercial type trash receptacle is being serviced.

h. Any site plan that is submitted to the City for review of a development shall clearly identify the location of any and all commercial type trash receptacles to be located on the site. After the site plan is approved, any and all commercial type trash receptacles located on the site shall be in the location(s) approved pursuant to the site plan and shall not be moved to another location without the prior written approval of the City. No additional commercial type trash receptacles shall be located on the site without the prior written approval of the City.

i. A development located within twenty-five (25) feet of a city-owned parking lot may place its commercial type trash receptacle(s) on the city-owned parking lot as long as all requirements set forth for the applicable zoning districts in the Community Redevelopment Area are complied with and as long as the Director of the Department of Community Development, or his or her designee, has approved said placement, which approval may be revoked at any time upon reasonable notice to the commercial, professional or industrial development. If the Director of the Department of Community Development, or his or her designee, does not approve of the placement of the commercial type trash receptacle on the city-owned parking lot or if the Director of the Department of Community Development or his or her designee revokes said approval, the commercial, professional or industrial development shall have thirty (30) days from the notice of denial or revocation to relocate the dumpster to a site approved by the Director of the Department of Community Development, or his or her designee.

j. Except for developments approved before September 1, 1991, no commercial type trash receptacles may be located within any parking space that is needed to meet the minimum parking requirements on the site. Developments approved prior to September 1, 1991, may utilize no more than one (1) of the parking spaces needed to meet the minimum parking requirements on the site for location of a commercial type trash receptacle.

k. In order to be considered a lawful non-conformity, any commercial type trash receptacle that was lawfully located on a site prior to the effective date of this Section and which does not conform with all provisions of this Section shall be registered with the City of Cape Coral Department of Community Development by the owner of the property on which the commercial type trash receptacle is located within six (6) months from the effective date of this Section, subject to the approval of the Director of the Department of Community Development or his or her designee. The aforesaid registration shall be on a form available from the City of Cape Coral Department of Community Development and shall require that the aforesaid property owner sign the registration form and state that, to the best of his or her knowledge and belief, the information provided in the registration form is true and correct. The registration form shall be accompanied by a photograph of the existing commercial type trash receptacle(s) and any and all receptacle storage area(s), including all pads and screening, as well as a sketch or diagram identifying the location of the existing commercial type trash receptacle(s) and any receptacle storage area(s), which shall include the dimensions of such commercial type trash receptacle(s) and receptacle storage area(s). The property owner shall also pay to the City of Cape Coral a registration fee in the amount of $10.00 at the time the registration form is submitted to the City. The information provided by the aforesaid owner is subject to investigation and verification by the City. Although any one factor is not conclusive of the existence or non-existence of a commercial type trash receptacle and/or receptacle storage area screening prior to the effective date of this Section, evidence that the City may consider in making its determination as to the legal non-conformity of a commercial type trash receptacle and receptacle storage area may include any of the following: documentation from the City's franchise refuse service provider concerning the location of the commercial type trash receptacle, receptacle storage area and screening prior to the effective date of this Section, and documentation concerning the approval by the City of any screening or pad installed in regard to the commercial type trash receptacle(s). If the registration is timely filed and, determined to be accurate and valid, then the commercial type trash receptacle and/or receptacle storage area screening shall be deemed to be a lawful non-conformity. If the registration of a commercial type trash receptacle is determined by the Director of the Department of Community Development, or his or her designee, to be inaccurate or invalid, then the owner of the property on which the commercial type trash receptacle is located shall be mailed a written notice of such determination and shall have thirty (30) days from the date of mailing such notice to appeal such determination to the City Council in accordance with Section 8.9 of the City of Cape Coral Land Use and Development Regulations. Any commercial type trash receptacle that is not deemed by the City to be a lawful non-conformity shall be required to comply with all requirements of this Section. All lawfully non-conforming commercial type trash receptacles and receptacle storage area(s) shall be either removed or brought into conformity with all provisions of this Section no later than September 1, 2010. The owner of the real property on which any non-conforming commercial type trash receptacle and/or receptacle storage area is located shall be responsible for ensuring

that such commercial type trash receptacle and/or receptacle storage area is either removed or brought into conformity. However, should the lawful non-conforming commercial type trash receptacle and/or screened area fall into disrepair or if substitutions or alternations are made, then the commercial type trash receptacle and screened area shall be required to comply with the current requirements, within a reasonable period of time, to be determined by the Director of the Department of Community Development, or his or her designee.

l. Administrative Deviation. In the event a property owner is unable to comply with the requirements of this Section, the aforesaid owner may request an administrative deviation, in writing, from the Director of the Department of Community Development, or his or her designee. In determining whether to approve a request for an administrative deviation, the Director of the Department of Community Development, or his or her designee shall consider factors such as dimensions of the property, existing development or other location factors that may make compliance with this section impossible or impractical. The determination to approve an administrative deviation shall be at the sole discretion of the Director of the Department of Community Development or his or her designee.

E. Mandatory Architectural Elements. Every building in the Downtown Core district shall provide awnings, canopies, colonnades, or arcades which shall comply with the following regulations:

1. Awnings & Canopies: Awnings and canopies may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. The depth and height requirements apply only to first-floor awnings and canopies on building façades. No minimum requirements apply for awnings or canopies above the first floor or on walls that are not façades.

a. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve an awning or canopy that would encroach into the easement:

(1) The extent to which the awning or canopy would encroach into the easement; and

(2) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

b. Awnings or canopies extending from the first story and facing the street shall conform to the following:

(1) Depth shall be five (5) feet minimum projection.

(2) Height shall be eight (8) feet minimum clearance, including suspended signs.

(3) Length/width: A minimum of 50% of the building's frontage shall provide shade with awnings, canopies, balconies, colonnades, or arcades. Regardless of the number or types of the aforesaid architectural elements used to satisfy this requirement, all architectural elements of the same type shall be of the same color and style. For example, all awnings on a

building that are used to satisfy this requirement shall be the same color and style.

c. Awnings shall be made of fabric (colors shall comply with Section 2.7.15.G.6.b.(4) below) and may incorporate signs. High-gloss or plasticized fabrics are prohibited.

d. Canopies shall be constructed of cast, stainless, painted or enameled metals, wood, and/or glass, and may incorporate signs. All other materials are prohibited.

2. Colonnades and arcades: Colonnades and arcades may occur forward of the set back requirements or build-to zone as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above the colonnade or arcade. Habitable space shall not be permitted above a City owned right-of-way.

a. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve a colonnade or arcade that would encroach into the easement:

(1) The extent to which the colonnade or arcade would encroach into the easement; and

(2) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

b. Colonnades and arcades facing the street shall conform to the following:

(1) Depth shall be a minimum of eight (8) feet from the building face to the inside column face. Colonnades and arcades may extend to the property line.

(2) Height shall be nine (9) feet minimum clearance (not including suspended signs); the lowest point on arches cannot extend below seven (7) feet.

(3) Length/Width: In the Downtown Core district, a minimum of 50% of the building's frontage shall provide shade with awnings, canopies, balconies, colonnades, or arcades. Regardless of the number or types of the aforesaid architectural elements used to satisfy this requirement, all architectural elements of the same type shall be of the same color and style. For example, all awnings on a building that are used to satisfy this requirement shall be the same color and style.

c. Colonnades and arcades on corners may wrap around the side of buildings facing the street.

F. Optional Architectural Elements: Include balconies, front porches, stoops, and cupolas.

1. Balconies: Balconies shall be open and un-air conditioned. Balconies may have roofs. Roofed balconies may be enclosed with screen or latticework and may contain privacy partitions. Rear balconies shall not project beyond

the setback requirement or build-to zone as applicable. Balconies that project into side yards that do not abut a side street shall be located no closer than ten (10) feet from the abutting property line.

a. Balconies facing the street shall conform to the following:

(1) Depth shall be six (6) feet minimum projection for second floor balconies. Balconies may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve a balcony that would encroach into the easement:

(a) The extent to which the balcony would encroach into the easement; and

(b) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

(2) Height shall be ten (10) feet minimum clearance (not including suspended signs); brackets shall not extend below a height of seven (7) feet.

(3) Length/width: In the Downtown Core district, a minimum of fifty percent (50%) of the building's frontage shall provide shade with awnings, canopies, balconies, colonnades, or arcades. The designated selection shall be uniform in color and style.

b. Balconies on corner lots may wrap around the side of the building facing the side street.

2. Front Porches: Front porches shall be un-air conditioned parts of the buildings and may be screened. Front porches facing the street shall be a minimum of eight (8) feet in depth and may occur forward of the build-to zone or the minimum setback, as applicable, if approved by the Director of the Department of Community Development, but shall not be located less than three (3) feet from the front property line. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve a front porch that would be located in the area forward of the build-to zone or the minimum setback:

a. The extent to which the front porch would be placed forward of the build-to zone or the minimum setback;

b. The effect of such placement on any abutting properties and/or streetscape; and

c. The effect of such placement on any utilities that are either currently located in the easement or that may be located in the easement in the future.

The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the

easement that results from maintenance or public infrastructure improvements. Front porches may have multi-story verandas, balconies, and/or habitable space located above them provided that if water, sewer, or irrigation line(s) are in the easement, then no part of any such front porch shall be located within seven (7) feet of such utility line.

3. Stoops: A stoop must be located within the build-to zone or maintain the required minimum setback. Access to a stoop, whether by stairs, ramp, or other means, may run to the front or to the side of a stoop and such access to a stoop, though not the stoop itself, may extend forward of the build-to zone or minimum setback as applicable, if approved by the Director of the Department of Community Development, but shall not be located less than three (3) feet from the front property line. The Director shall consider the following criteria in determining whether to approve a stoop access that would be located in the area forward of the build-to zone or the minimum setback:

   a. The extent to which the stoop would be placed forward of the build-to zone or the minimum setback;

   b. The effect of such placement on any abutting properties; and

   c. The effect of such placement on any utilities that are either currently located in the easement or that may be located in the easement in the future.

   Stoops may be roofed or unroofed. Stoops facing the street shall have a minimum height of three (3) feet from sidewalk level to the highest point of the access. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that results from maintenance or public infrastructure improvements. If water, sewer, or irrigation line(s) are in the easement, then no part of any such stoop or stoop access shall be located within seven (7) feet of such utility line.

4. Cupolas: If a building has a cupola, the cupola(s) shall have a maximum of four-hundred (400) square feet in horizontal dimension and shall be limited to two (2) per building. Cupolas shall not contain any habitable space above the maximum building height.

G. Architectural Standards

1. Purpose and Intent. The purpose and intent of these architectural standards is to encourage traditional building forms that reinforce a pedestrian orientation and create usable outdoor space through the arrangement of buildings of compatible types and scale using varied architectural styles. Durable materials and creative ornamentation are encouraged.

2. All buildings within the same development must be designed with consistent architectural style, detail and trim features.

3. Building Walls. The following requirements apply to all principal buildings:

   a. Expression Lines and Cornices:

      (1) Expression lines and cornices shall be either moldings, jogs, or reliefs in the surface plane of the building wall. When used as expression lines and/or cornices, such moldings, jogs, or reliefs shall extend out at least four (4) inches from the wall surface.

      (2) Except as otherwise provided herein, on all principal buildings, an expression line shall delineate the division

between the first story and the second story of every façade, and a cornice shall delineate the top of every façade.

(3) Fixed canopies may conceal or replace expression lines for the length of the canopy, but awnings shall not conceal expression lines.

b. Only the following finish materials for exterior walls are permitted. All other finish materials are prohibited.

(1) Concrete block with stucco finish (CBS)

(2) Reinforced concrete with stucco finish

(3) Glass shall meet the regulations of transparency of façades.

(4) Stone or brick, including cast (simulated) stone or brick

(5) Wood (pressure-treated or termite-resistant), painted or stained (Plywood and T-11 type paneling is prohibited).

(6) Fiber-reinforced cement panels or boards

(7) Synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards or composite materials) is permitted only with a troweled finish and only on the second floor and above.

c. Façade Standards:

(1) Buildings located with street frontage must be designed with the main entrance clearly defined, and with convenient pedestrian access. Portions of façades could be articulated to step back, or extend forward to add interest or to connect with the street.

(2) Buildings or projects located at the intersection of two or more arterial or collector roads, shall include design features such as corner towers, corner entrances, or other such features, to emphasize their location as gateway and transition points within the community.

d. Façade/Wall Height Transition. Façade must be designed to reduce the mass/scale and uniform monolithic appearance of large unadorned walls and must provide visual interest. Articulation is accomplished by varying the building's mass in height and width so it appears to be divided into distinct elements and details.

(1) Transitional Massing. To maintain and enhance the attractiveness of the streetscape and the architectural design of the community, all buildings with street frontage must provide visual interest from the perspective of the pedestrian up to a height of thirty-five (35) feet. Transitional massing could be achieved through the articulation of building mass in height and width in response to site conditions, hence recognizing adjacent buildings and local character. (Adjacent buildings and local character in this context is construed to represent adjacent buildings within one hundred fifty (150) feet from the perimeter of the proposed development, built following the adoption of this Section.) Transitional massing elements could include, but are not limited to, wall plane changes, roofs, and the application of architectural features.

(2) Variation in massing. A single, large dominant building mass must be avoided. The design of a building structure and its massing on the site should enhance solar exposure for the project and minimize shadow impacts on adjacent structures and public areas. Design treatments to provide transition and mitigation of height, bulk and scale impacts may include the use of architectural style, façade modulation and articulation, architectural features, color, material and others.

4. Transparency of Building Façades, and Fronts

a. For all principal buildings, each building façade wall that faces a public street, public parking lot, park, or plaza shall contain transparent windows and/or doors covering between 25% to a maximum of 75% of the wall's area. This requirement also applies to any wall of a principal building that faces the building's courtyard if the courtyard is open to a public sidewalk. The transparency requirement shall be as follows:

(1) All window and door glass, shall transmit at least 50% of visible transmittance. Reflective glass and glazes are prohibited.

(2) Except for residential uses, the bottom of the lowest row of windows shall be no higher than thirty six (36) inches above ground, or six (6) inches above the floor of the lowest habitable story, whichever is higher.

b. In addition, retail stores shall comply with the following:

(1) The ground-floor shall have storefront windows covering no less than 60% of the wall area in order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces.

(2) Storefronts shall remain unshuttered at night to provide views of display spaces, and are encouraged to remain illuminated from within, until 10:00 PM.

(3) Doors or entrances for public access shall be provided at intervals of at least seventy-five (75) feet to maximize street activity, to provide pedestrians with frequent opportunities to enter and exit buildings, and to minimize any expanses of inactive wall. Every façade shall have at least one door.

5. Concealed Equipment and Prohibited Products

a. Not Visible From Streets. The following shall be located or screened so as not to be visible from any public street:

(1) Air conditioning compressors

(2) Window and wall air conditioners

(3) Electrical and other utility meters

(4) Irrigation and pool pumps

(5) Permanent barbecues

(6) Satellite antennae

(7) Utility appurtenances

(8) Mechanical rooftop equipment or ventilation apparatus

b. Prohibited Products. The following exterior products and materials are prohibited:

(1) Undersized shutters (the shutter or shutters shall be sized so as to equal the length and width that would be required to cover the window opening).

(2) Shutters made of plastic

(3) Reflective and glass and reflective glaze

(4) Hurricane shutters shall be removed within a week from the time they are put up, unless a hurricane or tropical storm has hit the area, in which case the shutters may remain up for not more than three (3) months from the date of the incident.

6. Paint Colors. Paint colors for principal buildings and accessory structures are regulated in the Downtown Core district to foster a complementary color theme, suitable for a downtown urban area. The range of colors permitted is intended to encourage visual variety, to encourage light colors for energy savings, and to favor colors appropriate for a subtropical environment. Except as otherwise provided herein, any building or structure for which a permit is issued after December 1, 2005, shall comply with the paint color requirements in this Section.

a. The City Council shall approve by resolution a chart of acceptable colors to be maintained in the Department of Community Development and the Downtown Community Redevelopment Area office to identify the paint colors that may be used on the exterior of principal and accessory buildings.

b. The following specific requirements apply:

(1) A building may contain up to four (4) colors. One (1) or two (2) body colors, one (1) or two (2) trim colors, and one (1) accent color.

(2) Architectural elements on the building façade, such as canopies, balconies, and arcades, shall be in the same color as one of the four chosen building colors, except where constructed with an unpainted permitted material such as stone or brick.

(3) Body colors on building walls, freestanding walls, and other primary building elements, shall be used for no less than 70% of the painted surface area of any one floor of the building.

(4) Trim and accent colors are used on doors, doorframes, windows, window frames, storefront frames, handrails, shutters, ornaments, fences, gates and awnings and similar features. Trim colors shall be used for no more than 30% percent of the painted surface area of the building.

c. Upon application by a property owner, the Downtown CRA Board may approve paint colors that are either not on the chart approved by City Council or deviate from the specific requirements contained in this section if the Downtown CRA Board finds that the proposed paint colors are substantially the same tone, color, and hue as the color(s) on the chart approved by the City Council, are generally consistent with the overall color theme and master plan policy objectives within the Downtown CRA, or are consistent and compatible with a predominant theme or color pattern along the

streetscape where the property is located. In order for the Downtown CRA Board to consider alternative colors and deviations from this section, a property owner must submit elevations that depict structures, proposed paint colors, compliance with and deviation from specific requirements, and pictures of the colors of structures in the surrounding streetscape within five hundred (500) feet of the subject property.

d. All properties with existing structures and/or approved building permits as of December 1, 2005, must come into compliance by April 1, 2010.

7. Roofs, Gutters & Downspouts

a. General Requirements:

(1) Only the following designs for roofs, gutters and downspouts are permitted. All other finish materials are prohibited.

(a) Hip roofs (with sloping sides and ends)

(b) Gable roofs (with sloping sides and vertical ends)

(c) Shed roofs

(d) Flat roofs (with the minimal pitch required by the Florida Building Code)

(e) Mansard roofs (with two slopes on a side, or one slope and a shed roof or flat roof above)

(f) Domed roofs (a hemispherical roof above vertical walls)

(g) Barrel vaulted roofs (with a single continuous arch and vertical ends)

(h) Roofs may use combinations of these permitted types and may supplement these types with dormers and valleys

(2) The edges of flat or low-slope roofs (less than 2:12 slope) shall be concealed with parapets on the front and sides of the building. Parapet walls shall be of sufficient height to visually conceal rooftop mechanical equipment.

b. Only the following finish materials for roofs are permitted. All other finish materials are prohibited.

(1) Metal: galvanized steel, copper, aluminum, or zinc-aluminum

(2) Shingles: asphalt (dimensional type) metal, and/or slate

(3) Tile: clay, terra cotta, concrete or synthetic tile

(4) Gutters: galvanized steel, copper, aluminum, or zinc-aluminum

(5) Downspouts: shall be the same material as gutters

c. Only the following configurations for roofs are permitted. All other configurations are prohibited.

(1) Metal: standing seam or "five-vee," twenty-four (24") inch maximum spacing, panel ends exposed at overhang

(2) Shingles: square, rectangular, fish-scale, or shield

(3) Tile: barrel, flat, or French

(4) Gutters: rectangular, square, or half-round section

8. Fences, Walls, Hedges, and Landscape Buffers

a. Fences, Walls, and Hedges.

(1) Height

(a) When utilized for purposes of required screening or concealing, fences, walls and opaque hedges shall be six (6) feet in height. Opaque hedges shall be planted in the same manner as hedges within landscape buffers required below.

(b) Fences, walls, and hedges not utilized for purposes of screening or concealing shall adhere to the following heights:

(i) When placed in front of principal buildings, fences, walls and hedges shall be a maximum of forty-two (42) inches in height.

(ii) When not placed in front of principal buildings, fences, walls and hedges shall be a maximum of six (6) feet in height.

(2) Setbacks

(a) Front Yard: Minimum three (3) feet from the front property line.

(b) Side or Rear Yard (not on an alley): None

(c) Side or Rear Yard (on an alley): Fifteen (15) feet

(3) Materials for Fences and Walls

Only the following finish materials for fences and walls are permitted. All other finish materials are prohibited.

(a) Wood (decay resistant or pressure treated only), shall be painted or stained

(b) Concrete block with stucco (CBS)

(c) Reinforced concrete with stucco

(d) Stone or brick, including cast (simulated) stone or brick

(e) Concrete

(f) Wrought iron

(g) Aluminum

(4) Fences and walls shall also adhere to the following regulations:

(a) Any fencing or walls within twenty (20) feet of the rear property line on waterfront sites must be open mesh above a height of three (3) feet. The City Council may, in its discretion, approve minor projections above the restricted heights for architectural features.

(b) No wall or fence of any kind whatsoever shall be constructed on any lot until after the height, type, design and location thereof shall have been approved in writing and proper permit issued by the Director of the Department of Community Development. Unless the posts or other supports used in connection with the fence or wall are visible from and identical in appearance from both sides of the fence, all posts or other supports used in connection with the fence or wall shall be on the side of the fence or wall that faces the property on which it is to be erected. If a fence or wall is constructed in such a way that only one (1) side of the fence is "finished", then the finished side of the fence shall face outward toward the street or adjoining property (facing away from the property on which it is erected). For purposes of this Section, the "finished" side of the fence shall be the side that is painted, coated, and/or smoothed so as to be more decorative in appearance.

If a fence or wall is located in a public utility easement, the property owner shall be solely responsible for removal of the fence or wall as well as for any cost resulting from disturbance, damage, or destruction of the fence or wall, resulting from work associated with utilities in such easement.

(c) Fencing for recreational facilities may be increased in height to ten (10) feet. Such fencing must immediately enclose the recreational facility. Hooded backstops for diamond sports may be increased to a maximum height of twenty-eight (28) feet. All fencing at recreational facilities must be constructed of at least 9 gauge fence fabric and schedule 40 tubing.

(d) No fence or wall shall enclose a utility meter including but not limited to water and electric service meters. An applicant shall indicate the location of any utility meter in the permit application. This restriction shall not apply to City maintained or constructed facilities.

(e) All fences and walls shall be of sound construction and not detract from the surrounding area.

(f) No barbed wire, spire tips, sharp objects, or electrically charged fences or walls shall be erected.

(g) No fences shall be placed within the visibility triangle.

b. Landscape Buffers

(1) All residential, non-residential and mixed use developments in the Downtown Core District which are located on lots

abutting a residential future land use classification shall be permanently buffered with a properly maintained six (6) foot minimum landscape buffer yard on the rear and side yard(s) of the use which actually abuts the residential future land use. For purposes of this Section, a property shall be deemed abutting if it shares a common lot line with a residential future land use. Properties across streets, alleys and canals shall not be deemed abutting.

(2) The landscape buffer yard shall contain a barrier hedge that, at planting, shall be not less than 3.5 feet high and spaced 2.5 feet on center. In addition, the barrier hedge shall have opacity sufficient to accomplish the buffering purpose and be capable of reaching a minimum clear trunk height of 8 feet.

(3) Trees planted in the landscape buffer yard shall be shade trees with a minimum clear trunk height of eight (8) feet and minimum diameter of two (2) inches (measures six (6) inches from the ground) at time of planting. The mature canopy of shade trees shall be at least fifteen (15) feet. Palm trees shall not be planted in the landscape buffer yard. All shade trees planted in the buffer yard shall be credited towards the tree planting requirements for the site. The landscape buffer yard shall be properly maintained at all times. An irrigation system shall be provided for the landscape buffer yard plantings.

9. Columns, Arches, Piers, Guardrails, and Balustrades.

a. Only the following finish materials for columns, colonnades and supports for front porches are permitted. All other finish materials are prohibited.

(1) Wood (decay resistant or pressure treated only) shall be painted or stained

(2) Wrought iron

(3) Concrete block with stucco finish (CBS)

(4) Reinforced concrete with stucco finish

(5) Stone or brick, including cast (simulated) stone or brick

b. Only the following finish materials for arches and piers that form arcades are permitted. All other finish materials are prohibited.

(1) Concrete block with stucco finish (CBS)

(2) Reinforced concrete with stucco finish

(3) Stone or brick, including cast (simulated) stone or brick

c. Only the following finish materials for guardrails and balustrades surrounding balconies, front porches, stoops, colonnades, and arcades are permitted. All other finish materials are prohibited.

(1) Wood (decay resistant or pressure treated only) shall be painted or stained

(2) Wrought iron

(3) Aluminum (painted, coated or anodized)

(4) Stone, including cast (simulated) stone

(5) Steel (painted, coated or anodized)

d. Only the following configurations for columns, arches, piers, guardrails, and balustrades are permitted. All other finish materials are prohibited.

(1) Columns that support colonnades and front porches:

(a) Square or rectangular: with a minimum of six (6) inches in width

(b) Round: six (6) inches minimum diameter

(2) Columns that support colonnades cannot be spaced farther apart than they are tall.

(3) Piers supporting arches: eight (8) inches minimum dimensions, and cannot be spaced farther apart than they are tall.

(4) Guardrail and balustrade handrails: two and three quarters (2-3/4) inches minimum dimension or diameter for all handrails.

10. Civic Buildings:

The City Council may waive build-to zone, building frontage requirements and mandatory architectural elements to accommodate traditional architectural forms for civic buildings which may include monumental stairways.

H. Signage

1. Introduction.

The purpose and intent of these signage regulations, and the corresponding regulations in Article VII for signs is to provide alternate standards for the three major categories of appropriate signage for urban buildings: signs, that are mounted flat against a building's façade, or that project from the façade, or that are mounted above the top of the façade. Other types of signs authorized by Article VII are also permitted, except where specifically prohibited by Section 2.7.15.G.2.C. Except as specified herein, all other applicable provisions of Article VII shall apply.

2. General Sign Requirements

a. Signs Flat Against the Façade

Signs placed flat against the façade shall meet all requirements of Article VII for either wall signs or professional nameplates. Signs extending less than one (1) foot from the wall and parallel to the wall shall be considered a sign flat against the façade.

b. Signs Projecting From the Façade

In addition to all of the provisions of Article VII, signs projecting from the façade shall meet all of the following requirements:

(1) Projecting signs may occur forward of the build-to-zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development, or his or her designated representative. The City may require the property owner to

enter into a formal easement agreement in a form acceptable to the City Attorney.

(2) Suspended signs shall maintain a vertical clearance of at least eight (8) feet from the sidewalk.

c. Prohibited Signs. In addition to the types of signs that are prohibited by Article VII, the following types of signs are prohibited. See Section 7.12 for special regulations on non-conforming existing signs.

(1) Freestanding pole signs

(2) Plastic fascia signs

3. Lighting. All lighted signs shall be externally lit, except for individual letters and symbols which may be internally lit or backlit.

4. Only the following finish materials and configurations for signs are permitted. All other finish materials and configurations are prohibited.

a. Wood: painted, stained, or natural

b. Metal

c. Plastic, when used for individual letters and symbols only

d. Painted canvas (no glossy-finish or back-lit canvas)

e. Neon (non-flashing)

f. Painted/engraved directly on façade surface

.16 DG-Downtown Gateway District

A. Purpose and Intent

The purpose and intent of the Downtown Gateway district is promote redevelopment of the easterly and part of the westerly entrance to the Downtown Community redevelopment area where a higher percentage of land uses are expected to be water-oriented residential and entertainment uses.

B. Permitted Uses

1. Animal Kennel (indoors only)
2. Assisted Living Facility
3. Automatic Teller Machine (ATM)
4. Automotive Parking Establishment
5. Banks & Financial Establishments - Groups I and II
6. Bed and Breakfast Establishment
7. Boat Parts Store
8. Business Offices - Groups I and II
9. Carryout/Delivery Food Service Establishment
10. Cleaning/Maintenance Services
11. Clothing Store – General
12. Clubs: Fraternal and Membership Organizations
13. Contractors and Builders - Group I
14. Cultural Facilities - Public/Private
15. Day Care Center, Adult
16. Department Store
17. Drive-Through Facility (whether freestanding or serving another permitted use)
18. Drug Store
19. Dwellings, Conjoined Residential Structure (shall contain at least three units)
20. Dwellings, Multiple Family Building (Multi-Family)

21. Essential Services
22. Family Day Care Home
23. Florist Shop
24. Food Stores - Groups I and II
25. Government Uses - Groups I and II
26. Hardware Store
27. Health Care Facilities - Groups I, II, III
28. Hobby, Toy, Game Shops
29. Home Occupations
30. Hospice
31. Hotel/Motel and Resort
32. Household/Office Furnishings - Groups I and II
33. Insurance Company
34. Medical Office
35. Mortgage Broker
36. Motion Picture Theatre
37. Newsstand
38. Non-Store Retailers - Groups I, II, III, and IV
39. Package Store
40. Parks - Groups I, II
41. Personal Services - Groups I, II, III and IV
42. Pet Services
43. Pet Shop
44. Pharmacy
45. Photo Finishing Labs
46. Places of Worship
47. Printing Services Establishment
48. Private Park
49. Recreation/Commercial - Groups I and III
50. Religious Facility
51. Rental Establishments - Groups I and II
52. Repair Shops - Groups I and II
53. Research, Development and Testing Labs - Groups II, III and V
54. Restaurants - Groups I, II, and III (fast-food restaurants require a Special Exception)
55. Schools – Commercial
56. Schools – Non-profit, Private, Parochial and Public - Group II
57. Social Services - Group I
58. Specialty Retail Shops - Groups I, II, III and IV
59. Studio
60. Transportation Services - Group I, II and III
61. Used Merchandise Stores - Groups I, II
62. Variety Store
63. Veterinary/Animal Clinics

C. Special Exceptions

1. Child Care Facility
2. Bar or Cocktail Lounge
3. Essential Service Facilities – Group I
4. Landscaping Services Establishment
5. Mortuary and Funeral Home
6. Nightclub
7. Radio and Television Stations
8. Repair Shops – Group III
9. Restaurant – Group IV

D. Special Regulations

The following are special regulations for the Downtown Gateway district.

1. Building Placement. Building placement shall be in accordance with the following standards.

a. Building location: For properties that abut a navigable waterway, the minimum setbacks for all property lines that abut streets are six (6) feet. For properties that do not abut a navigable waterway the build-to zone shall be seven (7) to seventeen (17) feet from all property lines that abut streets. Building floors above the first story may be stepped back behind the build-to zone. The first story of a building shall be located in the build-to-zone, except as follows:

b. Minimum building setbacks shall be as follows:

(1) On properties that abut a navigable waterway, the building(s) shall be set back a minimum of fifteen (15) feet from the navigable waterway.

(2) On properties that abut an alley, the building(s) shall be set back a minimum of twenty (20) feet from the centerline of the platted alley.

(3) On properties having a side yard that abuts another property line, the building(s) shall be set back either:

(a) Ten (10) feet from the side yard property line; or

(b) Abut the side yard property line with no setback

(4) On properties having a rear yard abutting another property line, the building(s) shall be set back a minimum of ten (10) feet from the property line.

c. A portion of the first story may be set back beyond the established build-to zone if the space that is set back from the build-to zone is utilized as a courtyard as follows:

(1) If the courtyard is open to the sidewalk and either unroofed, or if roofed, the roof is at least two (2) stories above ground level, up to 35% of the first story may be set back from the build-to zone.

(2) If the courtyard is open to the sidewalk with a roof that is not more than one (1) story above ground level, up to 65% of the first story may be set back from the build-to zone.

d. On lots at the corner of two (2) streets or at the corner of a street and an alley, visibility triangles shall be maintained in accordance with Section 3.7.

e. Exceptions from build-to zones are permitted to protect non-exotic existing trees with diameters greater than eight (8) inches as measured four feet up from ground level. The build-to-zone shall only be modified to the extent necessary to protect the tree(s).

f. Building frontage: Building frontage shall adhere to the following standards:

(1) For properties that do not abut a navigable waterway, the first story of the building's frontage shall be at least fifty percent (50%) of the lot's width as measured along the front property line. The second story of the building's frontage shall be at least fifty percent (50%) of the lot's width as measured along the front property line. For adjoining lots that are being developed simultaneously as one (1) site with one (1) or more buildings, this percentage applies to the combination of lots and building frontages.

(2) For properties that abut a navigable waterway, the first three (3) stories of the building's frontage shall not exceed more than 70% of the lot's width as measured along the front property line. The first and second stories of the building's frontage shall be at least fifty percent (50%) of the lot's width as measured along the front property line. The foregoing restriction shall not apply to any portion of the building's frontage that is higher than three (3) stories though the building shall maintain all minimum yards/setbacks. For adjoining lots that are being developed simultaneously as one (1) site with one (1) or more buildings, the foregoing restriction applies to the combination of lots and buildings.

g. Building fronts:

(1) Building fronts shall face the public street.

(2) Properties located on the perimeter of public squares, public plazas or city owned parking lots with building façades facing the public squares, public plazas or city owned parking lots, even if separated by a platted alley, shall have two façade fronts; one that faces the street and one that faces the public square, public plaza or city owned parking lot. Both façade fronts shall meet the transparency requirements and all applicable regulations herein pertaining to building frontage and façade requirements.

2. Building height: Maximum building heights are based on a maximum height and a maximum number of stories. For purposes of this Section, stories used exclusively for parking vehicles count the same as habitable stories. Except as otherwise provided herein for large-footprint buildings, all buildings shall comply with the following:

a. Maximum: six (6) stories, with a maximum height of eighty five (85) feet. Buildings between seven (7) and twelve (12) stories with a maximum height of one hundred and fifty (150) feet may be permitted through the PDP process (see Section 4.1.2.A.4) only upon clear demonstration that permitting the extra height (up to a maximum of one hundred and fifty (150) feet will provide public benefits. Examples of public benefits include, but are not limited to the following:

(1) Placement of the building(s) to protect a waterfront view.

(2) Public access to a waterfront.

(3) Non-residential uses in twenty percent (20%) of the area of the entire building that is receiving the additional height.

(4) Public access and public viewing from the internal area or rooftop of the building above the seventh (7^{th}) story. Such public access and public viewing shall include, but not be limited to, areas devoted exclusively to such purposes that are open to the public as well as non-residential uses, such as restaurants, that are open to the public and provide view(s) of the surrounding area to the public.

b. Minimum Height: two (2) stories with a minimum total height of twenty (20) feet. For buildings with frontage along Cape Coral Parkway (including corner buildings with Cape Coral Parkway frontage), the façade along Cape Coral Parkway shall be a minimum of thirty-five (35) feet in height and shall have the appearance of a three (3) story building.

c. The height of the first story shall be a minimum of eight (8) feet and a maximum of sixteen (16) feet. For non-residential or compound use buildings, the floor of the first story shall not be located any higher than three (3) feet above grade. For residential buildings, the floor of the first story shall not be located any higher than six (6) feet above grade. Any area under the floor of the first story shall not be counted as a story and shall not be habitable, and shall be enclosed by walls.

d. Where upper floors are partially omitted to create an atrium or other taller space, the number of stories shall be determined by the portion of the building where the upper floors have not been omitted.

3. Large-Footprint Buildings. Buildings covering more than 25,000 square feet of ground and/or with a building frontage of greater than one hundred and fifty (150) feet shall comply with all requirements of the Downtown Gateway district except as follows:

a. When surrounded by liner buildings at least twenty (20) feet in height, large-footprint buildings may be one (1) story in height and are exempt from the façade transparency requirements of Section 2.7.16.F.4. All liner buildings shall meet the façade transparency requirements of Section 2.7.16.F.4. When not surrounded by liner buildings, all large-footprint buildings shall be twenty (20) feet in height and shall meet the façade transparency requirements in Section 2.7.16.F.4. That portion of a large-footprint building that exceeds the height of a liner building shall comply with the aforesaid façade transparency requirements and shall have the appearance of a story.

(1) First floor space shall be located at ground level.

(2) Habitable space on the first floor shall adhere to liner building criteria as provided for parking structures.

b. Building façades shall not be separated from public streets by parking lots.

c. Loading docks, service areas, and trash disposal facilities shall be concealed from persons standing on public streets, sidewalks, parks, or plazas adjacent to the property on which the building is located.

4. Flood Damage Prevention shall be as required in Section 6.5.B.2.b. of the Land Use and Development Regulations.

5. Utilities.

a. For new buildings, all onsite utilities including but not limited to telephone, electricity, cable television, and other wires of all kinds shall be placed underground. However, appurtenances to these systems that require aboveground installation including, but not limited to, utility panel boxes are exempt from this requirement if the appurtenances are not placed in front yards. When such appurtenances are located in utility easements abutting a platted alley, they shall be located at least ten and one-half (10½) feet from the centerline of the platted alley. These underground requirements also apply to those improvements to non-conforming structures that exceed the 50% thresholds as described in Sections 2.6.2 and 2.6.5. All utility infrastructures, including electric utility poles and power lines, shall be concealed from public view wherever possible and shall not be located on any property that abuts streets or sidewalks wherever possible. All new electric distribution lines shall be located in utility easements abutting platted alleys and their utility poles shall be positioned so that a minimum clearance of ten and one-half (10½) feet from the centerline of any platted alley is maintained. For

properties that do not have a rear platted alley, the electric distribution lines and utility poles shall be located in the rear utility easement wherever possible.

b. On certain blocks where overhead or underground utility lines have been placed in the first six (6) feet beyond the edge of the street right-of-way (where improvements might otherwise be placed in accordance with these regulations) a property owner shall choose one of the following options:

(1) The property owner may relocate the utility lines to the alley or other acceptable location, at the property owner's sole expense and subject to approval by the affected utility provider(s) and the City of Cape Coral; or

(2) The property owner may choose to place a concrete sidewalk, or architectural elements, on the front six (6) feet beyond the edge of the street right-of-way. If overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or front porches may be constructed in this area. If underground lines of any type are in place, the property owner is solely responsible for repairing any damage to lawful encroachments into the six (6) foot easement resulting from maintenance or improvements to utility lines. If water, sewer, or irrigation line(s) are in the easement, then no part of any building on the site shall be located within seven (7) feet of such utility line.

6. Swimming Pools. Swimming pools are permitted provided the pool is in one of the following locations:

a. Indoors;

b. On the roof of the building in which the use is located; or

c. Outdoors, in accordance with the following limitations:

(1) A swimming pool may be located in a rear yard or side yard. Any pool located in the side yard shall be concealed from all streets, excluding platted alleys, by fencing, wall or a combination thereof. See Section 2.7.16.F.8. for regulations concerning planting requirements and setbacks and heights for fences and walls. All swimming pools shall have a ten (10) foot minimum setback from all lot lines.

(2) No pool, pool enclosure, or screen enclosure shall be located within a utility or drainage easement.

(3) A swimming pool located in the front or side yard shall be separated from the street by a wall that meets the façade requirements of Section 2.7.16.F.3.c. and the transparency requirements of Section 2.7.16.F.4., except that window openings need not contain glass.

7. Residential Density: The maximum density of residential units by right is twenty (20) dwelling units per acre.

a. The following calculation shall be used to determine the maximum number of dwelling units (DU) permitted on a given parcel, with the result rounded to the nearest whole unit:

$$\left(\frac{\textit{Parcel Area in Square Feet}}{43{,}560}\right) \textit{Allowable Density} = \textit{Maximum Number of DU}$$

b. The density calculation for a compound use building is not affected by floor space in that building that is dedicated to commercial uses.

c. No more than two thousand twenty-seven (2,027) dwelling units shall be permitted in the Downtown Community Redevelopment Area (CRA) District. The Coastal High Hazard Area of the Downtown CRA shall be limited to two hundred (200) dwelling units.

8. Minimum Size of Dwelling Units. Every dwelling unit shall have at least the following floor area:

a. Efficiency and one-bedroom units: seven hundred and fifty (750) square feet

b. For each additional bedroom: one hundred and fifty (150) square feet

9. A maximum Floor To Lot Area Ratio (FAR) of 2.0 is permitted by right within the Downtown Gateway zoning district.

10. Downtown CRA Development Incentive Program (DCDIP): Development incentives are opportunities offered to property owners and developers as a means to meet specific development goals while increasing the quality of development and providing benefits to the community at large. Such incentives shall not be considered an inherent right but a potential opportunity if certain conditions are met. Site and/or area-wide constraints, public facility capacity limitations, and/or regulatory controls may limit the achievement of densities and intensities offered under this program. Residential density and/or non-residential intensity (FAR) in addition to the baseline densities and intensities permitted herein, may be granted through participation in the Downtown CRA Development Incentive Program (DCDIP) as follows:

a. Eligible Residential Density and Improvement Required. Additional residential density, greater than twenty (20) units per acre and up to a maximum total of forty (40) dwelling units per acre may be available through participation in the DCDIP. For each residential unit requested in excess of twenty (20) dwelling units per acre up to a maximum of forty (40) dwelling units per acre, participants in the DCDIP shall be required to provide one or more improvements pursuant to this Section. The value of the on-site and/or off-site improvements for purposes of the DCDIP shall be established by resolution of the City Council. Overall density limitations of the Downtown CRA as well as other factors may limits the availability of the maximum density on any particular development site.

b. Eligible Non-Residential Development and Improvement Requirements. Additional commercial development, greater than two (2.0) FAR up to a maximum of four (4.0) FAR may be available through participation in the DCDIP. For each increase of 0.1 FAR per acre exceeding the baseline FAR, participants in the DCDIP shall be required to provide one or more improvements pursuant to this Section. The value of the on-site and/or off-site improvements for purposes of the DCDIP shall be established by resolution of the City Council.

c. Categories of DCDIP Development Incentives. A variety of development incentives in several different categories, that are not mutually exclusive, are eligible for consideration in the DCDIP. Some development incentives may fall within more than one category of development incentive. The following categories of incentives are those from which participants in the DCDIP may provide

improvements in order to be eligible for increased density and/or intensity pursuant to this Section:

(1) Superior site design and quality development. Through participation in the DCDIP, development in excess of baseline densities and/or intensities may be available if a development exceeds the minimum standards of quality for site design that are required for development in the Downtown Gateway zoning district because the physical layout, orientation, and design of a proposed development greatly affects the on-site activities, the connectivity to off-site uses and activities, and the overall neighborhood character and aesthetic appreciation of the development. Factors to be considered in regard to whether a development offers the superior site design and quality necessary to achieve increased density and/or intensity under the DCDIP include, but are not limited to, the following:

(a) Connectivity – whether the on-site placement of uses, development, and pathways realizes and complements connections among on-site and off-site uses;

(b) Clustering – whether the design of the development concentrates development and/or uses so as to increase on-site open space areas and/or preservation;

(c) Exterior Design and Materials – whether the exterior design and materials of the development, such as facades, fenestrations, colonnades, awnings, arcades, balconies, building recesses, and other ornamental or design features, will exceed in quality and/or quantity those required by the Land Use and Development Regulations or other regulations so as to mitigate the effects of any increase in building bulk and/or height that would result from an increase in density and/or intensity;

(d) Orientation – whether the building(s) or other features of the development are oriented to maximize the activities occurring in the development; whether the development is oriented so as to maximize the availability of and access to public parks, public squares, public plazas, open space, community facilities, and vistas so as to create a sense of cohesiveness and community;

(e) Underground Utilities – whether the development is utilizing underground utilities to a greater extent or degree than would be otherwise required by the Land Use and Development Regulations or other regulations so as to enhance the aesthetic value of the community and so as to provide additional protection of the utilities from the effects of the elements, including but not limited to, hurricanes, fires, etc.

(2) Preservation of Natural Resources – whether the development will preserve, enhance, and/or expand beyond the level required by local, state, and/or federal regulations natural resources, particularly wetlands and upland habitats that support threatened and endangered species and/or mature tree stands, because these resources are beneficial to the ultimate users of the development site, the surrounding community, the City as a whole, and the region.

(3) Public Open Space and Recreational Areas – whether the development will provide on-site open space, landscaping, and buffering that exceeds any such features that may be required by the City Land Use and Development Regulations or other regulations. In addition, this category includes consideration of whether the development will contribute passive and/or active recreational areas and facilities to mitigate the effects of any increased density and/or intensity, particularly when such recreational areas and/or facilities connect to existing public recreational areas and/or contribute to the achievement of target areas and facilities identified in the City's Master Park Plan.

(4) Community Facilities – whether the development will provide community facilities that would support a thriving urban center and would be beneficial to the vitality of the Downtown CRA. Community facilities that would be eligible for consideration in this category may be public, private, or a combination of public and private in nature and would include, but not be limited to, government and public facilities, educational facilities, day care and special needs facilities, hurricane shelters, dedicated land and/or facilities in non-flood prone areas (even outside of the Downtown CRA boundaries), civic centers, libraries, and theatres. Factors such as the demographic need in a given area, the service need in a given area, the stated public needs and objectives, and contextual suitability for the proposed facilities would be shall be considered in the evaluation of elements in this category.

(5) Affordable Housing – whether the development will provide affordable housing opportunities either on-site or off-site. Factors such as the quality and quantity of the affordable housing opportunities offered and the suitability of area to support population needs shall be considered in evaluating proposed affordable housing contributions under this category.

(6) Transportation Improvements – whether the development will provide transportation improvements that exceed in quality and/or quantity those required under the City Land Use and Development Regulations or any other regulations. Transportation Improvements that would be eligible for consideration in this category would include, but not be limited to, provision of land to support existing and proposed rights-of-ways located on-site and/or off-site that have been identified as needed by the City; physical construction of and/or payments for right-of-way improvements on-site and off-site in excess of those required by the City or other agency; provision of streetscape improvements such as plantings and street furniture; provisions of traffic control measures such as signalization; mass transit services or facilities such as bus shelters and/or tram or water taxi services; and bicycle racks and storage lockers.

(7) Enhanced Waterfront Access and Use – whether the development will provide new and/or enhanced opportunities for public access to and use of waterfront resources such as the provision of land and/or facilities that expand existing public parks and facilities; provision of waterfront boardwalks, esplanades, and/or pathways; the provision of sitting areas and other passive-related improvements; the provision of piers, docks, and boat launch sites; the provision of parking lots or parking structures at or

adjacent to waterfront locations, serving the general public; and the creation and/or expansion of man-made lakes that enhance use areas available to the public.

(8) Public Improvement Fund – whether the property owner (or the developer on behalf of the owner, if someone other than the owner is acting as the developer of the property) makes a monetary contribution to the City Public Improvement Fund (PIF). If a monetary contribution to the PIF is approved pursuant to this Section, the PIF payment shall be paid after approval of the development and prior to the issuance of any building permit(s) for the development. The City will use monies in the PIF to make public improvements within the Downtown CRA so as to mitigate the effects of any increased density and/or intensity that may occur in the Downtown CRA Such public improvements would include, but not be limited to, public parks, bike and/or pedestrian paths, greenbelt and nature trails, landscaping, government facilities and infrastructure improvements. The City Manager or his or her designee shall prepare an annual report identifying the amount of money collected under this program each year, the amount of money in the fund, current and proposed expenditures, and projects funded and proposed to be funded through the PIF together with the time frame in which anticipated projects are proposed to be accomplished.

(9) Land Assemblage – whether the development involves the assembly of not less than three (3) acres of land that is at least 250 feet deep along at least fifty (50%) percent of the site's frontage. In order to be considered an assembly of land within this category, the minimum (3) acre land area must have been attained after December 1, 2005 as the result of an amalgamation of smaller parcels. Points will awarded under this category based on the amount of land assembled, the number of platted lots assembled, the amount of non-residential development proposed, and the location of the property.

d. The City Council will adopt a Resolution that identifies the formula that determines the contribution amount of amenities/improvements necessary to achieve the increased density and/or intensity as permitted. The formula is based on the value of construction at base density/intensity, the assessed value of the land, the increase in density and/or intensity and a density and/or intensity factor to be determined by City Council. Cost of the proposed amenity/improvement in relation to the contribution amount required for the requested density and/or intensity through the formula provided in the Resolution may not be at a dollar for dollar basis. Value of amenity/improvement will further be evaluated based on a point/weight system of the public benefit of the amenity/improvement. The Resolution will further define the point/weight system that determines the public benefit. Factors that may affect the point/weight system include, but are not limited to, the category of creditable activity provided in relation to other categories and the community, neighborhood and/or City-wide value of the proposed amenity/improvement.

e. Credit Points. Each increment of density over the baseline density or increment of intensity over the baseline FAR shall require an award of one hundred (100) credit points. For purposes of this Section, one (1) dwelling unit shall constitute an increment of density and one thousand (1,000) square feet shall constitute an increment of intensity. In no event shall credit points be applied to more than one increment at a time.

f. Applications for Development Incentives. To apply for excess density and/or intensity through the DCDIP program, a property owner shall submit an application to the City Department of Community. The application shall be accompanied by a fee that will be set by the City Council and that shall be an amount that is adequate and reasonable for the administrative expenses incurred by the City in the review of the application. The application shall contain the following information:

(1) The application shall be on a form supplied by the Department of Community Development and shall be accompanied by all applicable supporting information and/or attachments including, but not limited to, all applicable site plan and/or planned development project documents related to the proposed development for which increased density and/or intensity is sought; operations and maintenance plans; schematic architectural drawings; floor plans; elevations and perspectives; and/or public benefits assessment(s).

(2) The application shall identify the amount of money, if any, proposed for contribution to the PIF. If approved, the PIF payment shall be paid after approval of the development and prior to the issuance of any building permit(s) for the development.

(3) Documentation related to any improvements or amenities in any of the categories of development incentives eligible for consideration under the DCDIP, including, but not limited to, detailed drawings that clearly indicate baseline residential density and/or non-residential intensity, as well as development associated with proposed enhanced densities and intensities.

(4) Proof of ownership of the land upon which the development for which enhanced density and/or non-residential intensity is sought together with proof of ownership and/or other control of any property for which off-site improvements are sought for consideration under the DCDIP.

g. Standards for Approval of Enhanced Density and/or Enhanced Intensity pursuant to the DCDIP. The City Manager or his or her designee shall have the authority to approve or disapprove all requests for enhanced density and/or intensity pursuant to the DCDIP based on whether the proposed public benefit to be gained by the development incentive(s) pursuant to the DCDIP have sufficient merit to justify the approval of the requested enhanced density and/or intensity. The criteria that the City Manager or his designee shall consider in making a decision about an application pursuant to the DCDIP shall include, but not be limited to, the following:

(1) the degree, if any, to which any proposed amenity or improvement meets or exceeds the goals and objectives within the City's Comprehensive Plan, the Downtown CRA Master Plan, and all other City regulations;

(2) The size and quality of any proposed amenity or improvement;

(3) The degree of public accessibility to any proposed improvement and/or amenity;

(4) The quality of the design of any proposed improvement or amenity based on its relationship to the principal use of the development, the location of the subject property, the adjacent properties and uses, street frontage(s), and City regulations, as applicable;

(5) The degree, if any, by which the proposed improvement or amenity preserves, enhances, expands, and or protects the environment, including views, pedestrian environment, landscaping, and relaxation areas as well as the potential public enjoyment of the Downtown CRA; and

(6) The amount by which the requested density and/or intensity would exceed the baseline density and/or intensity otherwise available for the development.

h. Requests for increased density and/or increased intensity shall only be considered with respect to a specific proposed development. If granted by the City, an increase in density and/or an increase in intensity shall be applied only to the development with respect to which such increase(s) were sought. Excess density and/or intensity awarded under the DCDIP program are not transferable. In the event the development project for which an increase in density and/or intensity is sought will be considered for approval at a public hearing of the Planning and Zoning Commission/Board of Zoning Adjustment and Appeals and/or the City Council, such as in the case of Planned Development Projects (PDPs), then the development incentive proposals and the issue of any increased density and/or intensity shall be considered as a part of such public hearing and any resulting development order.

i. The City Manager shall prepare and submit to the City Council an annual report identifying and describing all activities, funds and improvements under the DCDIP. Proposed improvements in the Downtown CRA, through expenditures of the PIF, shall be approved only by the City Council consistent with existing financial policies and requirements.

11. a. Parking Requirements: Except for sites located, as of December 1, 2005, within twenty-five (25) feet, excluding alleys and walkways, of any of those dedicated City parking areas identified in section 2.7.16.D.11.f.(1) below (hereafter "Parking Area Sites"), properties with more than fifty (50) feet of frontage shall provide on-site at least the minimum on-site required parking, based on their use(s), identified in the Parking and PILOP Table below. The balance of the minimum total parking required for such properties, based on their use(s), may be satisfied by providing additional on-site parking (beyond the minimum amount), off-site parking through satellite parking agreements, and/or contributions to the Payment in Lieu of Parking (PILOP) fund (PILOP fees). Properties with fifty (50) feet or less of frontage shall be required to provide the minimum total parking required, based on their use(s), but they shall not be required to provide any part of such minimum total parking on-site; instead, all or part of their minimum total required parking may be satisfied by providing on-site parking, off-site parking through satellite parking agreements, and/or PILOP fees. If a site engages in shared parking, such shared parking shall not be applied toward any minimum parking requirement.

PARKING AND PILOP TABLE			
	Column (A)	Column (B)	Column (C)
Development Use	Minimum Total Parking Requirements	Minimum On-Site Parking Requirements	PILOP Fees
Residential	1.5 per unit	1.25 per unit	Provide A = no fee Provide B = (A-B) x fee Provide >B but < A, multiply difference x fee
Non-Residential	100% of required Parking in Art. V, Section 5.1.7	75% of Column A	Provide A = no fee Provide B = (A-B) x fee Provide >B but < A, multiply difference x fee

b. When a site other than a Parking Area Site is altered so that the minimum total parking requirement for the site, pursuant to the Parking and PILOP Table contained in Section 2.7.16.D.11.a. is increased, but the area of the site is neither decreased nor increased, then the site shall provide the minimum on-site parking requirement and minimum total parking requirement for the site in accordance with the Parking and PILOP Table contained in Section 2.7.16.D.11.a. less any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof. A site is altered, for purposes of this Section, when any use located on the site is changed, any structure located on the site is modified, or the land area of the site is changed.

c. In the event the area of a site other than a Parking Area Site is increased as the result of the acquisition of property that was not a part of a Parking Area Site as of December 1, 2005, any PILOP fees previously paid as the result of the use(s) or structure(s) located on the conveyed property shall be treated in the same manner as any PILOP fees, if any, previously paid by the receiving site provided that the minimum total parking requirements for the conveying site decrease as the result of the conveyance of property. If the minimum total parking requirements for the conveying site do not decrease as the result of the transfer, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the enlarged (receiving) site.

d. In the event the area of a site that is not a Parking Area Site is decreased, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the receiving site unless the minimum total parking requirements for the conveying site decrease as the result of the transfer. If the minimum total parking requirements for the conveying site decrease as the result of the transfer, and the conveying site had previously paid PILOP fees pursuant to this Section, then any such PILOP fees that are unnecessary to defray the decreased total parking requirements of the conveying site shall be applied toward the parking requirements of the receiving site.

e. In the event the area of a site other than a Parking Area Site is increased as the result of the acquisition of property that was a part of a Parking Area Site as of December 1, 2005, the increase in area that results from such acquisition shall, for purposes of this Section, be treated as a Parking Area Site.

f. For Parking Area Sites, the following parking and PILOP regulations shall apply:

(1) Each of the following dedicated City parking areas in the Downtown CRA is hereby assigned a parking allocation factor as follows:

Dedicated City Parking Area	Surrounding Blocks and Lots		Parking Allocation Factor
	Lots	Block	
Parking Area 1	1 through 24	62	0.000655
Parking Area 2	1 through 24	62A	0.001135
Parking Area 3	1 through 17	63A	0.001040
Parking Area 4	1 through 30	63	0.001515
Parking Area 5	1 through 61	64	0.001501
Parking Area 6	1 through 34	356	0.001572
	1 through 30	357	
Parking Area 7	11 through 14	56A	0.001330
	1 through 11	56B	
	1 through 14	56C	
	1 through 10	G	

(2) For purposes of this Section, when a "parking credit" must be calculated for a Parking Area Site, such parking credit shall be calculated by multiplying the area of the site (in square feet) by the Parking Allocation Factor related to the dedicated City parking area upon which the site is located.

(3) When the area of a Parking Area Site changes, the following shall apply:

(a) In the event the area of a Parking Area Site is increased as the result of the acquisition of property that was not a part of a Parking Area Site as of December 1, 2005, the increase in area that results from such acquisition shall, for purposes of this Section, be treated in the same manner as property, no part of which comprised a Parking Area Site.

(b) In the event the area of a Parking Area Site is increased as the result of the acquisition of property that was a part of a Parking Area Site as of December 1, 2005, any PILOP fees previously paid as the result of the use(s) or structure(s) located on the conveyed property shall be treated in the same manner as any PILOP fees, if any, previously paid by the receiving site provided that the minimum total parking requirements for the conveying site decrease as the result of the conveyance of property. If the minimum total parking requirements for the conveying site do not decrease as the result of the transfer, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the enlarged (receiving) site.

(c) In the event the area of a Parking Area Site is decreased as the result of the conveyance of property that was a part of a Parking Area Site as of December 1, 2005, regardless of whether such conveyance is to another Parking Area Site or to a property that is not a Parking Area Site, then any PILOP fees previously paid in regard to the conveying property shall

continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the receiving site unless the minimum total parking requirements for the conveying site decrease as the result of the transfer. If the minimum total parking requirements for the conveying site decrease as the result of the transfer, and the conveying site had previously paid PILOP fees pursuant to this Section, then any such PILOP fees that are unnecessary to defray the decreased total parking requirements of the conveying site shall be applied toward the parking requirements of the receiving site.

(4) A Parking Area Site is altered, for purposes of this Section, when any use located on the site is changed, any structure located on the site is modified, or the land area of the site is changed. Although a Parking Area Site shall not be required to provide on-site parking, when such site is altered so that the minimum total parking requirement for the site, pursuant to the Parking and PILOP Table contained in Section 2.7.16.D.11.a., is increased, the parking requirement for the site shall be determined in accordance with the following:

(a) Parking Area Sites that are undeveloped as of December 1, 2005

(i) A Parking Area Site that is undeveloped as of December 1, 2005, the area of which has not changed and which is being initially developed after December 1, 2005, shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.16.D.11.a. less a parking credit calculated pursuant to Section 2.7.16.D.11.f.(2). The site would need to meet the aforesaid parking requirement prior to receiving a Certificate of Occupancy (for residential uses) or a Certificate of Use (for non-residential uses). If the land area of the Parking Area Site increases prior to the initial development of the site, then the requirements of this Section shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors such as whether it was previously developed and/or had previously paid PILOP fees.

(ii) After such a Parking Area Site has been initially developed pursuant to this Section, any further alteration of the site that would result in an increase to the minimum parking requirement for the site, pursuant to the Column (A) of the Parking and PILOP Table contained in Section 2.7.16.D.11.a., but which neither increases nor decreases the area of the site, shall require that the site provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.16.D.11.a. less the parking credit calculated pursuant to Section

2.7.16.D.11.f.(2) and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof.

(iii) After the initial development of such a site, if the area of the site increases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.16.D.11.a. less a parking credit (to which the site would be entitled based on its land area at the time of such further alteration) and any PILOP fee(s) previously paid to offset the parking requirement of the site, including any PILOP fee(s) paid with respect to the expanded area of the site, in accordance with Section 2.7.16.D.11.f.(3).

(iv) Alternatively, if, after the initial development of such a site, the area of the site decreases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table less a parking credit and any PILOP fee(s) previously paid to offset the parking requirement of any use(s) or structure(s) located on the area of the site remaining after the decrease(s) in area, in accordance with Section 2.7.16.D.11.f.(3).

(b) With respect to Parking Area Sites that are developed and occupied as of December 1, 2005, the following shall apply:

(i) The first time such a site is altered after December 1, 2005, if the alteration would result in an increase in the minimum parking requirement for the site of more than twenty-five (25%) over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, the site shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.16.D.11.a. less a parking credit calculated as provided in Section 2.7.16.D.11.f.(2).

(ii) Alternatively, if such an alteration of the site would result in an increase in the minimum parking requirement for the site of not more than twenty-five (25%) percent over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, then the alteration of such site

shall require the site to provide the minimum parking required for the site (pursuant to the Table) less the amount attributed to the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for the site as of that date. Further alterations to the site that do not, either singularly or cumulatively, increase the minimum parking requirement for the site by more than 25% over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, shall require the site to provide the minimum parking required for the site (pursuant to the Table) less the amount attributed to the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for the site as of that date and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area any PILOP fee(s) applicable pursuant to Section 2.7.16.D.11.f.(3).

(iii) If further alterations to a site, cumulatively, increase the parking requirement for the site by more than twenty-five (25%) percent over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use as of that date (or, for residential uses, the residential occupancy in effect for such site as of that date), then the alteration of such site that would result in the increase by more than 25% shall require the site to provide the minimum parking required for the site (pursuant to the Table) less a parking credit calculated as provided in Section 2.7.16.D.11.f.(2), based on the area of the site at the time of the alteration that would result in the more than 25% increase, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to Section 2.7.16.D.11.f(3).

(c) With respect to Parking Area Sites that are developed and unoccupied as of December 1, 2005, the following shall apply: The first time such a site is occupied following December 1, 2005, the site shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.16.D.11.a. less a parking credit calculated by multiplying the area of the site (in square feet) by the Parking Allocation Factor related to the dedicated City parking area upon which the site is located. The site would need to meet the aforesaid parking

requirement prior to receiving, for non-residential uses, a Certificate of Use and, for residential uses, prior to any residential occupation of the structure. If the land area of the Parking Area Site increases following December 1, 2005, but prior to the occupancy of the site, then the requirements of this Section shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors such as whether it was previously developed and/or had previously paid PILOP fees.

(d) If the structure(s) located on any Parking Area Site are demolished, razed, and/or relocated to a site other than a Parking Area Site, then any subsequent redevelopment of such Parking Area Site shall require the site to provide the minimum parking required for the site (pursuant to the Table) less a parking credit calculated as provided in Section 2.7.16.D.11.f.(2), based on the area of the site at the time of the redevelopment, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to Section 2.7.16.D.11.f.(3). After such redevelopment is completed, any alteration(s) to the site shall be treated, for purposes of determining the parking requirements of the site, in the same manner as alteration(s) of any other developed Parking Area Site under this Section.

(5) With respect to each dedicated City parking area located in the Downtown CRA, the City Council shall, by Resolution, identify all sites that would be Parking Area Sites regulated by this Section and also, for all such sites that are developed as of December 1, 2005, identify the minimum parking requirement for the use(s) and/or structure(s) on the site as of December 1, 2005 as though such sites were within each of the Downtown zoning districts.

g. For purposes of this Section, a satellite parking arrangement exists when the minimum total parking (excluding on-site parking) required for a site is to be provided on a site at a location different from the site which will be served by the parking as required in Section 2.7.16.D.11.a. When all or part of the minimum total parking (excluding on-site parking) required for a site is to be satisfied by one or more satellite parking arrangements, such satellite parking arrangements shall comply with the requirements of this Section as follows:

(1) Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet from a public entrance to the principal building which contains the use associated with such satellite parking, except that no satellite parking area shall be located across Del Prado Boulevard or Cape Coral Parkway from the use it is serving. When the site that contains the use(s) to be served by the satellite parking offers valet parking at all times that such use(s) are open to the public so that valets will transport the vehicles of patrons of such use(s) to the satellite parking site(s) and such valet service is documented in an agreement entered into by the City and the owners of the property to be served by the satellite parking and of the property offering the satellite parking , then the satellite parking site(s) may be located more than 1,320 feet from a public entrance to the principal

building containing the use served by such valet parking. The aforesaid agreement shall be in addition to the agreement required by Section 2.7.16.D.11.g.(4) and shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the property to be served by the valet parking. Upon request by the owner of the property to be served by a proposed satellite parking location, the Director of the Department of Community Development may allow satellite parking that does not include valet parking to be located more than 1,320 feet from a public entrance to the principal building which contains the use associated with the proposed satellite parking and/or to be located across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the Director finds that the proposed satellite parking would not be detrimental to the public health, safety, and welfare of the persons utilizing it. Factors which may be considered by the Director in making this determination include, but are not limited to, the following: the proximity of the proposed satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other pedestrian-oriented features at any intersections and any other locations between the proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to be utilized by employees only or by patrons of the use(s) to be served, and the availability of any complementary and/or supplementary services to such parking, such as trolley or tram systems that would provide transportation for the public to and from the satellite parking area and the use(s) to be served. If the Director approves satellite parking at a distance of more than 1,320 feet and/or across Del Prado Boulevard or Cape Coral Parkway, the Director may impose conditions on such satellite parking that would be reasonably designed to mitigate any negative effects from such approval. Examples of such conditions would include, but not be limited to, the requirement that a satellite parking area be clearly identified for only employee parking, the requirement that a pedestrian walkway between the parking area and the use(s) it serves be covered so as to protect pedestrians from the elements, and that any supplementary and/or complementary services be continued so long as the satellite parking is being used.

(2) The satellite parking area and the site which contains the use associated with such satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The submitted plan shall show the pedestrian connection(s) between the two sites and shall demonstrate that all pedestrian connections have sidewalks, or other paved walkways, dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance between the sites is not more than 1,320 feet when measured from a public entrance to the principal building (on the site to be served by the satellite parking) to the closest point on the proposed satellite parking site.

(3) Satellite parking on the off-site parcel shall not be allowed if the proposed satellite parking spaces are satisfying a minimum parking requirement for the off-site parcel; such satellite parking spaces shall only be counted if they are above and beyond the minimum parking requirement for the off-site parcel.

(4) The owner of the off-site parcel of land (and, the owner of the land intended to be served by such off-site parking, if different than the owner of the parcel to be used for parking)

shall enter into an agreement with the City, which shall be recorded in the public records of Lee County, Florida at the expense of the owner of the land intended to be served by the off-site parking.

(5) The off-site parking area shall never be sold or transferred except in conjunction with the sale of the parcel served by the off-site parking facilities unless:

(a) The parcel to be sold or transferred will continue to be used as provided in the off-site parking agreement and the new owner or transferee executes a consent to assume and to be bound by the obligations of the owner of the parcel used for parking as provided in the agreement; or

(b) A different parcel complying with the all provisions of the City of Cape Coal Code of Ordinances and Land Use and Development Regulations and subject to a recorded off-site parking agreement as specified herein is substituted for the parcel of land subject to the off-site parking agreement; or

(c) The parcel being served by the off-site parking no longer requires the parking as evidenced by a written statement executed by the parties executing the off-site parking agreement and as approved by the Director of the Department of Community Development. The aforesaid statement shall be recorded in the public records of Lee County at the expense of the owner of the parcel formerly being served by the off-site parcel.

h. Although the City may not require a development to provide more than the minimum total parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.16.D.11.a., the Director of the Department of Community Development may reduce the number of on-site parking spaces to be required for a site if he or she finds that such a reduction is warranted based upon one (1) or more of the factors identified in Section 5.1.2.B.3.

i. PILOP fees shall be charged on a per parking space basis. PILOP fees shall be used to improve public parking and provide for structured parking, access, and egress in the Downtown CRA as well as to provide services that are complementary to and/or supplementary to such parking, access, and egress in the Downtown CRA. Examples of such complementary and/or supplementary services might include, but not be limited to, public transportation services such as trolley or tram systems that would provide transportation for the public to and from parking areas and other locations in the Downtown area. PILOP fees are non-refundable; once PILOP fees have been paid to the City as required pursuant to this Section, a change in the minimum on-site or off-site parking requirements for a site as the result of either alterations to the site or changes in the type or intensity of development located on the site so as to result in a decrease in the amount of parking required for such development shall not result in any refund of previously paid PILOP fees.

j. The minimum total parking requirements, the minimum on-site parking requirements, and PILOP fees shall be reviewed on an annual basis to ensure sufficient parking and fees are provided to meet the parking demand of the Downtown CRA. The City Manager

or his designee shall prepare an annual report describing fees collected under the PILOP program, on-site parking provided through development under this section, an assessment of parking capacity and demand for the Gateway district of the Downtown CRA, and improvements made and anticipated under the PILOP.

k. All parking provisions and requirements included in Article V except where superseded by this Section shall apply.

12. Parking Location. Off-street parking spaces shall be located only in the rear or side yard. If parking is located in the side yard, it shall be concealed from all streets, excluding platted alleys, by opaque landscaping, fencing, wall or any combination thereof in accordance with Section 2.7.16.F.8. and shall have a ten (10) foot setback from the building line. For off-street parking spaces located on surface lots, the minimum setbacks from alleys are as follows:

Parallel to alleys	No part of the parking space shall be closer than fifteen (15) feet from alley centerline
All others	No part of the parking space shall be closer than twenty (20) feet from alley centerline

13. Parking Ingress/Egress:

Curb cuts along Cape Coral Parkway in the Downtown Gateway district shall be prohibited unless:

a. Lot frontages are one hundred and fifty (150) feet or greater and 100% of the required residential parking and 50% of the commercial/professional is provided on-site;

b. A shared curb cut between adjacent parcels is provided with a combined lot frontage of one hundred and fifty (150) feet at the property lines and a signed agreement by all property owners is provided; and

c. No other ingress/egress can adequately service the development parcel as determined by the Community Development Director based on a review by the City's Department of Public Works.

14. Surface water management facilities located within the Downtown CRA shall adhere to the following criteria:

a. Surface water management facilities shall be concealed wherever possible.

b. Open surface water management facilities shall not be permitted to be located in front of the principal structure.

c. Surface water management facilities are prohibited in utility easements except as follows:

(1) Above ground surface water management facilities may be located in utility easements so long as the utility easement is located at least ten (10) feet from the centerline of the platted alley; or

(2) Above ground surface water management facilities may be located in utility easements so long as the utility easement abuts neither a street nor a platted alley.

d. Surface water management facilities shall not be visible from any street, sidewalk, public plaza or courtyard. If surface water management facilities are used in side yards, they shall be located behind the front building line and completely screened from view with fencing, walls or approved landscaping.

e. Underground surface water management facilities may be located under paved surfaces including parking lots and along unpaved edges of off-street parking and circulation facilities. Retention and water treatment areas may also be concealed under parking structures, patios, porches, courtyards, and paved areas for commercial type trash receptacles. Underground surface water management facilities may also be located under landscaped islands located in off-street parking and circulation facilities, along unpaved edges of off-street parking and circulation facilities, concealed under parking structures, patios, porches, courtyards, and other green areas subject to the design criteria for underground systems.

15. Drive-Through Facilities. Drive-through service windows shall be located at the rear of the property with access from an alley or similar location that does not substantially interfere with pedestrian flow or surrounding uses. If the property abuts an alley, access from the alley to the drive-thru window shall be provided.

16. Streetscape Materials

Developments are strongly encouraged to pave the space between principal buildings and front property lines with appropriate sidewalk materials, including but not limited to concrete, stamped concrete or brick pavers. Developments are further encouraged to place sidewalk amenities such as benches, fountains, outdoor dining tables and landscaping planters within this area, except that these amenities are prohibited within three (3) feet of any property line abutting a City sidewalk. In providing these elements, attention should be paid to maintaining large sidewalks rather than dividing them with sidewalk amenities. Developments are encouraged to maintain a minimum eight (8) foot contiguous sidewalk to accommodate pedestrian flows. In the event that improvements are placed within the front six (6) foot public utility easement the City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments within the aforesaid easement that result from maintenance of public infrastructure improvements.

17. Landscaping

a. Purpose and Intent

This section is established to provide general landscape regulations that are appropriate for urban areas. The use of water conserving landscaping is strongly encouraged. The principles of Xeriscape-planning and design, soil improvement, efficient irrigation, limited turf areas, mulches drought tolerant plants and appropriate maintenance should be utilized in all new construction and landscape renovations so as to provide the most green with the least water and create a landscape that can survive largely undamaged in case of short term water restrictions.

b. Definitions

As used in this Section, the following words and terms shall have the following meanings unless some other meaning is plainly stated:

Encroachment: Encroachment is defined as any protrusion of a vehicle outside of a parking space, display area or accessway into a landscaped area.

Groundcloth: Materials used to control weed growth in landscaped areas that allow water and nutrients to pass through. Impermeable materials are prohibited.

Groundcover: Any low growing plant, twenty-four (24) inches or less, which can be used to cover areas where sod or turf is not desired or will not grow.

Landscaping: Landscaping shall consist of any of the following materials or combination thereof: grass, ground covers, shrubs, vines, hedges, trees or palms; and nonliving durable material commonly used in landscaping, but excluding paving and artificial flora.

Mulch: Non-living materials, either organic or non-organic, placed in landscaped areas that aid in moisture retention, weed control, and soil improvement.

Shrubs: Shrubs required by this Section shall be self-supporting woody, deciduous or evergreen species.

Trees: For the purpose of this Ordinance, a tree shall be defined as a self-supporting, woody plant of a species which normally grows to a minimum height of fifteen (15) feet, with an average canopy of greater than fifteen (15) feet, and having a trunk which can be maintained in a clean condition up to and over five (5) feet at maturity.

Vines: Vines are plants which normally require support to reach mature form.

Xeriscape: A landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis, the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance. Xeriscapes shall be green, functional, and preserve the intent of this Section.

c. Landscape Requirements

(1) Landscape Plan Required; Submittal Requirements. All Building Permit, Special Exception and Variance Applications shall contain a landscaping plan illustrating a site layout that conforms with the requirements of this Section. Where an existing building and site design preclude meeting the landscaping requirements, this provision shall not apply. In such cases, all existing landscaping must be improved or maintained. No parking lot shall be approved for construction or building permit issued until a Landscaping Plan, where required by this Section, has been approved. All Landscaping Plans shall include the following in clear detail:

(a) Location, spacing, diameter, overall height and type of existing and proposed trees.

(b) Types, quantity, sizes, spacing and height of proposed bushes and shrubs.

(c) Types and amounts as well as placement of proposed landscaping materials.

(d) Treatment, amount, and type of material to be used within areas not landscaped.

(e) Identify method of irrigation, if applicable.

(f) Location of utility lines and easements.

(g) Provision of additional information which would assist in conveying the intentions of the applicant.

(h) Extant right of way street trees must be shown on plans if applicable.

d. Quality of Materials

All plant materials and trees shall meet or exceed the standards for Florida No. 1 as specified in "Grades and Standards for Nursery Plants", Part I, 2963, and Part II, State of Florida, Department of Agriculture, Tallahassee, as amended, or equal as approved by the Director.

e. Compliance Required Prior to Issuance of Certificate of Occupancy

A Certificate of Occupancy shall not be issued until after the Director has determined that the applicant has complied with the provisions of this section.

f. Maintenance

(1) Each structure shall be inspected by the City six (6) months after the Certificate of Occupancy is issued for compliance with the minimum standards of this Landscape Ordinance, and each structure shall be inspected by the City one (1) year after the six (6) month inspection and each year thereafter to determine compliance with the minimum standards of this Landscape Ordinance.

(2) The owner, of the real property is to maintain the site landscaping in accordance with the standards contained herein. Failure to comply with this requirement shall constitute a violation of the City of Cape Coral's Code of Ordinances, and would subject the aforementioned party to any penalty imposed by law.

g. General Limitations

(1) Overhead power line radius. Trees within twenty (20) feet of existing overhead power lines shall be maintained to a maximum height of less than twenty (20) feet or shall be subject to trimming and cutting by the power company. However, palm trees within fifteen (15) feet of existing overhead power lines are prohibited except for pygmy date palm, areca palm, Christmas palm, paurotis palm, and other species that attain a height of less than twenty (20) feet when mature.

(2) Tree size. Trees shall be species having an average mature canopy of greater than fifteen (15) feet and having trunks which can be maintained in a clean condition over five (5) feet of clear wood. All shade trees other than palm trees shall have a minimum clear trunk height of eight (8) feet at planting. In addition, all trees other than palm trees shall have a diameter of two (2) inches when measured at a height

of six (6) inches above the ground. Palm trees shall have a trunk base diameter of seven (7) inches when measured at ground level which does not include any portion of the root-ball.

h. Prohibited Trees. The following trees are prohibited for planting in the Downtown Gateway district: Brazilian Pepper, Australian Pine, Carrotwood, Earleaf Acacia, all Melaleuca species, all Eucalyptus, except Eucalyptus Anera and Torelliana.

i. Inoculation of palm trees susceptible to lethal yellowing disease.

(1) All property owners within the Downtown Gateway district are hereby encouraged to inoculate all palm trees susceptible to infection from lethal yellowing disease every four (4) months with terramycin.

(2) Trees found to be diseased shall be removed by the property owner within five (5) days said trees are found to be diseased.

(3) Upon failure of the property owner to remove diseased trees within five (5) days said trees are found to be diseased, the City shall remove said trees at cost to the property owner.

(4) Local organizations are hereby encouraged to promulgate programs for owner inoculation of trees.

j. The City may require a property owner to install a root barrier in the event the City determines that the location of a tree in an area abutting a sidewalk may have a detrimental effect on the physical integrity of the sidewalk. The root barrier shall be of a type which will prevent such detrimental effect on the physical integrity of the sidewalk. In making the determination as to whether a root barrier shall be required, the City shall consider the following criteria:

(1) Type (species) of tree.

(2) Location of tree.

(3) Proximity of tree to sidewalk.

In the event a public sidewalk is to be installed in an area adjacent to extant trees, then the City may require the owner of the property on which the tree is located to install a root barrier prior to the installation of the sidewalk. Factors to be considered shall be the same as those stated in Section 2.7.16.D.17.j.(1) through (3).

k. Retention/Detention Areas

(1) Planting of trees and shrubs in retention/detention areas may be permitted provided that:

(a) The placement of the trees and shrubs does not interfere with the volume of storage required for the retention/detention areas.

(b) The placement of the trees and shrubs does not interfere with the required side slopes of the retention areas.

(c) The placement of the trees and shrubs does not interfere with or impede the flow of runoff in the retention/detention area.

(2) All retention/detention areas must be stabilized with sod unless an alternative method is specifically permitted prior to plans approval. However, organic mulch will not be permitted in or adjoining retention/detention areas.

l. The following landscaping requirements apply to all properties in the Downtown Gateway District.

(1) One shade tree shall be provided for each five (5) parking spaces required. Landscaping islands are not required, however, each tree shall be planted in a planting area of twenty-five (25) square feet with a minimum dimension of five (5) feet. Each such landscaping planting area shall be landscaped with sod, ground cover, or other landscaping material (excluding paving) in addition to the required tree.

(2) All sites must have one tree for each one thousand five hundred (1,500) square feet of gross land area. Such trees may be planted singularly or grouped together. Each tree shall be planted in a planting area of twenty-five (25) square feet with a minimum dimension of five (5) feet. Each such planting area shall be landscaped with sod, ground cover or other landscaping material (excluding paving) in addition to the required tree.

(3) Palm trees shall constitute no more than fifty (50) percent of the required trees planted in connection with new construction.

(4) Trees shall not be permitted in front yards, unless approved as a deviation within Planned Development Projects, provided that applicable deviation criteria contained within this Ordinance are met.

(5) In the event that the planting requirements in this Section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund. Such site constraints shall include, but not necessarily be limited to, size of site or access or circulation requirement making plantings impracticable, or extant site layout. The City Council shall, by Resolution, establish a fee based on the average cost of the aforementioned plantings. The City will use the funds in the Downtown CRA Tree Fund to provide and/or enhance the landscaping and vegetation in public areas of the Downtown CRA.

To qualify to pay an in lieu of planting fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of planting fee meeting planting requirements.

(6) When parking areas are provided in side yards, the required setback for said area shall be a landscaped area with shrubs and ground cover plants with a minimum eighty (80) percent coverage of such landscaped area at time of planting.

(7) Sod or turf areas which are visible from streets (excluding alleys) shall be planted with trees, shrubs, or groundcover. At a minimum, the sod or turf area(s) shall include low-lying shrubs or ground cover plants with a minimum 50 percent coverage of the sod or turf area at time of planting. To determine whether a sod or turf area is visible from a street,

the subject parcel shall be viewed at a 90 degree angle from the street, and any sod or turf area which is not behind a building, wall, fence, or opaque hedge planted in accordance with landscape buffering criteria contained in this Section shall be deemed to be visible from the aforementioned street. Exceptions to this regulation may be made where sod or turf areas are utilized as public parks or plazas, or recreational and/or open spaces approved as part of the Downtown CRA Development Incentive Program.

18. Trash Receptacles

Commercial type trash receptacles. For purposes of this Section, "commercial type trash receptacles" shall mean and include, but not be limited to, the covered containers supplied by the City refuse collection franchisee that are designed and intended to be mechanically dumped into a packer-type sanitation vehicle, regardless of whether such containers are used for the collection and/or disposal of solid waste or other refuse or for the collection and/or disposal of recycling materials, as well as covered containers that are designed and intended to be used for compaction of materials such as cardboard boxes. All commercial type trash receptacles are required to meet the following standards:

a. Except as otherwise provided herein, no commercial type trash receptacle shall be located in the front yard or within any public right-of-way and/or drainage easement. Commercial type trash receptacles may be located in a side or rear yard and may be located within a public utility easement adjoining the side lot line only if a building is built with a zero (0) foot setback to the aforementioned side lot line. If a commercial type trash receptacle, its pad and enclosure are located in a public utility easement, the property owner shall be solely responsible for removal of the commercial type trash receptacle, its pad and enclosure as well as for any cost resulting from disturbance, damage, or destruction of the commercial type trash receptacle, its pad and enclosure resulting from work associated with utilities in such easement.

b. All commercial type trash receptacles shall be located so that a sanitation vehicle has physical access to the commercial type trash receptacle that is adequate to ensure the safe servicing of the commercial type trash receptacle by the vehicle. Such access approach shall be sufficient to accommodate a vehicle requiring a minimum clearance width of ten (10) feet and a minimum clearance turning radius of fifty (50) feet when directly accessing a public street. Such access way shall be kept clear and unobstructed at all times. In the event the access way would require a vehicle servicing the commercial type trash receptacle to engage in backing maneuvers in order to exit the receptacle storage area, an apron at least ten (10) feet wide and sixty (60) feet in length adjacent to the commercial type trash receptacle shall be provided as part of the access way.

c. Each commercial type trash receptacle shall be located on a pad that is made of concrete. The elevation of the top surface of the pad shall be the same as the elevation of the access way to the commercial type trash receptacle.

d. All solid waste or other refuse, including but not limited to recycling materials, stored in the commercial type trash receptacle shall be concealed by a lid attached to the commercial type trash receptacle that shall remain in the closed position unless materials are being placed into the commercial type trash receptacle or the commercial type trash receptacle is being serviced. No material shall be permitted to overflow the commercial type trash receptacle.

e. All commercial type trash receptacles that are located on sites approved for development after the effective date of this Section shall be screened from view and/or access by the public on at least three (3) sides by an opaque visual barrier. In the event a commercial type trash receptacle is visible from an adjacent property or an adjacent street, at ground level, then the commercial type trash receptacle shall be screened on the fourth side by an opaque gate that shall conceal the commercial type trash receptacle from view and/or access by the public and that shall be the same height as the visual barrier on the other three (3) sides. The following materials, either singly or in any combination, are the only materials that may be used to form the aforesaid opaque visual barrier and gate:

(1) Wood fencing;

(2) Plastic fencing;

(3) Concrete block and stucco wall; and/or

(4) Brick wall.

The principal structure may be used as screening on one (1) or more sides provided that the commercial type trash receptacle is completely concealed from view.

f. The minimum dimensions for the screened enclosure area shall be twelve (12) feet wide by twelve (12) feet deep and at least six (6) inches higher than the closed commercial type trash receptacle.

g. In the event a commercial type trash receptacle is located within screening that includes a gate, regardless of whether such a gate would have been required pursuant to this Section, the gate shall be of a type that swings 180 degrees and shall have drop pins, hooks, or other devices installed to hold the gate open while the commercial type trash receptacle is being serviced. All gates shall remain closed unless the commercial type trash receptacle is being serviced.

h. Any site plan that is submitted to the City for review of a development shall clearly identify the location of any and all commercial type trash receptacles to be located on the site. After the site plan is approved, any and all commercial type trash receptacles located on the site shall be in the location(s) approved pursuant to the site plan and shall not be moved to another location without the prior written approval of the City. No additional commercial type trash receptacles shall be located on the site without the prior written approval of the City.

i. A development located within twenty-five (25) feet of a city-owned parking lot may place its commercial type trash receptacle(s) on the city-owned parking lot as long as all requirements set forth for the applicable zoning districts in the Community Redevelopment Area are complied with and as long as the Director of the Department of Community Development, or his or her designee, has approved said placement, which approval may be revoked at any time upon reasonable notice to the commercial, professional or industrial development. If the Director of the Department of Community Development, or his or her designee, does not approve of the placement of the commercial type trash receptacle on the city-owned parking lot or if the Director of the Department of Community Development or his or her designee revokes said approval, the commercial, professional or industrial development shall have thirty (30) days from the notice of denial or revocation to relocate the dumpster to a site approved by the Director of the Department of Community Development, or his or her designee.

j. Except for developments approved before September 1, 1991, no commercial type trash receptacles may be located within any parking space that is needed to meet the minimum parking requirements on the site. Developments approved prior to September 1, 1991, may utilize no more than one (1) of the parking spaces needed to meet the minimum parking requirements on the site for location of a commercial type trash receptacle.

k. In order to be considered a lawful non-conformity, any commercial type trash receptacle that was lawfully located on a site prior to the effective date of this Section and which does not conform with all provisions of this Section shall be registered with the City of Cape Coral Department of Community Development by the owner of the property on which the commercial type trash receptacle is located within six (6) months from the effective date of this Section, subject to the approval of the Director of the Department of Community Development or his or her designee. The aforesaid registration shall be on a form available from the City of Cape Coral Department of Community Development and shall require that the aforesaid property owner sign the registration form and state that, to the best of his or her knowledge and belief, the information provided in the registration form is true and correct. The registration form shall be accompanied by a photograph of the existing commercial type trash receptacle(s) and any and all receptacle storage area(s), including all pads and screening, as well as a sketch or diagram identifying the location of the existing commercial type trash receptacle(s) and any receptacle storage area(s), which shall include the dimensions of such commercial type trash receptacle(s) and receptacle storage area(s). The property owner shall also pay to the City of Cape Coral a registration fee in the amount of $10.00 at the time the registration form is submitted to the City. The information provided by the aforesaid owner is subject to investigation and verification by the City. Although any one factor is not conclusive of the existence or non-existence of a commercial type trash receptacle and/or receptacle storage area screening prior to the effective date of this Section, evidence that the City may consider in making its determination as to the legal non-conformity of a commercial type trash receptacle and receptacle storage area may include any of the following: documentation from the City's franchise refuse service provider concerning the location of the commercial type trash receptacle, receptacle storage area and screening prior to the effective date of this Section, and documentation concerning the approval by the City of any screening or pad installed in regard to the commercial type trash receptacle(s). If the registration is timely filed and, determined to be accurate and valid, then the commercial type trash receptacle and/or receptacle storage area screening shall be deemed to be a lawful non-conformity. If the registration of a commercial type trash receptacle is determined by the Director of the Department of Community Development, or his or her designee, to be inaccurate or invalid, then the owner of the property on which the commercial type trash receptacle is located shall be mailed a written notice of such determination and shall have thirty (30) days from the date of mailing such notice to appeal such determination to the City Council in accordance with Section 8.9 of the City of Cape Coral Land Use and Development Regulations. Any commercial type trash receptacle that is not deemed by the City to be a lawful non-conformity shall be required to comply with all requirements of this Section. All lawfully non-conforming commercial type trash receptacles and receptacle storage area(s) shall be either removed or brought into conformity with all provisions of this Section no later than September 1, 2010. The owner of the real property on which any non-conforming commercial type trash receptacle and/or receptacle storage area is located shall be responsible for ensuring

that such commercial type trash receptacle and/or receptacle storage area is either removed or brought into conformity. However, should the lawful non-conforming commercial type trash receptacle and/or screened area fall into disrepair or if substitutions or alternations are made, then the commercial type trash receptacle and screened area shall be required to comply with the current requirements, within a reasonable period of time, to be determined by the Director of the Department of Community Development, or his or her designee.

l. Administrative Deviation. In the event a property owner is unable to comply with the requirements of this Section, the aforesaid owner may request an administrative deviation, in writing, from the Director of the Department of Community Development, or his or her designee. In determining whether to approve a request for an administrative deviation, the Director of the Department of Community Development, or his or her designee shall consider factors such as dimensions of the property, existing development or other location factors that may make compliance with this section impossible or impractical. The determination to approve an administrative deviation shall be at the sole discretion of the Director of the Department of Community Development or his or her designee.

E. Architectural Elements. A building in the Downtown Gateway district may utilize awnings, canopies, balconies, colonnades, arcades, stoops, porches, or cupolas, provided that such architectural element(s) complies with the following regulations:

1. Awnings & Canopies: Awnings and canopies may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. The depth and height requirements apply only to first-floor awnings and canopies on building façades. No minimum requirements apply for awnings or canopies above the first floor or on walls that are not façades.

a. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve an awning or canopy that would encroach into the easement:

(1) The extent to which the awning or canopy would encroach into the easement; and

(2) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

b. Awnings or canopies extending from the first story and facing the street shall conform to the following:

(1) Depth shall be five (5) feet minimum projection.

(2) Height shall be eight (8) feet minimum clearance, including suspended signs.

(3) All architectural elements of the same type shall be of the same color and style. For example, all awnings on a building that are used to satisfy this requirement shall be the same color and style.

c. Awnings shall be made of fabric (colors shall comply with Section 2.7.16.F.6.b.(4) below) and may incorporate signs. High-gloss or plasticized fabrics are prohibited.

d. Canopies shall be constructed of cast, stainless, painted or enameled metals, wood, and/or glass, and may incorporate signs. All other materials are prohibited.

2. Colonnades and arcades: Colonnades and arcades may occur forward of the set back requirements or build-to zone as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above the colonnade or arcade. Habitable space shall not be permitted above a City owned right-of-way.

a. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve a colonnade or arcade that would encroach into the easement:

(1) The extent to which the colonnade or arcade would encroach into the easement; and

(2) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

b. Colonnades and arcades facing the street shall conform to the following:

(1) Depth shall be a minimum of eight (8) feet from the building face to the inside column face. Colonnades and arcades may extend to the property line.

(2) Height shall be nine (9) feet minimum clearance (not including suspended signs); the lowest point on arches cannot extend below seven (7) feet.

(3) All architectural elements of the same type shall be of the same color and style. For example, all awnings on a building that are used to satisfy this requirement shall be the same color and style.

c. Colonnades and arcades on corners may wrap around the side of buildings facing the street.

3. Balconies: Balconies shall be open and un-air conditioned. Balconies may have roofs. Roofed balconies may be enclosed with screen or latticework and may contain privacy partitions. Rear balconies shall not project beyond the setback requirement or build-to zone as applicable. Balconies that project into side yards that do not abut a side street shall project no less than ten (10) feet from the abutting property line.

a. Balconies facing the street shall conform to the following:

(1) Depth shall be six (6) feet minimum projection for second floor balconies. Balconies may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department

of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve a balcony that would encroach into the easement:

(a) The extent to which the balcony would encroach into the easement; and

(b) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

(2) Height shall be ten (10) feet minimum clearance (not including suspended signs); brackets shall not extend below a height of seven (7) feet.

(3) All architectural elements of the same type shall be of the same color and style. For example, all awnings on a building that are used to satisfy this requirement shall be the same color and style.

b. Balconies on corner lots may wrap around the side of the building facing the side street.

4. Front Porches: Front porches shall be un-air conditioned parts of the buildings and may be screened. Front porches facing the street shall be a minimum of eight (8) feet in depth and may occur forward of the build-to zone or the minimum setback, as applicable, if approved by the Director of the Department of Community Development, but shall not be located less than three (3) feet from the front property line. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve a front porch that would be located in the area forward of the build-to zone or the minimum setback:

a. The extent to which the front porch would be placed forward of the build-to zone or the minimum setback;

b. The effect of such placement on any abutting properties and/or streetscape; and

c. The effect of such placement on any utilities that are either currently located in the easement or that may be located in the easement in the future.

The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that results from maintenance or public infrastructure improvements. Front porches may have multi-story verandas, balconies, and/or habitable space located above them provided that if water, sewer, or irrigation line(s) are in the easement, then no part of any such front porch shall be located within seven (7) feet of such utility line.

5. Stoops: A stoop must be located within the build-to zone or maintain the required minimum setback. Access to a stoop, whether by stairs, ramp, or other means, may run to the front or to the side of a stoop and such access to a stoop, though not the stoop itself, may extend forward of the build-to zone or minimum setback as applicable, if approved by the Director of the Department of Community Development, but shall not be located less than

three (3) feet from the front property line. The Director shall consider the following criteria in determining whether to approve a stoop access that would be located in the area forward of the build-to zone or the minimum setback:

a. The extent to which the stoop would be placed forward of the build-to zone or the minimum setback;

b. The effect of such placement on any abutting properties; and

c. The effect of such placement on any utilities that are either currently located in the easement or that may be located in the easement in the future.

Stoops may be roofed or unroofed. Stoops facing the street shall have a minimum height of three (3) feet from sidewalk level to the highest point of the access. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that results from maintenance or public infrastructure improvements. If water, sewer, or irrigation line(s) are in the easement, then no part of any such stoop or stoop access shall be located within seven (7) feet of such utility line.

6. Cupolas: If a building has a cupola, the cupola(s) shall have a maximum of four-hundred (400) square feet in horizontal dimension and shall be limited to two (2) per building. Cupolas shall not contain any habitable space above the maximum building height.

F. Architectural Standards

1. Purpose and Intent. The purpose and intent of these architectural standards is to encourage traditional building forms that reinforce a pedestrian orientation and create usable outdoor space through the arrangement of buildings of compatible types and scale using varied architectural styles. Durable materials and creative ornamentation are encouraged.

2. All buildings within the same development must be designed with consistent architectural style, detail and trim features.

3. Building Walls: The following requirements apply to all principal buildings:

a. Expression Lines and Cornices:

(1) Expression lines and cornices shall be either moldings, jogs, or reliefs in the surface plane of the building wall. When used as expression lines and/or cornices, such moldings, jogs, or reliefs shall extend out at least four (4) inches from the wall surface.

(2) Except as otherwise provided herein, on all principal buildings, an expression line shall delineate the division between the first story and the second story of every façade, and a cornice shall delineate the top of every façade.

(3) Fixed canopies may conceal or replace expression lines for the length of the canopy, but awnings shall not conceal expression lines.

b. Only the following finish materials for exterior walls are permitted. All other finish materials are prohibited.

(1) Concrete block with stucco finish (CBS)

(2) Reinforced concrete with stucco finish

(3) Glass shall meet the regulations of transparency of façades.

(4) Stone or brick, including cast (simulated) stone or brick

(5) Wood (pressure-treated or termite-resistant), painted or stained (Plywood and T-11 type paneling is prohibited).

(6) Fiber-reinforced cement panels or boards

(7) Synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards or composite materials) is permitted only with a troweled finish and only on the second floor and above.

c. Façade Standards:

(1) Buildings located with street frontage must be designed with the main entrance clearly defined, and with convenient pedestrian access. Portions of façades could be articulated to step back, or extend forward to add interest or to connect with the street.

(2) Buildings or projects located at the intersection of two or more arterial or collector roads, shall include design features such as corner towers, corner entrances, or other such features, to emphasize their location as gateway and transition points within the community.

d. Façade/Wall Height Transition. Façade must be designed to reduce the mass/scale and uniform monolithic appearance of large unadorned walls and must provide visual interest. Articulation is accomplished by varying the building's mass in height and width so it appears to be divided into distinct elements and details.

(1) Transitional Massing. To maintain and enhance the attractiveness of the streetscape and the architectural design of the community, all buildings with street frontage must provide visual interest from the perspective of the pedestrian up to a height of thirty-five (35) feet. Transitional massing could be achieved through the articulation of building mass in height and width in response to site conditions, hence recognizing adjacent buildings and local character. (Adjacent buildings and local character in this context is construed to represent adjacent buildings within one hundred fifty (150) feet from the perimeter of the proposed development, built following the adoption of this Section.) Transitional massing elements could include, but are not limited to, wall plane changes, roofs, and the application of architectural features.

(2) Variation in massing. A single, large dominant building mass must be avoided. The design of a building structure and its massing on the site should enhance solar exposure for the project and minimize shadow impacts on adjacent structures and public areas. Design treatments to provide transition and mitigation of height, bulk and scale impacts may include the use of architectural style, façade modulation and articulation, architectural features, color, material and others.

4. Transparency of Building Façades, and Fronts

a. For all principal buildings, each building façade wall that faces a public street, public parking lot, park, or plaza shall contain

transparent windows and/or doors covering between 25% to a maximum of 75% of the wall's area. This requirement also applies to any wall of a principal building that faces the building's courtyard if the courtyard is open to a public sidewalk. The transparency requirement shall be as follows:

(1) All window and door glass shall transmit at least 50% of visible transmittance. Reflective glass and glazes are prohibited.

(2) Except for residential uses, the bottom of the lowest row of windows shall be no higher than thirty six (36) inches above ground, or six (6) inches above the floor of the lowest habitable story, whichever is higher.

b. In addition, retail stores shall comply with the following:

(1) The ground-floor shall have storefront windows covering no less than 60% of the wall area in order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces.

(2) Storefronts shall remain unshuttered at night to provide views of display spaces, and are encouraged to remain illuminated from within, until 10:00 PM.

(3) Doors or entrances for public access shall be provided at intervals of at least seventy-five (75) feet to maximize street activity, to provide pedestrians with frequent opportunities to enter and exit buildings, and to minimize any expanses of inactive wall. Every façade shall have at least one door.

5. Concealed Equipment and Prohibited Products

a. Not Visible From Streets. The following shall be located or screened so as not to be visible from any public street:

(1) Air conditioning compressors

(2) Window and wall air conditioners

(3) Electrical and other utility meters

(4) Irrigation and pool pumps

(5) Permanent barbecues

(6) Satellite antennae

(7) Utility appurtenances

(8) Mechanical rooftop equipment or ventilation apparatus

b. Prohibited Products. The following exterior products and materials are prohibited:

(1) Undersized shutters (the shutter or shutters shall be sized so as to equal the length and width that would be required to cover the window opening).

(2) Shutters made of plastic

(3) Reflective glass and reflective glaze

(4) Hurricane shutters shall be removed within a week from the time they are put up, unless a hurricane or tropical storm has hit the area, in which case the shutters may remain up for not more than three (3) months from the date of the incident.

6. Paint Colors. Paint colors for principal buildings and accessory structures are regulated in the Downtown Gateway district to foster a complementary color theme, suitable for a downtown urban area. The range of colors permitted is intended to encourage visual variety, to encourage light colors for energy savings, and to favor colors appropriate for a subtropical environment. Except as otherwise provided herein, any building or structure for which a permit is issued after December 1, 2005, shall comply with the paint color requirements in this Section.

a. The City Council shall approve by resolution a chart of acceptable colors to be maintained in the Department of Community Development and the Downtown Community Redevelopment Area office to identify the paint colors that may be used on the exterior of principal and accessory buildings.

b. The following specific requirements apply:

(1) A building may contain up to four (4) colors. One (1) or two (2) body colors, one (1) or two (2) trim colors, and one (1) accent color.

(2) Architectural elements on the building façade, such as canopies, balconies, and arcades, shall be in the same color as one of the four chosen building colors, except where constructed with an unpainted permitted material such as stone or brick.

(3) Body colors on building walls, freestanding walls, and other primary building elements, shall be used for no less than 70% of the painted surface area of any one floor of the building.

(4) Trim and accent colors are used on doors, doorframes, windows, window frames, storefront frames, handrails, shutters, ornaments, fences, gates and awnings and similar features. Trim colors shall be used for no more than 30% percent of the painted surface area of the building.

c. Upon application by a property owner, the Downtown CRA Board may approve paint colors that are either not on the chart approved by City Council or deviate from the specific requirements contained in this section if the Downtown CRA Board finds that the proposed paint colors are substantially the same tone, color, and hue as the color(s) on the chart approved by the City Council, are generally consistent with the overall color theme and master plan policy objectives within the Downtown CRA, or are consistent and compatible with a predominant theme or color pattern along the streetscape where the property is located. In order for the Downtown CRA Board to consider alternative colors and deviations from this section, a property owner must submit elevations that depict structures, proposed paint colors, compliance with and deviation from specific requirements, and pictures of the colors of structures in the surrounding streetscape within five hundred (500) feet of the subject property.

d. All properties with existing structures and/or approved building permits as of December 1, 2005, must come into compliance by April 1, 2010.

7. Roofs, Gutters & Downspouts

a. General Requirements:

(1) Only the following designs for roofs, gutters and downspouts are permitted. All other finish materials are prohibited.

(a) Hip roofs (with sloping sides and ends)

(b) Gable roofs (with sloping sides and vertical ends)

(c) Shed roofs

(d) Flat roofs (with the minimal pitch required by the Florida Building Code)

(e) Mansard roofs (with two slopes on a side, or one slope and a shed roof or flat roof above)

(f) Domed roofs (a hemispherical roof above vertical walls

(g) Barrel vaulted roofs (with a single continuous arch and vertical ends)

(h) Roofs may use combinations of these permitted types and may supplement these types with dormers and valleys.

(2) The edges of flat or low-slope roofs (less than 2:12 slope) shall be concealed with parapets on the front and sides of the building. Parapet walls shall be of sufficient height to visually conceal rooftop mechanical equipment.

b. Only the following finish materials for roofs are permitted. All other finish materials are prohibited.

(1) Metal: galvanized steel, copper, aluminum, or zinc-aluminum

(2) Shingles: asphalt (dimensional type) metal, and/or slate

(3) Tile: clay, terra cotta, concrete or synthetic tile

(4) Gutters: galvanized steel, copper, aluminum, or zinc-aluminum

(5) Downspouts: shall be the same material as gutters

c. Only the following configurations for roofs are permitted. All other configurations are prohibited.

(1) Metal: standing seam or "five-vee," twenty-four (24") inch maximum spacing, panel ends exposed at overhang

(2) Shingles: square, rectangular, fish-scale, or shield

(3) Tile: barrel, flat, or french

(4) Gutters: rectangular, square, or half-round section

8. Fences, Walls, Hedges, and Landscape Buffers

a. Fences, Walls, and Hedges.

(1) Height

(a) When utilized for purposes of required screening or concealing, fences, walls and opaque hedges shall be six (6) feet in height. Opaque hedges shall be planted in the same manner as hedges within landscape buffers required below.

(b) Fences, walls, and hedges not utilized for purposes of screening or concealing shall adhere to the following heights:

(i) When placed in front of principal buildings, fences, walls and hedges shall be a maximum of forty-two (42) inches in height.

(ii) When not placed in front of principal buildings, fences, walls and hedges shall be a maximum of six (6) feet in height.

(2) Setbacks

(a) Front Yard: Minimum three (3) feet from the front property line.

(b) Side or Rear Yard (not on an alley): None

(c) Side or Rear Yard (on an alley): Fifteen (15) feet

(3) Materials for Fences and Walls

Only the following finish materials for fences and walls are permitted. All other finish materials are prohibited.

(a) Wood (decay resistant or pressure treated only), shall be painted or stained

(b) Concrete block with stucco (CBS)

(c) Reinforced concrete with stucco

(d) Stone or brick, including cast (simulated) stone or brick

(e) Concrete

(f) Wrought iron

(g) Aluminum

(4) Fences and walls shall also adhere to the following regulations:

(a) Any fencing or walls within twenty (20) feet of the rear property line on waterfront sites must be open mesh above a height of three (3) feet. The City Council may, in its discretion, approve minor projections above the restricted heights for architectural features.

(b) No wall or fence of any kind whatsoever shall be constructed on any lot until after the height, type, design and location thereof shall have been approved in writing and proper permit issued by the Director of

the Department of Community Development. Unless the posts or other supports used in connection with the fence or wall are visible from and identical in appearance from both sides of the fence, all posts or other supports used in connection with the fence or wall shall be on the side of the fence or wall that faces the property on which it is to be erected. If a fence or wall is constructed in such a way that only one (1) side of the fence is "finished", then the finished side of the fence shall face outward toward the street or adjoining property (facing away from the property on which it is erected). For purposes of this Section, the "finished" side of the fence shall be the side that is painted, coated, and/or smoothed so as to be more decorative in appearance.

If a fence or wall is located in a public utility easement, the property owner shall be solely responsible for removal of the fence or wall as well as for any cost resulting from disturbance, damage, or destruction of the fence or wall, resulting from work associated with utilities in such easement.

(c) Fencing for recreational facilities may be increased in height to ten (10) feet. Such fencing must immediately enclose the recreational facility. Hooded backstops for diamond sports may be increased to a maximum height of twenty-eight (28) feet. All fencing at recreational facilities must be constructed of at least 9 gauge fence fabric and schedule 40 tubing.

(d) No fence or wall shall enclose a utility meter including but not limited to water and electric service meters. An applicant shall indicate the location of any utility meter in the permit application. This restriction shall not apply to City maintained or constructed facilities.

(e) All fences and walls shall be of sound construction and not detract from the surrounding area.

(f) No barbed wire, spire tips, sharp objects, or electrically charged fences or walls shall be erected.

(g) No fences shall be placed within the visibility triangle.

b. Landscape Buffers

(1) All residential, non-residential and mixed use developments in the Downtown Gateway District which are located on lots abutting a residential future land use classification shall be permanently buffered with a properly maintained six (6) foot minimum landscape buffer yard on the rear and side yard(s) of the use which actually abuts the residential future land use. For purposes of this Section, a property shall be deemed abutting if it shares a common lot line with a residential future land use. Properties across streets, alleys and canals shall not be deemed abutting.

(2) The landscape buffer yard shall contain a barrier hedge that, at planting, shall be not less than 3.5 feet high and spaced 2.5 feet on center. In addition, the barrier hedge shall have opacity sufficient to accomplish the buffering purpose and be capable of reaching a minimum clear trunk height of 8 feet.

(3) Trees planted in the landscape buffer yard shall be shade trees with a minimum clear trunk height of eight (8) feet and minimum diameter of two (2) inches (measures six (6) inches from the ground) at time of planting. The mature canopy of shade trees shall be at least fifteen (15) feet. Palm trees shall not be planted in the landscape buffer yard. All shade trees planted in the buffer yard shall be credited towards the tree planting requirements for the site. The landscape buffer yard shall be properly maintained at all times. An irrigation system shall be provided for the landscape buffer yard plantings.

9. Columns, Arches, Piers, Guardrails, and Balustrades.

a. Only the following finish materials for columns, colonnades and supports for front porches are permitted. All other finish materials are prohibited.

(1) Wood (decay resistant or pressure treated only) shall be painted or stained

(2) Wrought iron

(3) Concrete block with stucco finish (CBS)

(4) Reinforced concrete with stucco finish

(5) Stone or brick, including cast (simulated) stone or brick

b. Only the following finish materials for arches and piers that form arcades are permitted. All other finish materials are prohibited.

(1) Concrete block with stucco finish (CBS)

(2) Reinforced concrete with stucco finish

(3) Stone or brick, including cast (simulated) stone or brick

c. Only the following finish materials for guardrails and balustrades surrounding balconies, front porches, stoops, colonnades, and arcades are permitted. All other finish materials are prohibited.

(1) Wood (decay resistant or pressure treated only) shall be painted or stained

(2) Wrought iron

(3) Aluminum (painted, coated or anodized)

(4) Stone, including cast (simulated) stone

(5) Steel (painted, coated or anodized)

d. Only the following configurations for columns, arches, piers, guardrails, and balustrades are permitted. All other finish materials are prohibited.

(1) Columns that support colonnades and front porches:

(a) Square or rectangular: with a minimum of six (6) inches in width

(b) Round: six (6) inches minimum diameter

(2) Columns that support colonnades cannot be spaced farther apart than they are tall.

(3) Piers supporting arches: eight (8) inches minimum dimensions, and cannot be spaced farther apart than they are tall.

(4) Guardrail and balustrade handrails: two and three quarters (2-3/4) inches minimum dimension or diameter for all handrails.

10. Civic Buildings:

The City Council may waive build-to zone, building frontage requirements and mandatory architectural elements to accommodate traditional architectural forms for civic buildings which may include monumental stairways.

G. Signage

1. Introduction.

The purpose and intent of these signage regulations, and the corresponding regulations in Article VII for signs is to provide alternate standards for the three major categories of appropriate signage for urban buildings: signs, that are mounted flat against a building's façade, or that project from the façade, or that are mounted above the top of the façade. Other types of signs authorized by Article VII are also permitted, except where specifically prohibited by Section 2.7.16.G.2.C. Except as specified herein, all other applicable provisions of Article VII shall apply.

2. General Sign Requirements

a. Signs Flat Against the Façade.

Signs placed flat against the façade shall meet all requirements of Article VII for either wall signs or professional nameplates. Signs extending less than one (1) foot from the wall and parallel to the wall shall be considered a sign flat against the façade.

b. Signs Projecting From the Façade.

In addition to all of the provisions of Article VII, signs projecting from the façade shall meet all of the following requirements:

(1) Projecting signs may occur forward of the build-to-zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development, or his or her designated representative. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.

(2) Suspended signs shall maintain a vertical clearance of at least eight (8) feet from the sidewalk.

c. Prohibited Signs. In addition to the types of signs that are prohibited by Article VII, the following types of signs are prohibited. See Section 7.12 for special regulations on non-conforming existing signs.

(1) Freestanding pole signs

(2) Plastic fascia signs

3. Lighting. All lighted signs shall be externally lit, except for individual letters and symbols which may be internally lit or backlit.

4. Only the following finish materials and configurations for signs are permitted. All other finish materials and configurations are prohibited.

a. Wood: painted, stained, or natural

b. Metal

c. Plastic, when used for individual letters and symbols only

d. Painted canvas (no glossy-finish or back-lit canvas)

e. Neon (non-flashing)

f. Painted/engraved directly on façade surface

.17 Downtown Edge District (DE)

A. Purpose and Intent:

The purpose and intent of the Downtown Edge district is to promote redevelopment of the outer portions of the Downtown Community Redevelopment Area into a more compact and walkable form. Existing non- residential buildings will be supplemented with entertainment activities and a wide diversity of housing types to create a work/live/shop/play district that will enhance and respect the surrounding residential zones.

B. Permitted Uses

1. Animal Kennel (indoors only)
2. Assisted Living Facility
3. Automatic Teller Machine (ATM)
4. Automotive Parking Establishment
5. Automotive Parts Store
6. Banks & Financial Establishments – Groups I and II
7. Bed and Breakfast Establishment
8. Boat Parts Store
9. Business Offices – Groups I and II
10. Carryout/Delivery Food Service Establishment
11. Cleaning/Maintenance Services
12. Clothing Store – General
13. Clubs: Fraternal and Membership Organizations
14. Contractors and Builders – Groups I and II
15. Cultural Facilities – Public/Private
16. Day Care Center, Adult
17. Department Store
18. Drive-Through Facility (whether freestanding or serving another permitted use)
19. Drug Store
20. Dwellings, Conjoined Residential Structure (shall contain at least three units)
21. Dwellings, Multiple Family (Multi-Family)
22. Essential Services
23. Family Day Care Home
24. Flea Market – Indoor
25. Florist Shop
26. Food Stores – Groups I and II
27. Government Uses – Groups I and II
28. Hardware Store
29. Health Care Facilities – Groups I, II, and III
30. Hobby, Toy, Game Shops
31. Home Occupations
32. Hospice

33. Hotel/Motel and Resort
34. Household/Office Furnishings – Groups I and II
35. Insurance Company
36. Lawn and Garden Supply
37. Medical Office
38. Mortgage Broker
39. Motion Picture Theatre
40. Newsstand
41. Non-Store Retailers – Groups I, II, III, and IV
42. Package Store
43. Parks – Groups I, II
44. Personal Services – Groups I, II, III and IV
45. Pet Services
46. Pet Shop
47. Pharmacy
48. Photo Finishing Labs
49. Places of Worship
50. Printing Services Establishment
51. Private Park
52. Recreation/Commercial – Groups I and III
53. Religious Facility
54. Rental Establishments – Groups I and II
55. Repair Shops – Groups I and II
56. Research, Development and Testing Labs – Groups II, III and V
57. Restaurants – Groups I, II, and III (fast-food restaurants require Special Exception)
58. Schools – Commercial
59. Schools – Nonprofit, Private, Parochial and Public – Group II
60. Social Services – Group I, and II
61. Specialty Retail Shops – Groups I, II, III and IV
62. Studio
63. Transportation Services - Group I, II and III
64. Used Merchandise Stores - Groups I and II
65. Variety Store
66. Veterinary/Animal Clinics

C. Special Exceptions

1. Automotive Repair and/or Service
2. Automotive Service Station, Full or Limited Service
3. Bar or Cocktail Lounge
4. Child Care Facility
5. Essential Service Facilities - Group I
6. Landscaping Services Establishment
7. Marina
8. Mortuary and Funeral Home
9. Neighborhood Storage Facility (see special regulations in D.6)
10. Nightclub
11. Radio and Television Stations
12. Repair Shops - Group III
13. Restaurant - Group IV
14. Self-Service Fuel Pumps
15. Self-Service Fuel Pump Station
16. Storage, Enclosed (see special regulations in D.7)

D. Special Regulations

The following are special regulations for the Downtown Edge district:

1. Building Placement. Building placement shall be in accordance with the following standards.

   a. Building location: For properties that abut a navigable waterway, the minimum setbacks for all property lines that abut streets are six (6)

feet. For properties that do not abut a navigable waterway the build-to zone shall be seven (7) to seventeen (17) feet from all property lines that abut streets. Building floors above the first story may be stepped back behind the build-to zone. The first story of a building shall be located in the build-to-zone, except as follows:

b. Minimum building setbacks shall be as follows:

(1) On properties that abut a navigable waterway, the building(s) shall be set back a minimum of fifteen (15) feet from the navigable waterway.

(2) On properties that abut an alley, the building(s) shall be set back a minimum of twenty (20) feet from the centerline of the platted alley.

(3) On properties having a side yard that abuts another property line, the building(s) shall be set back either:

(a) Ten (10) feet from the side yard property line; or

(b) Abut the side yard property line with no setback

(4) On properties having a rear yard abutting another property line, the building(s) shall be set back a minimum of ten (10) feet from the property line.

c. A portion of the first story may be set back beyond the established build-to zone if the space that is set back from the build-to zone is utilized as a courtyard as follows:

(1) If the courtyard is open to the sidewalk and either unroofed or, if roofed, the roof is at least two (2) stories above ground level, up to 35% of the first story may be set back from the build-to zone.

(2) If the courtyard is open to the sidewalk with a roof that is not more than one (1) story above ground level, up to 65% of the first story may be set back from the build-to zone.

d. On lots at the corner of two (2) streets or at the corner of a street and an alley, visibility triangles shall be maintained in accordance with Section 3.7.

e. Exceptions from build-to zones are permitted to protect non-exotic existing trees with diameters greater than eight (8) inches as measured four feet up from ground level. The build-to-zone shall only be modified to the extent necessary to protect the tree(s).

f. Building frontage: Building frontage shall adhere to the following standards:

(1) For properties that do not abut a navigable waterway, the first story of the building's frontage shall be at least fifty percent (50%) of the lot's width as measured along the front property line. The second story of the building's frontage shall be at least fifty percent (50%) of the lot's width as measured along the front property line. For adjoining lots that are being developed simultaneously as one (1) site with one (1) or more buildings, this percentage applies to the combination of lots and building frontages.

(2) For properties that abut a navigable waterway, the first three (3) stories of the building's frontage shall not exceed more

than 70% of the lot's width as measured along the front property line. The first and second stories of the building's frontage shall be at least fifty percent (50%) of the lot's width as measured along the front property line. The foregoing restriction shall not apply to any portion of the building's frontage that is higher than three (3) stories though the building shall maintain all minimum yards/setbacks. For adjoining lots that are being developed simultaneously as one (1) site with one (1) or more buildings, the foregoing restriction applies to the combination of lots and buildings.

g. Building fronts

(1) Building fronts shall face the public street.

(2) Properties located on the perimeter of public squares, public plazas or city owned parking lots with building façades facing the public squares, public plazas or city owned parking lots, even if separated by a platted alley, shall have two façade fronts; one that faces the street and one that faces the public square, public plaza or city owned parking lot. Both façade fronts shall meet the transparency requirements and all applicable regulations herein pertaining to building frontage and façade requirements.

2. Building height: Maximum building heights are based on a maximum height and a maximum number of stories. For purposes of this Section, stories used exclusively for parking vehicles count the same as habitable stories. Except as otherwise provided herein for large-footprint buildings, all buildings shall comply with the following:

a. Maximum Height: six (6) stories, with a maximum height of eighty five (85) feet.

b. Minimum Height: two (2) stories with a minimum total height of twenty (20) feet. For buildings with frontage along Cape Coral Parkway (including corner buildings with Cape Coral Parkway frontage), the façade along Cape Coral Parkway shall be a minimum of thirty-five (35) feet in height and shall have the appearance of a three (3) story building.

c. The height of the first story shall be a minimum of eight (8) feet and a maximum of sixteen (16) feet. For non-residential or compound use buildings, the floor of the first story shall not be located any higher than three (3) feet above grade. For residential buildings, the floor of the first story shall not be located any higher than six (6) feet above grade. Any area under the floor of the first story shall not be counted as a story and shall not be habitable, and shall be enclosed by walls.

d. Where upper floors are partially omitted to create an atrium or other taller space, the number of stories shall be determined by the portion of the building where the upper floors have not been omitted.

3. Large-Footprint Buildings. Buildings covering more than 25,000 square feet of ground and/or with a building frontage of greater than one hundred and fifty (150) feet shall comply with all requirements of the Downtown Edge district except as follows:

a. When surrounded by liner buildings at least twenty (20) feet in height, large-footprint buildings may be one (1) story in height and are exempt from the façade transparency requirements of Section 2.7.17.F.4. All liner buildings shall meet the façade transparency requirements of Section 2.7.17.F.4. When not surrounded by liner

buildings, all large-footprint buildings shall be twenty (20) feet in height and shall meet the façade transparency requirements in Section 2.7.17.F.4. That portion of a large-footprint building that exceeds the height of a liner building, shall comply with the aforesaid façade transparency requirements and shall have the appearance of a story.

(1) First floor space shall be located at ground level.

(2) Habitable space on the first floor shall adhere to liner building criteria as provided for parking structures.

b. Building façades shall not be separated from public streets by parking lots.

c. Loading docks, service areas, and trash disposal facilities shall be concealed from persons standing on public streets, sidewalks, parks, or plazas adjacent to the property on which the building is located.

4. Flood Damage Prevention shall be as required in Section 6.5.B.2.b. of the Land Use and Development Regulations.

5. Utilities

a. For new buildings, all onsite utilities including but not limited to telephone, electricity, cable television, and other wires of all kinds shall be placed underground. However, appurtenances to these systems that require aboveground installation including, but not limited to, utility panel boxes are exempt from this requirement if the appurtenances are not placed in front yards. When such appurtenances are located in utility easements abutting a platted alley, they shall be located at least ten and one-half (10½) feet from the centerline of the platted alley. These underground requirements also apply to those improvements to non-conforming structures that exceed the 50% thresholds as described in Sections 2.6.2 and 2.6.5. All utility infrastructures, including electric utility poles and power lines, shall be concealed from public view wherever possible and shall not be located on any property that abuts streets or sidewalks wherever possible. All new electric distribution lines shall be located in utility easements abutting alleys and their utility poles shall be positioned so that a minimum clearance of ten and one-half (10½) feet from the centerline of any platted alley is maintained. For properties that do not have a rear platted alley, the electric distribution lines and utility poles shall be located in the rear utility easement wherever possible.

b. On certain blocks where overhead or underground utility lines have been placed in the first six (6) feet beyond the edge of the street right-of-way (where improvements might otherwise be placed in accordance with these regulations) a property owner shall choose one of the following options:

(1) The property owner may relocate the utility lines to the alley or other acceptable location, at the property owner's sole expense and subject to approval by the affected utility provider(s) and the City of Cape Coral; or

(2) The property owner may choose to place a concrete sidewalk, or architectural elements, on the front six (6) feet beyond the edge of the street right-of-way. If overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or front porches may be constructed in this area. If underground lines of any type are in place, the property owner is solely responsible for repairing any damage to lawful encroachments into the six (6) foot easement resulting from

maintenance or improvements to utility lines. If water, sewer, or irrigation line(s) are in the easement, then no part of any building on the site shall be located within seven (7) feet of such utility line.

6. Swimming Pools. Swimming pools are permitted provided the pool is in one of the following locations:

   a. Indoors;

   b. On the roof of the building in which the use is located; or

   c. Outdoors, in accordance with the following limitations:

      (1) A swimming pool may be located in a rear yard or side yard. Any pool located in the side yard shall be concealed from all streets, excluding platted alleys, by fencing, wall or a combination thereof. See Section 2.7.17.F.8. for regulations concerning planting requirements and setbacks and heights for fences and walls. All swimming pools shall have a ten (10) foot minimum setback from all lot lines.

      (2) No pool, pool enclosure, or screen enclosure shall be located within a utility or drainage easement.

      (3) A swimming pool located in the front or side yard shall be separated from the street by a wall that meets the façade requirements of Section 2.7.17.F.3.c. and the transparency requirements of Section 2.7.17.F.4., except that window openings need not contain glass.

7. Residential Density: The maximum density of residential units by right is twenty (20) dwelling units per acre.

   a. The following calculation shall be used to determine the maximum number of dwelling units (DU) permitted on a given parcel, with the result rounded to the nearest whole unit:

$$\left(\frac{\textit{Parcel Area in Square Feet}}{43{,}560}\right) \textit{Allowable Density} = \textit{Maximum Number of DU}$$

   b. The density calculation for a compound use building is not affected by floor space in that building that is dedicated to commercial uses.

   c. No more than two thousand twenty-seven (2,027) dwelling units shall be permitted in the Downtown Community Redevelopment Area (CRA) District. The Coastal High Hazard Area of the Downtown CRA shall be limited to two hundred (200) dwelling units.

8. Minimum Size of Dwelling Units. Every dwelling unit shall have at least the following floor area:

   a. Efficiency and one-bedroom units: seven hundred and fifty (750) square feet

   b. For each additional bedroom: one hundred and fifty (150) square feet

9. A maximum Floor To Lot Area Ratio (FAR) of 2.0 is permitted by right within the Downtown Edge zoning district.

10. Downtown CRA Development Incentive Program (DCDIP): Development incentives are opportunities offered to property owners and developers as a

means to meet specific development goals while increasing the quality of development and providing benefits to the community at large. Such incentives shall not be considered an inherent right but a potential opportunity if certain conditions are met. Site and/or area-wide constraints, public facility capacity limitations, and/or regulatory controls may limit the achievement of densities and intensities offered under this program. Residential density and/or non-residential intensity (FAR) in addition to the baseline densities and intensities permitted herein, may be granted through participation in the Downtown CRA Development Incentive Program (DCDIP) as follows:

a. Eligible Residential Density and Improvement Required. Additional residential density, greater than twenty (20) units per acre and up to a maximum total of forty (40) dwelling units per acre may be available through participation in the DCDIP. For each residential unit requested in excess of twenty (20) dwelling units per acre up to a maximum of forty (40) dwelling units per acre, participants in the DCDIP shall be required to provide one or more improvements pursuant to this Section. The value of the on-site and/or off-site improvements for purposes of the DCDIP shall be established by resolution of the City Council. Overall density limitations of the Downtown CRA as well as other factors may limits the availability of the maximum density on any particular development site.

b. Eligible Non-Residential Development and Improvement Requirements. Additional commercial development, greater than two (2.0) FAR up to a maximum of four (4.0) FAR may be available through participation in the DCDIP. For each increase of 0.1 FAR per acre exceeding the baseline FAR, participants in the DCDIP shall be required to provide one or more improvements pursuant to this Section. The value of the on-site and/or off-site improvements for purposes of the DCDIP shall be established by resolution of the City Council.

c. Categories of DCDIP Development Incentives. A variety of development incentives in several different categories, that are not mutually exclusive, are eligible for consideration in the DCDIP. Some development incentives may fall within more than one category of development incentive. The following categories of incentives are those from which participants in the DCDIP may provide improvements in order to be eligible for increased density and/or intensity pursuant to this Section:

(1) Superior site design and quality development. Through participation in the DCDIP, development in excess of baseline densities and/or intensities may be available if a development exceeds the minimum standards of quality for site design that are required for development in the Downtown Edge zoning district because the physical layout, orientation, and design of a proposed development greatly affects the on-site activities, the connectivity to off-site uses and activities, and the overall neighborhood character and aesthetic appreciation of the development. Factors to be considered in regard to whether a development offers the superior site design and quality necessary to achieve increased density and/or intensity under the DCDIP include, but are not limited to, the following:

(a) Connectivity – whether the on-site placement of uses, development, and pathways realizes and complements connections among on-site and off-site uses;

(b) Clustering – whether the design of the development concentrates development and/or uses so as to increase on-site open space areas and/or preservation;

(c) Exterior Design and Materials – whether the exterior design and materials of the development, such as facades, fenestrations, colonnades, awnings, arcades, balconies, building recesses, and other ornamental or design features, will exceed in quality and/or quantity those required by the Land Use and Development Regulations or other regulations so as to mitigate the effects of any increase in building bulk and/or height that would result from an increase in density and/or intensity;

(d) Orientation – whether the building(s) or other features of the development are oriented to maximize the activities occurring in the development; whether the development is oriented so as to maximize the availability of and access to public parks, public squares, public plazas, open space, community facilities, and vistas so as to create a sense of cohesiveness and community;

(e) Underground Utilities – whether the development is utilizing underground utilities to a greater extent or degree than would be otherwise required by the Land Use and Development Regulations or other regulations so as to enhance the aesthetic value of the community and so as to provide additional protection of the utilities from the effects of the elements, including but not limited to, hurricanes, fires, etc.

(2) Preservation of Natural Resources – whether the development will preserve, enhance, and/or expand beyond the level required by local, state, and/or federal regulations natural resources, particularly wetlands and upland habitats that support threatened and endangered species and/or mature tree stands, because these resources are beneficial to the ultimate users of the development site, the surrounding community, the City as a whole, and the region.

(3) Public Open Space and Recreational Areas – whether the development will provide on-site open space, landscaping, and buffering that exceeds any such features that may be required by the City Land Use and Development Regulations or other regulations. In addition, this category includes consideration of whether the development will contribute passive and/or active recreational areas and facilities to mitigate the effects of any increased density and/or intensity, particularly when such recreational areas and/or facilities connect to existing public recreational areas and/or contribute to the achievement of target areas and facilities identified in the City's Master Park Plan.

(4) Community Facilities – whether the development will provide community facilities that would support a thriving urban center and would be beneficial to the vitality of the Downtown CRA. Community facilities that would be eligible for consideration in this category may be public, private, or a combination of public and private in nature and would include, but not be limited to, government and public facilities, educational facilities, day care and special needs facilities, hurricane shelters, dedicated land and/or facilities in

non-flood prone areas (even outside of the Downtown CRA boundaries), civic centers, libraries, and theatres. Factors such as the demographic need in a given area, the service need in a given area, the stated public needs and objectives, and contextual suitability for the proposed facilities would be shall be considered in the evaluation of elements in this category.

(5) Affordable Housing – whether the development will provide affordable housing opportunities either on-site or off-site. Factors such as the quality and quantity of the affordable housing opportunities offered and the suitability of area to support population needs shall be considered in evaluating proposed affordable housing contributions under this category.

(6) Transportation Improvements – whether the development will provide transportation improvements that exceed in quality and/or quantity those required under the City Land Use and Development Regulations or any other regulations. Transportation Improvements that would be eligible for consideration in this category would include, but not be limited to, provision of land to support existing and proposed rights-of-ways located on-site and/or off-site that have been identified as needed by the City; physical construction of and/or payments for right-of-way improvements on-site and off-site in excess of those required by the City or other agency; provision of streetscape improvements such as plantings and street furniture; provisions of traffic control measures such as signalization; mass transit services or facilities such as bus shelters and/or tram or water taxi services; and bicycle racks and storage lockers.

(7) Enhanced Waterfront Access and Use – whether the development will provide new and/or enhanced opportunities for public access to and use of waterfront resources such as the provision of land and/or facilities that expand existing public parks and facilities; provision of waterfront boardwalks, esplanades, and/or pathways; the provision of sitting areas and other passive-related improvements; the provision of piers, docks, and boat launch sites; the provision of parking lots or parking structures at or adjacent to waterfront locations, serving the general public; and the creation and/or expansion of man-made lakes that enhance use areas available to the public.

(8) Public Improvement Fund – whether the property owner (or the developer on behalf of the owner, if someone other than the owner is acting as the developer of the property) makes a monetary contribution to the City Public Improvement Fund (PIF). If a monetary contribution to the PIF is approved pursuant to this Section, the PIF payment shall be paid after approval of the development and prior to the issuance of any building permit(s) for the development. The City will use monies in the PIF to make public improvements within the Downtown CRA so as to mitigate the effects of any increased density and/or intensity that may occur in the Downtown CRA Such public improvements would include, but not be limited to, public parks, bike and/or pedestrian paths, greenbelt and nature trails, landscaping, government facilities and infrastructure improvements. The City Manager or his or her designee shall prepare an annual report identifying the amount of money collected under this program each year, the amount of money in the fund, current and proposed

expenditures, and projects funded and proposed to be funded through the PIF together with the time frame in which anticipated projects are proposed to be accomplished.

(9) Land Assemblage – whether the development involves the assembly of not less than three (3) acres of land that is at least 250 feet deep along at least fifty (50%) percent of the site's frontage. In order to be considered an assembly of land within this category, the minimum (3) acre land area must have been attained after December 1, 2005 as the result of an amalgamation of smaller parcels. Points will awarded under this category based on the amount of land assembled, the number of platted lots assembled, the amount of non-residential development proposed, and the location of the property.

d. The City Council will adopt a Resolution that identifies the formula that determines the contribution amount of amenities/improvements necessary to achieve the increased density and/or intensity as permitted. The formula is based on the value of construction at base density/intensity, the assessed value of the land, the increase in density and/or intensity and a density and/or intensity factor to be determined by City Council. Cost of the proposed amenity/improvement in relation to the contribution amount required for the requested density and/or intensity through the formula provided in the Resolution may not be at a dollar for dollar basis. Value of amenity/improvement will further be evaluated based on a point/weight system of the public benefit of the amenity/improvement. The Resolution will further define the point/weight system that determines the public benefit. Factors that may affect the point/weight system include, but are not limited to, the category of creditable activity provided in relation to other categories and the community, neighborhood and/or City-wide value of the proposed amenity/improvement.

e. Credit Points. Each increment of density over the baseline density or increment of intensity over the baseline FAR shall require an award of one hundred (100) credit points. For purposes of this Section, one (1) dwelling unit shall constitute an increment of density and one thousand (1,000) square feet shall constitute an increment of intensity. In no event shall credit points be applied to more than one increment at a time.

f. Applications for Development Incentives. To apply for excess density and/or intensity through the DCDIP program, a property owner shall submit an application to the City Department of Community. The application shall be accompanied by a fee that will be set by the City Council and that shall be an amount that is adequate and reasonable for the administrative expenses incurred by the City in the review of the application. The application shall contain the following information:

(1) The application shall be on a form supplied by the Department of Community Development and shall be accompanied by all applicable supporting information and/or attachments including, but not limited to, all applicable site plan and/or planned development project documents related to the proposed development for which increased density and/or intensity is sought; operations and maintenance plans; schematic architectural drawings; floor plans; elevations and perspectives; and/or public benefits assessment(s).

(2) The application shall identify the amount of money, if any, proposed for contribution to the PIF. If approved, the PIF

payment shall be paid after approval of the development and prior to the issuance of any building permit(s) for the development.

(3) Documentation related to any improvements or amenities in any of the categories of development incentives eligible for consideration under the DCDIP, including, but not limited to, detailed drawings that clearly indicate baseline residential density and/or non-residential intensity, as well as development associated with proposed enhanced densities and intensities.

(4) Proof of ownership of the land upon which the development for which enhanced density and/or non-residential intensity is sought together with proof of ownership and/or other control of any property for which off-site improvements are sought for consideration under the DCDIP.

g. Standards for Approval of Enhanced Density and/or Enhanced Intensity pursuant to the DCDIP. The City Manager or his or her designee shall have the authority to approve or disapprove all requests for enhanced density and/or intensity pursuant to the DCDIP based on whether the proposed public benefit to be gained by the development incentive(s) pursuant to the DCDIP have sufficient merit to justify the approval of the requested enhanced density and/or intensity. The criteria that the City Manager or his designee shall consider in making a decision about an application pursuant to the DCDIP shall include, but not be limited to, the following:

(1) the degree, if any, to which any proposed amenity or improvement meets or exceeds the goals and objectives within the City's Comprehensive Plan, the Downtown CRA Master Plan, and all other City regulations;

(2) The size and quality of any proposed amenity or improvement;

(3) The degree of public accessibility to any proposed improvement and/or amenity;

(4) The quality of the design of any proposed improvement or amenity based on its relationship to the principal use of the development, the location of the subject property, the adjacent properties and uses, street frontage(s), and City regulations, as applicable;

(5) The degree, if any, by which the proposed improvement or amenity preserves, enhances, expands, and or protects the environment, including views, pedestrian environment, landscaping, and relaxation areas as well as the potential public enjoyment of the Downtown CRA; and

(6) The amount by which the requested density and/or intensity would exceed the baseline density and/or intensity otherwise available for the development.

h. Requests for increased density and/or increased intensity shall only be considered with respect to a specific proposed development. If granted by the City, an increase in density and/or an increase in intensity shall be applied only to the development with respect to which such increase(s) were sought. Excess density and/or intensity awarded under the DCDIP program are not transferable. In the event the development project for which an increase in density

and/or intensity is sought will be considered for approval at a public hearing of the Planning and Zoning Commission/Board of Zoning Adjustment and Appeals and/or the City Council, such as in the case of Planned Development Projects (PDPs), then the development incentive proposals and the issue of any increased density and/or intensity shall be considered as a part of such public hearing and any resulting development order.

i. The City Manager shall prepare and submit to the City Council an annual report identifying and describing all activities, funds and improvements under the DCDIP. Proposed improvements in the Downtown CRA, through expenditures of the PIF, shall be approved only by the City Council consistent with existing financial policies and requirements.

11. a. Parking Requirements: Except for sites located, as of December 1, 2005, within twenty-five (25) feet, excluding alleys and walkways, of any of those dedicated City parking areas identified in section 2.7.17.D.11.f.(1) below (hereafter "Parking Area Sites"), properties with more than fifty (50) feet of frontage shall provide on-site at least the minimum on-site required parking, based on their use(s), identified in the Parking and PILOP Table below. The balance of the minimum total parking required for such properties, based on their use(s), may be satisfied by providing additional on-site parking (beyond the minimum amount), off-site parking through satellite parking agreements, and/or contributions to the Payment in Lieu of Parking (PILOP) fund (PILOP fees). Properties with fifty (50) feet or less of frontage shall be required to provide the minimum total parking required, based on their use(s), but they shall not be required to provide any part of such minimum total parking on-site; instead, all or part of their minimum total required parking may be satisfied by providing on-site parking, off-site parking through satellite parking agreements, and/or PILOP fees. If a site engages in shared parking, such shared parking shall not be applied toward any minimum parking requirement.

PARKING AND PILOP TABLE

	Column (A)	Column (B)	Column (C)
Development Use	Minimum Total Parking Requirements	Minimum On-Site Parking Requirements	PILOP Fees
Residential	1.5 per unit	1.25 per unit	Provide A = no fee Provide B = (A-B) x fee Provide >B but < A, multiply difference x fee
Non-Residential	100% of required Parking in Art. V, Section 5.1.7	75% of Column A	Provide A = no fee Provide B = (A-B) x fee Provide >B but < A, multiply difference x fee

b. When a site other than a Parking Area Site is altered so that the minimum total parking requirement for the site, pursuant to the Parking and PILOP Table contained in Section 2.7.17.D.11.a. is increased, but the area of the site is neither decreased nor increased, then the site shall provide the minimum on-site parking requirement and minimum total parking requirement for the site in accordance with the Parking and PILOP Table contained in Section 2.7.17.D.11.a. less any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof. A site is altered, for purposes of this Section, when any use located on the site is changed, any structure located on the site is modified, or the land area of the site is changed.

c. In the event the area of a site other than a Parking Area Site is increased as the result of the acquisition of property that was not a part of a Parking Area Site as of December 1, 2005, any PILOP fees previously paid as the result of the use(s) or structure(s) located on the conveyed property shall be treated in the same manner as any PILOP fees, if any, previously paid by the receiving site provided that the minimum total parking requirements for the conveying site decrease as the result of the conveyance of property. If the minimum total parking requirements for the conveying site do not decrease as the result of the transfer, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the enlarged (receiving) site.

d. In the event the area of a site that is not a Parking Area Site is decreased, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the receiving site unless the minimum total parking requirements for the conveying site decrease as the result of the transfer. If the minimum total parking requirements for the conveying site decrease as the result of the transfer, and the conveying site had previously paid PILOP fees pursuant to this Section, then any such PILOP fees that are unnecessary to defray the decreased total parking requirements of the conveying site shall be applied toward the parking requirements of the receiving site.

e. In the event the area of a site other than a Parking Area Site is increased as the result of the acquisition of property that was a part of a Parking Area Site as of December 1, 2005, the increase in area that results from such acquisition shall, for purposes of this Section, be treated as a Parking Area Site.

f. For Parking Area Sites, the following parking and PILOP regulations shall apply:

(1) Each of the following dedicated City parking areas in the Downtown CRA is hereby assigned a parking allocation factor as follows:

Dedicated City Parking Area	Surrounding Blocks and Lots		Parking Allocation Factor
	Lots	Block	
Parking Area 1	1 through 24	62	0.000655
Parking Area 2	1 through 24	62A	0.001135
Parking Area 3	1 through 17	63A	0.001040
Parking Area 4	1 through 30	63	0.001515
Parking Area 5	1 through 61	64	0.001501
Parking Area 6	1 through 34	356	0.001572
	1 through 30	357	
Parking Area 7	11 through 14	56A	0.001330
	1 through 11	56B	
	1 through 14	56C	
	1 through 10	G	

(2) For purposes of this Section, when a "parking credit" must be calculated for a Parking Area Site, such parking credit shall be calculated by multiplying the area of the site (in square feet) by the Parking Allocation Factor related to the dedicated City parking area upon which the site is located.

(3) When the area of a Parking Area Site changes, the following shall apply:

(a) In the event the area of a Parking Area Site is increased as the result of the acquisition of property that was not a part of a Parking Area Site as of December 1, 2005, the increase in area that results from such acquisition shall, for purposes of this Section, be treated in the same manner as property, no part of which comprised a Parking Area Site.

(b) In the event the area of a Parking Area Site is increased as the result of the acquisition of property that was a part of a Parking Area Site as of December 1, 2005, any PILOP fees previously paid as the result of the use(s) or structure(s) located on the conveyed property shall be treated in the same manner as any PILOP fees, if any, previously paid by the receiving site provided that the minimum total parking requirements for the conveying site decrease as the result of the conveyance of property. If the minimum total parking requirements for the conveying site do not decrease as the result of the transfer, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the enlarged (receiving) site.

(c) In the event the area of a Parking Area Site is decreased as the result of the conveyance of property that was a part of a Parking Area Site as of December 1, 2005, regardless of whether such conveyance is to another Parking Area Site or to a property that is not a Parking Area Site, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the receiving site unless the minimum total parking requirements for the conveying site decrease as the result of the transfer. If the minimum total parking requirements for the conveying site decrease as the result of the transfer, and the conveying site had previously paid PILOP fees pursuant to this Section, then any such PILOP fees that are unnecessary to defray the decreased total parking requirements of the conveying site shall be applied toward the parking requirements of the receiving site.

(4) A Parking Area Site is altered, for purposes of this Section, when any use located on the site is changed, any structure located on the site is modified, or the land area of the site is changed. Although a Parking Area Site shall not be required to provide on-site parking, when such site is altered so that the minimum total parking requirement for the site, pursuant to the Parking and PILOP Table contained in Section 2.7.17.D.11.a., is increased, the parking requirement for the site shall be determined in accordance with the following:

(a) Parking Area Sites that are undeveloped as of December 1, 2005

(i) A Parking Area Site that is undeveloped as of December 1, 2005, the area of which has not changed and which is being initially developed

after December 1, 2005, shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.17.D.11.a, less a parking credit calculated pursuant to Section 2.7.17.D.11.f.(2). The site would need to meet the aforesaid parking requirement prior to receiving a Certificate of Occupancy (for residential uses) or a Certificate of Use (for non-residential uses). If the land area of the Parking Area Site increases prior to the initial development of the site, then the requirements of this Section shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors such as whether it was previously developed and/or had previously paid PILOP fees.

(ii) After such a Parking Area Site has been initially developed pursuant to this Section, any further alteration of the site that would result in an increase to the minimum parking requirement for the site, pursuant to the Column (A) of the Parking and PILOP Table contained in Section 2.7.17.D.11.a., but which neither increases nor decreases the area of the site, shall require that the site provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.17.D.11.a. less the parking credit calculated pursuant to Section 2.7.17.D.11.f.(2) and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof.

(iii) After the initial development of such a site, if the area of the site increases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.17.D.11.a. less a parking credit (to which the site would be entitled based on its land area at the time of such further alteration) and any PILOP fee(s) previously paid to offset the parking requirement of the site, including any PILOP fee(s) paid with respect to the expanded area of the site, in accordance with Section 2.7.17.D.11.f.(3).

(iv) Alternatively, if, after the initial development of such a site, the area of the site decreases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table less a parking credit and any PILOP fee(s) previously paid

to offset the parking requirement of any use(s) or structure(s) located on the area of the site remaining after the decrease(s) in area, in accordance with Section 2.7.17.D.11.f.(3).

(b) With respect to Parking Area Sites that are developed and occupied as of December 1, 2005, the following shall apply:

(i) The first time such a site is altered after December 1, 2005, if the alteration would result in an increase in the minimum parking requirement for the site of more than twenty-five (25%) over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, the site shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.17.D.11.a. less a parking credit calculated as provided in Section 2.7.17.D.11.f.(2).

(ii) Alternatively, if such an alteration of the site would result in an increase in the minimum parking requirement for the site of not more than twenty-five (25%) percent over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, then the alteration of such site shall require the site to provide the minimum parking required for the site (pursuant to the Table) less the amount attributed to the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for the site as of that date. Further alterations to the site that do not, either singularly or cumulatively, increase the minimum parking requirement for the site by more than 25% over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for such site as of that date, shall require the site to provide the minimum parking required for the site (pursuant to the Table) less the amount attributed to the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use in effect for the site as of that date and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area any PILOP fee(s) applicable pursuant to Section 2.7.17.D.11.f.(3).

(iii) If further alterations to a site, cumulatively, increase the parking requirement for the site

by more than twenty-five (25%) percent over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the Certificate(s) of Use as of that date (or, for residential uses, the residential occupancy in effect for such site as of that date), then the alteration of such site that would result in the increase by more than 25% shall require the site to provide the minimum parking required for the site (pursuant to the Table) less a parking credit calculated as provided in Section 2.7.17.D.11.f.(2), based on the area of the site at the time of the alteration that would result in the more than 25% increase, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to Section 2.7.17.D.11.f.(3).

(c) With respect to Parking Area Sites that are developed and unoccupied as of December 1, 2005, the following shall apply: The first time such a site is occupied following December 1, 2005, the site shall be required to provide the minimum parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.17.D.11.a. less a parking credit calculated by multiplying the area of the site (in square feet) by the Parking Allocation Factor related to the dedicated City parking area upon which the site is located. The site would need to meet the aforesaid parking requirement prior to receiving, for non-residential uses, a Certificate of Use and, for residential uses, prior to any residential occupation of the structure. If the land area of the Parking Area Site increases following December 1, 2005, but prior to the occupancy of the site, then the requirements of this Section shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors such as whether it was previously developed and/or had previously paid PILOP fees.

(d) If the structure(s) located on any Parking Area Site are demolished, razed, and/or relocated to a site other than a Parking Area Site, then any subsequent redevelopment of such Parking Area Site shall require the site to provide the minimum parking required for the site (pursuant to the Table) less a parking credit calculated as provided in Section 2.7.17.D.11.f.(2), based on the area of the site at the time of the redevelopment, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to Section 2.7.17.D.11.f.(3). After such redevelopment is completed, any alteration(s) to the site shall be treated, for purposes of determining the parking requirements of the site, in the same manner as alteration(s) of any other developed Parking Area Site under this Section.

(5) With respect to each dedicated City parking area located in the Downtown CRA, the City Council shall, by Resolution, identify all sites that would be Parking Area Sites regulated by this Section and also, for all such sites that are developed as of December 1, 2005, identify the minimum parking requirement for the use(s) and/or structure(s) on the site as of December 1, 2005 as though such sites were within each of the Downtown zoning districts.

g. For purposes of this Section, a satellite parking arrangement exists when the minimum total parking (excluding on-site parking) required for a site is to be provided on a site at a location different from the site which will be served by the parking as required in Section 2.7.17.D.11.a. When all or part of the minimum total parking (excluding on-site parking) required for a site is to be satisfied by one or more satellite parking arrangements, such satellite parking arrangements shall comply with the requirements of this Section as follows:

(1) Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet from a public entrance to the principal building which contains the use associated with such satellite parking, except that no satellite parking area shall be located across Del Prado Boulevard or Cape Coral Parkway from the use it is serving. When the site that contains the use(s) to be served by the satellite parking offers valet parking at all times that such use(s) are open to the public so that valets will transport the vehicles of patrons of such use(s) to the satellite parking site(s) and such valet service is documented in an agreement entered into by the City and the owners of the property to be served by the satellite parking and of the property offering the satellite parking, then the satellite parking site(s) may be located more than 1,320 feet from a public entrance to the principal building containing the use served by such valet parking. The aforesaid agreement shall be in addition to the agreement required by Section 2.7.17.D.11.g.(4) and shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the property to be served by the valet parking. Upon request by the owner of the property to be served by a proposed satellite parking location, the Director of the Department of Community Development may allow satellite parking that does not include valet parking to be located more than 1,320 feet from a public entrance to the principal building which contains the use associated with the proposed satellite parking and/or to be located across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the Director finds that the proposed satellite parking would not be detrimental to the public health, safety, and welfare of the persons utilizing it. Factors which may be considered by the Director in making this determination include, but are not limited to, the following: the proximity of the proposed satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other pedestrian-oriented features at any intersections and any other locations between the proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to be utilized by employees only or by patrons of the use(s) to be served, and the availability of any complementary and/or supplementary services to such parking, such as trolley or tram systems that would provide transportation for the public to and from the satellite parking area and the use(s) to be served. If the Director approves satellite parking at a distance of more than 1,320 feet and/or across Del Prado Boulevard or Cape Coral

Parkway, the Director may impose conditions on such satellite parking that would be reasonably designed to mitigate any negative effects from such approval. Examples of such conditions would include, but not be limited to, the requirement that a satellite parking area be clearly identified for only employee parking, the requirement that a pedestrian walkway between the parking area and the use(s) it serves be covered so as to protect pedestrians from the elements, and that any supplementary and/or complementary services be continued so long as the satellite parking is being used.

(2) The satellite parking area and the site which contains the use associated with such satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The submitted plan shall show the pedestrian connection(s) between the two sites and shall demonstrate that all pedestrian connections have sidewalks, or other paved walkways, dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance between the sites is not more than 1,320 feet when measured from a public entrance to the principal building (on the site to be served by the satellite parking) to the closest point on the proposed satellite parking site.

(3) Satellite parking on the off-site parcel shall not be allowed if the proposed satellite parking spaces are satisfying a minimum parking requirement for the off-site parcel; such satellite parking spaces shall only be counted if they are above and beyond the minimum parking requirement for the off-site parcel.

(4) The owner of the off-site parcel of land (and, the owner of the land intended to be served by such off-site parking, if different than the owner of the parcel to be used for parking) shall enter into an agreement with the City, which shall be recorded in the public records of Lee County, Florida at the expense of the owner of the land intended to be served by the off-site parking.

(5) The off-site parking area shall never be sold or transferred except in conjunction with the sale of the parcel served by the off-site parking facilities unless:

(a) The parcel to be sold or transferred will continue to be used as provided in the off-site parking agreement and the new owner or transferee executes a consent to assume and to be bound by the obligations of the owner of the parcel used for parking as provided in the agreement; or

(b) A different parcel complying with the all provisions of the City of Cape Coal Code of Ordinances and Land Use and Development Regulations and subject to a recorded off-site parking agreement as specified herein is substituted for the parcel of land subject to the off-site parking agreement; or

(c) The parcel being served by the off-site parking no longer requires the parking as evidenced by a written statement executed by the parties executing the off-site parking agreement and as approved by the Director of the Department of Community Development. The aforesaid statement shall be recorded in the public records of Lee County at the

expense of the owner of the parcel formerly being served by the off-site parcel.

h. Although the City may not require a development to provide more than the minimum total parking that would be required pursuant to Column (A) of the Parking and PILOP Table contained in Section 2.7.17.D.11.a., the Director of the Department of Community Development may reduce the number of on-site parking spaces to be required for a site if he or she finds that such a reduction is warranted based upon one (1) or more of the factors identified in Section 5.1.2.B.3.

i. PILOP fees shall be charged on a per parking space basis. PILOP fees shall be used to improve public parking and provide for structured parking, access, and egress in the Downtown CRA as well as to provide services that are complementary to and/or supplementary to such parking, access, and egress in the Downtown CRA. Examples of such complementary and/or supplementary services might include, but not be limited to, public transportation services such as trolley or tram systems that would provide transportation for the public to and from parking areas and other locations in the Downtown area. PILOP fees are non-refundable; once PILOP fees have been paid to the City as required pursuant to this Section, a change in the minimum on-site or off-site parking requirements for a site as the result of either alterations to the site or changes in the type or intensity of development located on the site so as to result in a decrease in the amount of parking required for such development shall not result in any refund of previously paid PILOP fees.

j. The minimum total parking requirements, the minimum on-site parking requirements, and PILOP fees shall be reviewed on an annual basis to ensure sufficient parking and fees are provided to meet the parking demand of the Downtown CRA. The City Manager or his designee shall prepare an annual report describing fees collected under the PILOP program, on-site parking provided through development under this section, an assessment of parking capacity and demand for the Edge district of the Downtown CRA, and improvements made and anticipated under the PILOP.

k. All parking provisions and requirements included in Article V except where superseded by this Section shall apply.

12. Parking Location. Off-street parking spaces shall be located only in the rear or side yard. If parking is located in the side yard, it shall be concealed from all streets, excluding platted alleys, by opaque landscaping, fencing, wall or any combination thereof in accordance with Section 2.7.17.F.8. and shall have a ten (10) foot setback from the building line. For off-street parking spaces located on surface lots, the minimum setbacks from alleys are as follows:

Parallel to alleys	No part of the parking space shall be closer than fifteen (15) feet from alley centerline
All others	No part of the parking space shall be closer than twenty (20) feet from alley centerline

13. Parking Ingress/Egress:

Curb cuts along Cape Coral Parkway in the Downtown Edge district shall be prohibited unless:

a. Lot frontages are one hundred and fifty (150) feet or greater and 100% of the required residential parking and 50% of the commercial/professional is provided on-site;

b. A shared curb cut between adjacent parcels is provided with a combined lot frontage of one hundred and fifty (150) feet at the property lines and a signed agreement by all property owners is provided; and

c. No other ingress/egress can adequately service the development parcel as determined by the Community Development Director based on a review by the City's Department of Public Works.

14. Surface water management facilities located within the Downtown CRA shall adhere to the following criteria:

a. Surface water management facilities shall be concealed wherever possible.

b. Open surface water management facilities shall not be permitted to be located in front of the principal structure.

c. Surface water management facilities are prohibited in utility easements except as follows:

(1) Above ground surface water management facilities may be located in utility easements so long as the utility easement is located at least ten (10) feet from the centerline of the platted alley; or

(2) Above ground surface water management facilities may be located in utility easements so long as the utility easement abuts neither a street nor a platted alley.

d. Surface water management facilities shall not be visible from any street, sidewalk, public plaza or courtyard. If surface water management facilities are used in side yards, they shall be located behind the front building line and completely screened from view with fencing, walls or approved landscaping.

e. Underground surface water management facilities may be located under paved surfaces including parking lots and along unpaved edges of off-street parking and circulation facilities. Retention and water treatment areas may also be concealed under parking structures, patios, porches, courtyards, and paved areas for commercial type trash receptacles. Underground surface water management facilities may also be located under landscaped islands located in off-street parking and circulation facilities, along unpaved edges of off-street parking and circulation facilities, concealed under parking structures, patios, porches, courtyards, and other green areas subject to the design criteria for underground systems.

15. Drive-Through Facilities. Drive-through service windows shall be located at the rear of the property with access from an alley or similar location that does not substantially interfere with pedestrian flow or surrounding uses. If the property abuts an alley, access from the alley to the drive-thru window shall be provided.

16. Neighborhood Storage Facilities. If a Neighborhood Storage Facility is approved as a Special Exception use, such Neighborhood Storage Facility shall comply with the following requirements:

a. No activity other than loading, unloading, and storage of goods is allowed from any storage unit. Furthermore, no business may be operated from any storage unit.

b. No loading or unloading activity shall be performed so as to be visible from the public right-of-way.

c. No hazardous or dangerous materials shall be stored in a Neighborhood Storage Facility.

d. No outdoor storage of any kind shall occur or be allowed on a premises containing a Neighborhood Storage Facility. All storage associated with a Neighborhood Storage Facility shall be entirely confined within one or more enclosed buildings.

e. Neighborhood Storage Facility shall comply with all special regulations for the Downtown Edge zoning district in Section 2.7.17.D.

f. No storage shall be visible from the exterior of the Neighborhood Storage Facility. If the Neighborhood Storage Facility contains windows, only finished construction including, but not limited to walls, doors, etc., shall be visible through the windows. No Neighborhood Storage Facility window that is visible from any adjoining property or from any public right-of-way shall have paint or any other substance or material applied directly to the surface of such window so as to prevent visibility through such window. This restriction shall not, however, prevent a Neighborhood Storage Facility from utilizing interior window treatments such as blinds, shutters, or draperies.

g. The maximum permissible floor area for storage is 20,000 square feet.

h. The Neighborhood Storage Facility shall also comply with any specific conditions imposed at the public hearing.

17. Storage, Enclosed: Storage, Enclosed may be permitted as a Special Exception subject to the following requirements:

a. Enclosed storage shall be an accessory use to a permitted use.

b. All storage shall be situated only to the rear of the structure in which the primary use is located.

c. All storage shall be within an area that is completely fenced or walled-in. Neither the stored items nor their enclosure may be visible from a public street.

d. Storage shall not interfere with vehicular traffic, off street parking, and access to alleys or streets.

18. Streetscape Materials

Developments are strongly encouraged to pave the space between principal buildings and front property lines with appropriate sidewalk materials, including but not limited to concrete, stamped concrete or brick pavers. Developments are further encouraged to place sidewalk amenities such as benches, fountains, outdoor dining tables and landscaping planters within this area, except that these amenities are prohibited within three (3) feet of any property line abutting a City sidewalk. In providing these elements, attention should be paid to maintaining large sidewalks rather than dividing them with sidewalk amenities. Developments are encouraged to maintain a minimum eight (8) foot contiguous sidewalk to accommodate pedestrian

flows. In the event that improvements are placed within the front six (6) foot public utility easement the City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments within the aforesaid easement that result from maintenance of public infrastructure improvements.

19. Landscaping

a. Purpose and Intent

This section is established to provide general landscape regulations that are appropriate for urban areas. The use of water conserving landscaping is strongly encouraged. The principles of Xeriscape-planning and design, soil improvement, efficient irrigation, limited turf areas, mulches drought tolerant plants and appropriate maintenance should be utilized in all new construction and landscape renovations so as to provide the most green with the least water and create a landscape that can survive largely undamaged in case of short term water restrictions.

b. Definitions

As used in this Section, the following words and terms shall have the following meanings unless some other meaning is plainly stated:

Encroachment: Encroachment is defined as any protrusion of a vehicle outside of a parking space, display area or accessway into a landscaped area.

Groundcloth: Materials used to control weed growth in landscaped areas that allow water and nutrients to pass through. Impermeable materials are prohibited.

Groundcover: Any low growing plant, twenty-four (24) inches or less, which can be used to cover areas where sod or turf is not desired or will not grow.

Landscaping: Landscaping shall consist of any of the following materials or combination thereof: grass, ground covers, shrubs, vines, hedges, trees or palms; and nonliving durable material commonly used in landscaping, but excluding paving and artificial flora.

Mulch: Non-living materials, either organic or non-organic, placed in landscaped areas that aid in moisture retention, weed control, and soil improvement.

Shrubs: Shrubs required by this Section shall be self-supporting woody, deciduous or evergreen species.

Trees: For the purpose of this Ordinance, a tree shall be defined as a self-supporting, woody plant of a species which normally grows to a minimum height of fifteen (15) feet, with an average canopy of greater than fifteen (15) feet, and having a trunk which can be maintained in a clean condition up to and over five (5) feet at maturity.

Vines: Vines are plants which normally require support to reach mature form.

Xeriscape: A landscaping method that maximizes the conservation of water by the use of site-appropriate plants and an efficient watering system. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis, the use of solid waste

compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance. Xeriscapes shall be green, functional, and preserve the intent of this Section.

c. Landscape Requirements

(1) Landscape Plan Required; Submittal Requirements. All Building Permit, Special Exception and Variance Applications shall contain a landscaping plan illustrating a site layout that conforms with the requirements of this Section. Where an existing building and site design preclude meeting the landscaping requirements, this provision shall not apply. In such cases, all existing landscaping must be improved or maintained. No parking lot shall be approved for construction or building permit issued until a Landscaping Plan, where required by this Section, has been approved. All Landscaping Plans shall include the following in clear detail:

(a) Location, spacing, diameter, overall height and type of existing and proposed trees.

(b) Types, quantity, sizes, spacing and height of proposed bushes and shrubs.

(c) Types and amounts as well as placement of proposed landscaping materials.

(d) Treatment, amount, and type of material to be used within areas not landscaped.

(e) Identify method of irrigation, if applicable.

(f) Location of utility lines and easements.

(g) Provision of additional information which would assist in conveying the intentions of the applicant.

(h) Extant right of way street trees must be shown on plans if applicable.

d. Quality of Materials

All plant materials and trees shall meet or exceed the standards for Florida No. 1 as specified in "Grades and Standards for Nursery Plants", Part I, 2963, and Part II, State of Florida, Department of Agriculture, Tallahassee, as amended, or equal as approved by the Director.

e. Compliance Required Prior to Issuance of Certificate of Occupancy

A Certificate of Occupancy shall not be issued until after the Director has determined that the applicant has complied with the provisions of this section.

f. Maintenance

(1) Each structure shall be inspected by the City six (6) months after the Certificate of Occupancy is issued for compliance with the minimum standards of this Landscape Ordinance, and each structure shall be inspected by the City one (1) year after the six (6) month inspection and each year thereafter to determine compliance with the minimum standards of this Landscape Ordinance.

(2) The owner, of the real property is to maintain the site landscaping in accordance with the standards contained herein. Failure to comply with this requirement shall constitute a violation of the City of Cape Coral's Code of Ordinances, and would subject the aforementioned party to any penalty imposed by law.

g. General Limitations

(1) Overhead power line radius. Trees within twenty (20) feet of existing overhead power lines shall be maintained to a maximum height of less than twenty (20) feet or shall be subject to trimming and cutting by the power company. However, palm trees within fifteen (15) feet of existing overhead power lines are prohibited except for pygmy date palm, areca palm, Christmas palm, paurotis palm, and other species that attain a height of less than twenty (20) feet when mature.

(2) Tree size. Trees shall be species having an average mature canopy of greater than fifteen (15) feet and having trunks which can be maintained in a clean condition over five (5) feet of clear wood. All shade trees other than palm trees shall have a minimum clear trunk height of eight (8) feet at planting. In addition, all trees other than palm trees shall have a diameter of two (2) inches when measured at a height of six (6) inches above the ground. Palm trees shall have a trunk base diameter of seven (7) inches when measured at ground level which does not include any portion of the root-ball.

h. Prohibited Trees. The following trees are prohibited for planting in the Downtown Edge district: Brazilian Pepper, Australian Pine, Carrotwood, Earleaf Acacia, all Melaleuca species, all Eucalyptus, except Eucalyptus Anera and Torelliana.

i. Inoculation of palm trees susceptible to lethal yellowing disease.

(1) All property owners within the Downtown Edge district are hereby encouraged to inoculate all palm trees susceptible to infection from lethal yellowing disease every four (4) months with terramycin.

(2) Trees found to be diseased shall be removed by the property owner within five (5) days said trees are found to be diseased.

(3) Upon failure of the property owner to remove diseased trees within five (5) days said trees are found to be diseased, the City shall remove said trees at cost to the property owner.

(4) Local organizations are hereby encouraged to promulgate programs for owner inoculation of trees.

j. The City may require a property owner to install a root barrier in the event the City determines that the location of a tree in an area abutting a sidewalk may have a detrimental effect on the physical integrity of the sidewalk. The root barrier shall be of a type which will prevent such detrimental effect on the physical integrity of the sidewalk. In making the determination as to whether a root barrier shall be required, the City shall consider the following criteria:

(1) Type (species) of tree.

(2) Location of tree.

(3) Proximity of tree to sidewalk.

In the event a public sidewalk is to be installed in an area adjacent to extant trees, then the City may require the owner of the property on which the tree is located to install a root barrier prior to the installation of the sidewalk. Factors to be considered shall be the same as those stated in Section 2.7.17.D.19.j.(1) through (3).

k. Retention/Detention Areas

(1) Planting of trees and shrubs in retention/detention areas may be permitted provided that:

(a) The placement of the trees and shrubs does not interfere with the volume of storage required for the retention/detention areas.

(b) The placement of the trees and shrubs does not interfere with the required side slopes of the retention areas.

(c) The placement of the trees and shrubs does not interfere with or impede the flow of runoff in the retention/detention area.

(2) All retention/detention areas must be stabilized with sod unless an alternative method is specifically permitted prior to plans approval. However, organic mulch will not be permitted in or adjoining retention/detention areas.

l. The following landscaping requirements apply to all properties in the Downtown Edge District.

(1) One shade tree shall be provided for each five (5) parking spaces required. Landscaping islands are not required, however, each tree shall be planted in a planting area of twenty-five (25) square feet with a minimum dimension of five (5) feet. Each such landscaping planting area shall be landscaped with sod, ground cover, or other landscaping material (excluding paving) in addition to the required tree.

(2) All sites must have one tree for each one thousand five hundred (1,500) square feet of gross land area. Such trees may be planted singularly or grouped together. Each tree shall be planted in a planting area of twenty-five (25) square feet with a minimum dimension of five (5) feet. Each such planting area shall be landscaped with sod, ground cover or other landscaping material (excluding paving) in addition to the required tree.

(3) Palm trees shall constitute no more than fifty (50) percent of the required trees planted in connection with new construction.

(4) Trees shall not be permitted in front yards, unless approved as a deviation within Planned Development Projects, provided that applicable deviation criteria contained within this Ordinance are met.

(5) In the event that the planting requirements in this Section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund.

Such site constraints shall include, but not necessarily be limited to, size of site or access or circulation requirement making plantings impracticable, or extant site layout. The City Council shall, by Resolution, establish a fee based on the average cost of the aforementioned plantings. The City will use the funds in the Downtown CRA Tree Fund to provide and/or enhance the landscaping and vegetation in public areas of the Downtown CRA.

To qualify to pay an in lieu of planting fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of planting fee meeting planting requirements.

(6) When parking areas are provided in side yards, the required setback for said area shall be a landscaped area with shrubs and ground cover plants with a minimum eighty (80) percent coverage of such landscaped area at time of planting.

(7) Sod or turf areas which are visible from streets (excluding alleys) shall be planted with trees, shrubs, or groundcover. At a minimum, the sod or turf area(s) shall include low-lying shrubs or ground cover plants with a minimum 50 percent coverage of the sod or turf area at time of planting. To determine whether a sod or turf area is visible from a street, the subject parcel shall be viewed at a 90 degree angle from the street, and any sod or turf area which is not behind a building, wall, fence, or opaque hedge planted in accordance with landscape buffering criteria contained in this Section shall be deemed to be visible from the aforementioned street. Exceptions to this regulation may be made where sod or turf areas are utilized as public parks or plazas, or recreational and/or open spaces approved as part of the Downtown CRA Development Incentive Program.

20. Trash Receptacles

Commercial type trash receptacles. For purposes of this Section, "commercial type trash receptacles" shall mean and include, but not be limited to, the covered containers supplied by the City refuse collection franchisee that are designed and intended to be mechanically dumped into a packer-type sanitation vehicle, regardless of whether such containers are used for the collection and/or disposal of solid waste or other refuse or for the collection and/or disposal of recycling materials, as well as covered containers that are designed and intended to be used for compaction of materials such as cardboard boxes. All commercial type trash receptacles are required to meet the following standards:

a. Except as otherwise provided herein, no commercial type trash receptacle shall be located in the front yard or within any public right-of-way and/or drainage easement. Commercial type trash receptacles may be located in a side or rear yard and may be located within a public utility easement adjoining the side lot line only if a building is built with a zero (0) foot setback to the aforementioned side lot line. If a commercial type trash receptacle, its pad and enclosure are located in a public utility easement, the property owner shall be solely responsible for removal of the commercial type trash receptacle, its pad and enclosure as well as for any cost resulting from disturbance, damage, or destruction of the commercial type trash receptacle, its pad and enclosure resulting from work associated with utilities in such easement.

b. All commercial type trash receptacles shall be located so that a sanitation vehicle has physical access to the commercial type trash receptacle that is adequate to ensure the safe servicing of the commercial type trash receptacle by the vehicle. Such access approach shall be sufficient to accommodate a vehicle requiring a minimum clearance width of ten (10) feet and a minimum clearance turning radius of fifty (50) feet when directly accessing a public street. Such access way shall be kept clear and unobstructed at all times. In the event the access way would require a vehicle servicing the commercial type trash receptacle to engage in backing maneuvers in order to exit the receptacle storage area, an apron at least ten (10) feet wide and sixty (60) feet in length adjacent to the commercial type trash receptacle shall be provided as part of the access way.

c. Each commercial type trash receptacle shall be located on a pad that is made of concrete. The elevation of the top surface of the pad shall be the same as the elevation of the access way to the commercial type trash receptacle.

d. All solid waste or other refuse, including but not limited to recycling materials, stored in the commercial type trash receptacle shall be concealed by a lid attached to the commercial type trash receptacle that shall remain in the closed position unless materials are being placed into the commercial type trash receptacle or the commercial type trash receptacle is being serviced. No material shall be permitted to overflow the commercial type trash receptacle.

e. All commercial type trash receptacles that are located on sites approved for development after the effective date of this Section shall be screened from view and/or access by the public on at least three (3) sides by an opaque visual barrier. In the event a commercial type trash receptacle is visible from an adjacent property or an adjacent street, at ground level, then the commercial type trash receptacle shall be screened on the fourth side by an opaque gate that shall conceal the commercial type trash receptacle from view and/or access by the public and that shall be the same height as the visual barrier on the other three (3) sides. The following materials, either singly or in any combination, are the only materials that may be used to form the aforesaid opaque visual barrier and gate:

(1) Wood fencing;

(2) Plastic fencing;

(3) Concrete block and stucco wall; and/or

(4) Brick wall.

The principal structure may be used as screening on one (1) or more sides provided that the commercial type trash receptacle is completely concealed from view.

f. The minimum dimensions for the screened enclosure area shall be twelve (12) feet wide by twelve (12) feet deep and at least six (6) inches higher than the closed commercial type trash receptacle.

g. In the event a commercial type trash receptacle is located within screening that includes a gate, regardless of whether such a gate would have been required pursuant to this Section, the gate shall be of a type that swings 180 degrees and shall have drop pins, hooks, or other devices installed to hold the gate open while the commercial type trash receptacle is being serviced. All gates shall remain closed unless the commercial type trash receptacle is being serviced.

h. Any site plan that is submitted to the City for review of a development shall clearly identify the location of any and all commercial type trash receptacles to be located on the site. After the site plan is approved, any and all commercial type trash receptacles located on the site shall be in the location(s) approved pursuant to the site plan and shall not be moved to another location without the prior written approval of the City. No additional commercial type trash receptacles shall be located on the site without the prior written approval of the City.

i. A development located within twenty-five (25) feet of a city-owned parking lot may place its commercial type trash receptacle(s) on the city-owned parking lot as long as all requirements set forth for the applicable zoning districts in the Community Redevelopment Area are complied with and as long as the Director of the Department of Community Development, or his or her designee, has approved said placement, which approval may be revoked at any time upon reasonable notice to the commercial, professional or industrial development. If the Director of the Department of Community Development, or his or her designee, does not approve of the placement of the commercial type trash receptacle on the city-owned parking lot or if the Director of the Department of Community Development or his or her designee revokes said approval, the commercial, professional or industrial development shall have thirty (30) days from the notice of denial or revocation to relocate the dumpster to a site approved by the Director of the Department of Community Development, or his or her designee.

j. Except for developments approved before September 1, 1991, no commercial type trash receptacles may be located within any parking space that is needed to meet the minimum parking requirements on the site. Developments approved prior to September 1, 1991, may utilize no more than one (1) of the parking spaces needed to meet the minimum parking requirements on the site for location of a commercial type trash receptacle.

k. In order to be considered a lawful non-conformity, any commercial type trash receptacle that was lawfully located on a site prior to the effective date of this Section and which does not conform with all provisions of this Section shall be registered with the City of Cape Coral Department of Community Development by the owner of the property on which the commercial type trash receptacle is located within six (6) months from the effective date of this Section, subject to the approval of the Director of the Department of Community Development or his or her designee. The aforesaid registration shall be on a form available from the City of Cape Coral Department of Community Development and shall require that the aforesaid property owner sign the registration form and state that, to the best of his or her knowledge and belief, the information provided in the registration form is true and correct. The registration form shall be accompanied by a photograph of the existing commercial type trash receptacle(s) and any and all receptacle storage area(s), including all pads and screening, as well as a sketch or diagram identifying the location of the existing commercial type trash receptacle(s) and any receptacle storage area(s), which shall include the dimensions of such commercial type trash receptacle(s) and receptacle storage area(s). The property owner shall also pay to the City of Cape Coral a registration fee in the amount of $10.00 at the time the registration form is submitted to the City. The information provided by the aforesaid owner is subject to investigation and verification by the City. Although any one factor is not conclusive of the existence or non-existence of a commercial type trash receptacle and/or receptacle storage area screening prior to the effective date of this Section, evidence that the City may consider in making its

determination as to the legal non-conformity of a commercial type trash receptacle and receptacle storage area may include any of the following: documentation from the City's franchise refuse service provider concerning the location of the commercial type trash receptacle, receptacle storage area and screening prior to the effective date of this Section, and documentation concerning the approval by the City of any screening or pad installed in regard to the commercial type trash receptacle(s). If the registration is timely filed and, determined to be accurate and valid, then the commercial type trash receptacle and/or receptacle storage area screening shall be deemed to be a lawful non-conformity. If the registration of a commercial type trash receptacle is determined by the Director of the Department of Community Development, or his or her designee, to be inaccurate or invalid, then the owner of the property on which the commercial type trash receptacle is located shall be mailed a written notice of such determination and shall have thirty (30) days from the date of mailing such notice to appeal such determination to the City Council in accordance with Section 8.9 of the City of Cape Coral Land Use and Development Regulations. Any commercial type trash receptacle that is not deemed by the City to be a lawful non-conformity shall be required to comply with all requirements of this Section. All lawfully non-conforming commercial type trash receptacles and receptacle storage area(s) shall be either removed or brought into conformity with all provisions of this Section no later than September 1, 2010. The owner of the real property on which any non-conforming commercial type trash receptacle and/or receptacle storage area is located shall be responsible for ensuring that such commercial type trash receptacle and/or receptacle storage area is either removed or brought into conformity. However, should the lawful non-conforming commercial type trash receptacle and/or screened area fall into disrepair or if substitutions or alternations are made, then the commercial type trash receptacle and screened area shall be required to comply with the current requirements, within a reasonable period of time, to be determined by the Director of the Department of Community Development, or his or her designee.

l. Administrative Deviation. In the event a property owner is unable to comply with the requirements of this Section, the aforesaid owner may request an administrative deviation, in writing, from the Director of the Department of Community Development, or his or her designee. In determining whether to approve a request for an administrative deviation, the Director of the Department of Community Development, or his or her designee shall consider factors such as dimensions of the property, existing development or other location factors that may make compliance with this section impossible or impractical. The determination to approve an administrative deviation shall be at the sole discretion of the Director of the Department of Community Development or his or her designee.

E. Architectural Elements. A building in the Downtown Edge district may utilize awnings, canopies, second-floor balconies, colonnades, arcades, stoops, porches, or cupolas, provided that such architectural element(s) complies with the following regulations:

1. Awnings & Canopies: Awnings and canopies may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. The depth and height requirements apply only to first-floor awnings and canopies on

building façades. No minimum requirements apply for awnings or canopies above the first floor or on walls that are not façades.

a. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve an awning or canopy that would encroach into the easement:

(1) The extent to which the awning or canopy would encroach into the easement; and

(2) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

b. Awnings or canopies extending from the first story and facing the street shall conform to the following:

(1) Depth shall be five (5) feet minimum projection.

(2) Height shall be eight (8) feet minimum clearance, including suspended signs.

(3) All architectural elements of the same type shall be of the same color and style. For example, all awnings on a building that are used to satisfy this requirement shall be the same color and style.

c. Awnings shall be made of fabric (colors shall comply with Section 2.7.17.F.6.b.(4) below) and may incorporate signs. High-gloss or plasticized fabrics are prohibited.

d. Canopies shall be constructed of cast, stainless, painted or enameled metals, wood, and/or glass, and may incorporate signs. All other materials are prohibited.

2. Colonnades and arcades: Colonnades and arcades may occur forward of the set back requirements or build-to zone as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above the colonnade or arcade. Habitable space shall not be permitted above a City owned right-of-way.

a. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve a colonnade or arcade that would encroach into the easement:

(1) The extent to which the colonnade or arcade would encroach into the easement; and

(2) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

b. Colonnades and arcades facing the street shall conform to the following:

(1) Depth shall be a minimum of eight (8) feet from the building face to the inside column face. Colonnades and arcades may extend to the property line.

(2) Height shall be nine (9) feet minimum clearance (not including suspended signs); the lowest point on arches cannot extend below seven (7) feet.

(3) All architectural elements of the same type shall be of the same color and style. For example, all awnings on a building that are used to satisfy this requirement shall be the same color and style.

c. Colonnades and arcades on corners may wrap around the side of buildings facing the street.

3. Balconies: Balconies shall be open and un-air conditioned. Balconies may have roofs. Roofed balconies may be enclosed with screen or latticework and may contain privacy partitions. Rear balconies shall not project beyond the setback requirement or build-to zone as applicable. Balconies that project into side yards that do not abut a side street shall project no less than ten (10) feet from the abutting property line.

a. Balconies facing the street shall conform to the following:

(1) Depth shall be six (6) feet minimum projection for second floor balconies. Balconies may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements. The Director of the Department of Community Development shall consider the following criteria in determining whether to approve a balcony that would encroach into the easement:

(a) The extent to which the balcony would encroach into the easement; and

(b) The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future.

(2) Height shall be ten (10) feet minimum clearance (not including suspended signs); brackets shall not extend below a height of seven (7) feet.

(3) All architectural elements of the same type shall be of the same color and style. For example, all awnings on a building that are used to satisfy this requirement shall be the same color and style.

b. Balconies on corner lots may wrap around the side of the building facing the side street.

4. Front Porches: Front porches shall be un-air conditioned parts of the buildings and may be screened. Front porches facing the street shall be a minimum of eight (8) feet in depth and may occur forward of the build-to zone or the minimum setback, as applicable, if approved by the Director of the Department of Community Development, but shall not be located less than three (3) feet from the front property line. The Director of the Department of Community Development shall consider the following

criteria in determining whether to approve a front porch that would be located in the area forward of the build-to zone or the minimum setback:

a. The extent to which the front porch would be placed forward of the build-to zone or the minimum setback;

b. The effect of such placement on any abutting properties and/or streetscape; and

c. The effect of such placement on any utilities that are either currently located in the easement or that may be located in the easement in the future.

The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that results from maintenance or public infrastructure improvements. Front porches may have multi-story verandas, balconies, and/or habitable space located above them provided that if water, sewer, or irrigation line(s) are in the easement, then no part of any such front porch shall be located within seven (7) feet of such utility line.

5. Stoops: A stoop must be located within the build-to zone or maintain the required minimum setback. Access to a stoop, whether by stairs, ramp, or other means, may run to the front or to the side of a stoop and such access to a stoop, though not the stoop itself, may extend forward of the build-to zone or minimum setback as applicable, if approved by the Director of the Department of Community Development, but shall not be located less than three (3) feet from the front property line. The Director shall consider the following criteria in determining whether to approve a stoop access that would be located in the area forward of the build-to zone or the minimum setback:

a. The extent to which the stoop would be placed forward of the build-to zone or the minimum setback;

b. The effect of such placement on any abutting properties; and

c. The effect of such placement on any utilities that are either currently located in the easement or that may be located in the easement in the future.

Stoops may be roofed or unroofed. Stoops facing the street shall have a minimum height of three (3) feet from sidewalk level to the highest point of the access. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that results from maintenance or public infrastructure improvements. If water, sewer, or irrigation line(s) are in the easement, then no part of any such stoop or stoop access shall be located within seven (7) feet of such utility line.

6. Cupolas: If a building has a cupola, the cupola(s) shall have a maximum of four-hundred (400) square feet in horizontal dimension and shall be limited to two (2) per building. Cupolas shall not contain any habitable space above the maximum building height.

F. Architectural Standards

1. Purpose and Intent. The purpose and intent of these architectural standards is to encourage traditional building forms that reinforce a pedestrian orientation and create usable outdoor space through the arrangement of buildings of compatible types and scale using varied architectural styles. Durable materials and creative ornamentation are encouraged.

2. All buildings within the same development must be designed with consistent architectural style, detail and trim features.

3. Building Walls. The following requirements apply to all principal buildings:

a. Expression Lines and Cornices:

(1) Expression lines and cornices shall be either moldings, jogs, or reliefs in the surface plane of the building wall. When used as expression lines and/or cornices, such moldings, jogs, or reliefs shall extend out at least four (4) inches from the wall surface.

(2) Except as otherwise provided herein, on all principal buildings, an expression line shall delineate the division between the first story and the second story of every façade, and a cornice shall delineate the top of every façade.

(3) Fixed canopies may conceal or replace expression lines for the length of the canopy, but awnings shall not conceal expression lines.

b. Only the following finish materials for exterior walls are permitted. All other finish materials are prohibited.

(1) Concrete block with stucco finish (CBS)

(2) Reinforced concrete with stucco finish

(3) Glass shall meet the regulations of transparency of façades.

(4) Stone or brick, including cast (simulated) stone or brick

(5) Wood (pressure-treated or termite-resistant), painted or stained (Plywood and T-11 type paneling is prohibited).

(6) Fiber-reinforced cement panels or boards

(7) Synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards or composite materials) is permitted only with a troweled finish and only on the second floor and above.

c. Façade Standards:

(1) Buildings located with street frontage must be designed with the main entrance clearly defined, and with convenient pedestrian access. Portions of façades could be articulated to step back, or extend forward to add interest or to connect with the street.

(2) Buildings or projects located at the intersection of two or more arterial or collector roads, shall include design features such as corner towers, corner entrances, or other such features, to emphasize their location as gateway and transition points within the community.

d. Façade/Wall Height Transition. Façade must be designed to reduce the mass/scale and uniform monolithic appearance of large unadorned walls and must provide visual interest. Articulation is accomplished by varying the building's mass in height and width so it appears to be divided into distinct elements and details.

(1) Transitional Massing. To maintain and enhance the attractiveness of the streetscape and the architectural design of the community, all buildings with street frontage must provide visual interest from the perspective of the pedestrian up to a height of thirty-five (35) feet. Transitional massing could be achieved through the articulation of building mass in height and width in response to site conditions, hence recognizing adjacent buildings and local character. (Adjacent buildings and local character in this context is construed to represent adjacent buildings within one hundred fifty (150) feet from the perimeter of the proposed development, built following the adoption of this Section.) Transitional massing elements could include, but are not limited to, wall plane changes, roofs, and the application of architectural features.

(2) Variation in massing. A single, large dominant building mass must be avoided. The design of a building structure and its massing on the site should enhance solar exposure for the project and minimize shadow impacts on adjacent structures and public areas. Design treatments to provide transition and mitigation of height, bulk and scale impacts may include the use of architectural style, façade modulation and articulation, architectural features, color, material and others.

4. Transparency of Building Façades, and Fronts

a. For all principal buildings, each building façade wall that faces a public street, public parking lot, park, or plaza shall contain transparent windows and/or doors covering between 25% to a maximum of 75% of the wall's area. This requirement also applies to any wall of a principal building that faces the building's courtyard if the courtyard is open to a public sidewalk. The transparency requirement shall be as follows:

(1) All window and door glass, shall transmit at least 50% of visible transmittance. Reflective glass and glazes are prohibited.

(2) Except for residential uses, the bottom of the lowest row of windows shall be no higher than thirty six (36) inches above ground, or six (6) inches above the floor of the lowest habitable story, whichever is higher.

b. In addition, retail stores shall comply with the following:

(1) The ground-floor shall have storefront windows covering no less than 60% of the wall area in order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces.

(2) Storefronts shall remain unshuttered at night to provide views of display spaces, and are encouraged to remain illuminated from within, until 10:00 PM.

(3) Doors or entrances for public access shall be provided at intervals of at least seventy-five (75) feet to maximize street activity, to provide pedestrians with frequent opportunities to enter and exit buildings, and to minimize any expanses of inactive wall. Every façade shall have at least one door.

5. Concealed Equipment and Prohibited Products

a. Not Visible From Streets. The following shall be located or screened so as not to be visible from any public street:

(1) Air conditioning compressors

(2) Window and wall air conditioners

(3) Electrical and other utility meters

(4) Irrigation and pool pumps

(5) Permanent barbecues

(6) Satellite antennae

(7) Utility appurtenances

(8) Mechanical rooftop equipment or ventilation apparatus

b. Prohibited Products. The following exterior products and materials are prohibited:

(1) Undersized shutters (the shutter or shutters shall be sized so as to equal the length and width that would be required to cover the window opening).

(2) Shutters made of plastic

(3) Reflective glass and reflective glaze

(4) Hurricane shutters shall be removed within a week from the time they are put up, unless a hurricane or tropical storm has hit the area, in which case the shutters may remain up for not more than three (3) months from the date of the incident.

6. Paint Colors. Paint colors for principal buildings and accessory structures are regulated in the Downtown Gateway district to foster a complementary color theme, suitable for a downtown urban area. The range of colors permitted is intended to encourage visual variety, to encourage light colors for energy savings, and to favor colors appropriate for a subtropical environment. Except as otherwise provided herein, any building or structure for which a permit is issued after December 1, 2005, shall comply with the paint color requirements in this Section.

a. The City Council shall approve by resolution a chart of acceptable colors to be maintained in the Department of Community Development and the Downtown Community Redevelopment Area office to identify the paint colors that may be used on the exterior of principal and accessory buildings.

b. The following specific requirements apply:

(1) A building may contain up to four (4) colors. One (1) or two (2) body colors, one (1) or two (2) trim colors, and one (1) accent color.

(2) Architectural elements on the building façade, such as canopies, balconies, and arcades, shall be in the same color as one of the four chosen building colors, except where constructed with an unpainted permitted material such as stone or brick.

(3) Body colors on building walls, freestanding walls, and other primary building elements, shall be used for no less than 70% of the painted surface area of any one floor of the building.

(4) Trim and accent colors are used on doors, doorframes, windows, window frames, storefront frames, handrails, shutters, ornaments, fences, gates and awnings and similar features. Trim colors shall be used for no more than 30% percent of the painted surface area of the building.

c. Upon application by a property owner, the Downtown CRA Board may approve paint colors that are either not on the chart approved by City Council or deviate from the specific requirements contained in this section if the Downtown CRA Board finds that the proposed paint colors are substantially the same tone, color, and hue as the color(s) on the chart approved by the City Council, are generally consistent with the overall color theme and master plan policy objectives within the Downtown CRA, or are consistent and compatible with a predominant theme or color pattern along the streetscape where the property is located. In order for the Downtown CRA Board to consider alternative colors and deviations from this section, a property owner must submit elevations that depict structures, proposed paint colors, compliance with and deviation from specific requirements, and pictures of the colors of structures in the surrounding streetscape within five hundred (500) feet of the subject property.

d. All properties with existing structures and/or approved building permits as of December 1, 2005, must come into compliance by April 1, 2010.

7. Roofs, Gutters & Downspouts

a. General Requirements:

(1) Only the following designs for roofs, gutters and downspouts are permitted. All other finish materials are prohibited.

(a) Hip roofs (with sloping sides and ends)

(b) Gable roofs (with sloping sides and vertical ends)

(c) Shed roofs

(d) Flat roofs (with the minimal pitch required by the Florida Building Code)

(e) Mansard roofs (with two slopes on a side, or one slope and a shed roof or flat roof above)

(f) Domed roofs (a hemispherical roof above vertical walls

(g) Barrel vaulted roofs (with a single continuous arch and vertical ends)

(h) Roofs may use combinations of these permitted types and may supplement these types with dormers and valleys.

(2) The edges of flat or low-slope roofs (less than 2:12 slope) shall be concealed with parapets on the front and sides of the building. Parapet walls shall be of sufficient height to visually conceal rooftop mechanical equipment.

b. Only the following finish materials for roofs are permitted. All other finish materials are prohibited.

(1) Metal: galvanized steel, copper, aluminum, or zinc-aluminum

(2) Shingles: asphalt (dimensional type) metal, and/or slate

(3) Tile: clay, terra cotta, concrete or synthetic tile

(4) Gutters: galvanized steel, copper, aluminum, or zinc-aluminum

(5) Downspouts: shall be the same material as gutters

c. Only the following configurations for roofs are permitted. All other configurations are prohibited.

(1) Metal: standing seam or "five-vee," twenty-four (24") inch maximum spacing, panel ends exposed at overhang

(2) Shingles: square, rectangular, fish-scale, or shield

(3) Tile: barrel, flat, or french

(4) Gutters: rectangular, square, or half-round section

8. Fences, Walls, Hedges, and Landscape Buffers

a. Fences, Walls, and Hedges.

(1) Height

(a) When utilized for purposes of required screening or concealing, fences, walls and opaque hedges shall be six (6) feet in height. Opaque hedges shall be planted in the same manner as hedges within landscape buffers required below.

(b) Fences, walls, and hedges not utilized for purposes of screening or concealing shall adhere to the following heights:

(i) When placed in front of principal buildings, fences, walls and hedges shall be a maximum of forty-two (42) inches in height.

(ii) When not placed in front of principal buildings, fences, walls and hedges shall be a maximum of six (6) feet in height.

(2) Setbacks

(a) Front Yard: Minimum three (3) feet from the front property line.

(b) Side or Rear Yard (not on an alley): None

(c) Side or Rear Yard (on an alley): Fifteen (15) feet

(3) Materials for Fences and Walls

Only the following finish materials for fences and walls are permitted. All other finish materials are prohibited.

(a) Wood (decay resistant or pressure treated only), shall be painted or stained

(b) Concrete block with stucco (CBS)

(c) Reinforced concrete with stucco

(d) Stone or brick, including cast (simulated) stone or brick

(e) Concrete

(f) Wrought iron

(g) Aluminum

(4) Fences and walls shall also adhere to the following regulations:

(a) Any fencing or walls within twenty (20) feet of the rear property line on waterfront sites must be open mesh above a height of three (3) feet. The City Council may, in its discretion, approve minor projections above the restricted heights for architectural features.

(b) No wall or fence of any kind whatsoever shall be constructed on any lot until after the height, type, design and location thereof shall have been approved in writing and proper permit issued by the Director of the Department of Community Development. Unless the posts or other supports used in connection with the fence or wall are visible from and identical in appearance from both sides of the fence, all posts or other supports used in connection with the fence or wall shall be on the side of the fence or wall that faces the property on which it is to be erected. If a fence or wall is constructed in such a way that only one (1) side of the fence is "finished", then the finished side of the fence shall face outward toward the street or adjoining property (facing away from the property on which it is erected). For purposes of this Section, the "finished" side of the fence shall be the side that is painted, coated, and/or smoothed so as to be more decorative in appearance.

If a fence or wall is located in a public utility easement, the property owner shall be solely responsible for removal of the fence or wall as well as for any cost resulting from disturbance, damage, or destruction of the fence or wall, resulting from work associated with utilities in such easement.

(c) Fencing for recreational facilities may be increased in height to ten (10) feet. Such fencing must immediately enclose the recreational facility. Hooded backstops for diamond sports may be increased to a maximum height of twenty-eight (28) feet. All fencing at recreational facilities must be constructed of at least 9 gauge fence fabric and schedule 40 tubing.

(d) No fence or wall shall enclose a utility meter including but not limited to water and electric service meters. An applicant shall indicate the location of any utility meter in the permit application. This restriction shall not apply to City maintained or constructed facilities.

(e) All fences and walls shall be of sound construction and not detract from the surrounding area.

(f) No barbed wire, spire tips, sharp objects, or electrically charged fences or walls shall be erected.

(g) No fences shall be placed within the visibility triangle.

b. Landscape Buffers

(1) All residential, non-residential and mixed use developments in the Downtown Edge District which are located on lots abutting a residential future land use classification shall be permanently buffered with a properly maintained six (6) foot minimum landscape buffer yard on the rear and side yard(s) of the use which actually abuts the residential future land use. For purposes of this Section, a property shall be deemed abutting if it shares a common lot line with a residential future land use. Properties across streets, alleys and canals shall not be deemed abutting.

(2) The landscape buffer yard shall contain a barrier hedge that, at planting, shall be not less than 3.5 feet high and spaced 2.5 feet on center. In addition, the barrier hedge shall have opacity sufficient to accomplish the buffering purpose and be capable of reaching a minimum clear trunk height of 8 feet.

(3) Trees planted in the landscape buffer yard shall be shade trees with a minimum clear trunk height of eight (8) feet and minimum diameter of two (2) inches (measures six (6) inches from the ground) at time of planting. The mature canopy of shade trees shall be at least fifteen (15) feet. Palm trees shall not be planted in the landscape buffer yard. All shade trees planted in the buffer yard shall be credited towards the tree planting requirements for the site. The landscape buffer yard shall be properly maintained at all times. An irrigation system shall be provided for the landscape buffer yard plantings.

9. Columns, Arches, Piers, Guardrails, and Balustrades

a. Only the following finish materials for columns, colonnades and supports for front porches are permitted. All other finish materials are prohibited.

(1) Wood (decay resistant or pressure treated only) shall be painted or stained

(2) Wrought iron

(3) Concrete block with stucco finish (CBS)

(4) Reinforced concrete with stucco finish

(5) Stone or brick, including cast (simulated) stone or brick

b. Only the following finish materials for arches and piers that form arcades are permitted. All other finish materials are prohibited.

(1) Concrete block with stucco finish (CBS)

(2) Reinforced concrete with stucco finish

(3) Stone or brick, including cast (simulated) stone or brick

c. Only the following finish materials for guardrails and balustrades surrounding balconies, front porches, stoops, colonnades, and arcades are permitted. All other finish materials are prohibited.

(1) Wood (decay resistant or pressure treated only) shall be painted or stained

(2) Wrought iron

(3) Aluminum (painted, coated or anodized)

(4) Stone, including cast (simulated) stone

(5) Steel (painted, coated or anodized)

d. Only the following configurations for columns, arches, piers, guardrails, and balustrades are permitted. All other finish materials are prohibited.

(1) Columns that support colonnades and front porches:

(a) Square or rectangular: with a minimum of six (6) inches in width

(b) Round: six (6) inches minimum diameter

(2) Columns that support colonnades cannot be spaced farther apart than they are tall.

(3) Piers supporting arches: eight (8) inches minimum dimensions, and cannot be spaced farther apart than they are tall.

(4) Guardrail and balustrade handrails: two and three quarters (2-3/4) inches minimum dimension or diameter for all handrails.

10. Civic Buildings

The City Council may waive build-to zone, building frontage requirements and mandatory architectural elements to accommodate traditional architectural forms for civic buildings which may include monumental stairways.

G. Signage

1. Introduction

The purpose and intent of these signage regulations, and the corresponding regulations in Article VII for signs is to provide alternate standards for the three major categories of appropriate signage for urban buildings: signs, that are mounted flat against a building's façade, or that project from the façade, or that are mounted above the top of the façade. Other types of signs authorized by Article VII are also permitted, except where specifically prohibited by Section 2.7.17.G.2.c. Except as specified herein, all other applicable provisions of Article VII shall apply.

2. General Sign Requirements

a. Signs Flat Against the Façade

Signs placed flat against the façade shall meet all requirements of Article VII for either wall signs or professional nameplates. Signs

extending less than one (1) foot from the wall and parallel to the wall shall be considered a sign flat against the façade.

b. Signs Projecting From the Façade

In addition to all of the provisions of Article VII, signs projecting from the façade shall meet all of the following requirements:

(1) Projecting signs may occur forward of the build-to-zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development, or his or her designated representative. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.

(2) Suspended signs shall maintain a vertical clearance of at least eight (8) feet from the sidewalk.

c. Prohibited Signs. In addition to the types of signs that are prohibited by Article VII, the following types of signs are prohibited. See Section 7.12 for special regulations on non-conforming existing signs.

(1) Freestanding pole signs

(2) Plastic fascia signs

3. Lighting. All lighted signs shall be externally lit, except for individual letters and symbols which may be internally lit or backlit.

4. Only the following finish materials and configurations for signs are permitted. All other finish materials and configurations are prohibited.

a. Wood: painted, stained, or natural

b. Metal

c. Plastic, when used for individual letters and symbols only

d. Painted canvas (no glossy-finish or back-lit canvas)

e. Neon (non-flashing)

f. Painted/engraved directly on façade surface

SECTION 4. Article III, Supplementary District Regulations, Section 3.2, Temporary Uses, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

• • •

.3 Temporary Storage Containers.

For purposes of this Section, a "temporary storage container" shall mean a structure that is designed and constructed by the manufacturer thereof for the primary purpose of storing items or goods within the structure outside of a building.

No temporary storage containers shall be located outside of a building on any property located in any zoning district of the City, except as follows:

A. Temporary storage containers may be located outside of a building on properties located in the Pedestrian Commercial (C-1), Thoroughfare Commercial (C-3),

Downtown Core (DC), Downtown Gateway (DG), Downtown Edge (DE), and Industrial (I-1) Zoning Districts provided that all of the following criteria are met:

(1.) If a temporary storage container is located in one (1) or more parking spaces, the number of parking spaces occupied by the temporary storage container shall be subtracted from the number of parking spaces allotted for and/or available for the subject site during the time the temporary storage container is located on the site. No temporary storage container shall be located in one or more parking spaces if such location would have the effect of reducing the number of parking spaces allotted for and/or available for the site below the minimum number of parking spaces lawfully required for the site. No temporary storage container shall be located so as to block or reduce access to fire lane(s), handicapped parking area(s), or drainage facilities or structures, including but not limited to swales and/or catch basins.

(2.) No temporary storage container shall be placed or located in either an easement or in any area designated on the site plan for the site as a buffer.

(3.) Except in the case of multi-unit or multi-use commercial properties, no property shall contain more than one (1) temporary storage container located outside of a building. In the case of multi-unit or multi-use commercial properties, including but not limited to, shopping centers and/or industrial centers, each business or other commercial use lawfully conducting business on the property may have one (1) temporary storage container located outside of a building. A temporary storage container shall not be located outside of a building if any of its dimensions exceed ten (10) feet in width, ten (10) feet in height, or forty (40) feet in length.

(4.) The owner of the subject property shall be required to obtain a temporary storage container permit from the City Department of Community Development. Temporary storage container permits shall be issued for a period of thirty (30) days. A maximum of two (2) temporary storage container permits may be issued for a property or, in the case of multi-use or multi-unit properties, for each business or commercial enterprise located on the property in any calendar year. Such temporary container permits may run consecutively without any minimum period required to elapse between the issuance of permits.

(5.) This Section is not intended to restrict the storage or location of temporary storage containers on the premises of a business which is lawfully engaged in the sale, rental, or distribution of such containers so long as the containers are on the property of such business as "merchandise" and not for the purpose of temporary storage of items or goods.

(6.) The provisions of this Section shall not apply to prohibit or restrict the location of temporary storage containers on any property for which a valid City of Cape Coral building permit has been issued and is in effect provided that the construction on the property has not been abandoned or allowed to lie idle in violation of Section 5-2 of the City of Cape Coral Code of Ordinances.

B. Temporary storage containers may be located outside of a building on properties located in the Single-Family Residential (R-1A and R-1B), Multi-Family Residential (R-3), Residential Development (RD), Residential Estate (RE), Residential Receiving (RX), Professional (P-1), Worship (W), Agricultural (A), Village (VILL), and Corridor (CORR) Zoning Districts provided that all of the following criteria are met:

(1.) If a temporary storage container is located in one (1) or more parking spaces, the number of parking spaces occupied by the temporary storage container shall be subtracted from the number of parking spaces allotted for and/or available for the subject site during the time the temporary storage container is located on the site. No temporary storage container shall be located in one or more parking spaces if such location would have the effect of reducing the number of parking spaces allotted for and/or available for the site below the

minimum number of parking spaces lawfully required for the site. No temporary storage container shall be located so as to block or reduce access to fire lane(s), handicapped parking area(s), or drainage facilities or structures, including but not limited to swales and/or catch basins.

~~(2.)~~ No temporary storage container shall be placed or located in either an easement or in any area designated on the site plan for the site as a buffer.

~~(3.)~~ Except in the case of duplexes, multi-family residential properties, or multi-unit or multi-use commercial properties, no property shall contain more than one (1) temporary storage container located outside of a building. In the case of multi-unit or multi-use commercial properties, including but not limited to, shopping centers and/or office centers, each business or other commercial use lawfully conducting business on the property may have one (1) temporary storage container located outside of a building. In the case of duplexes or multi-family residential properties, each dwelling unit lawfully existing on the property may have one (1) temporary storage container located outside of a building. In the case of multi-unit or multi-use commercial properties, including but not limited to, shopping centers and/or office centers, each business or other commercial use lawfully conducting business on the property may have one (1) temporary storage container located outside of a building. For purposes of this Section, each dwelling unit in a conjoined residential structure and the property on which such dwelling unit is located shall be treated in the same manner as a single-family dwelling unit and property. A temporary storage container shall not be located outside of a building if any of its dimensions exceed ten (10) feet in width, ten (10) feet in height, or sixteen (16) feet in length.

~~(4.)~~ The owner of the subject property shall be required to obtain a temporary storage container permit from the City Department of Community Development. Temporary storage container permits shall be issued for a period of seven (7) days. A maximum of two (2) temporary storage container permits may be issued for a property or, in the case of duplexes or multi-family residential properties, for each dwelling unit lawfully located on the property in any calendar year. Such temporary container permits may run consecutively without any minimum period required to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage container on a property outside of a building for more than fourteen (14) days in any twelve (12)-month time period.

~~(5.)~~ The provisions of this Section shall not apply to prohibit or restrict the location of temporary storage containers on any property for which a valid City of Cape Coral building permit has been issued and is in effect provided that the construction on the property has not been abandoned or allowed to lie idle in violation of Section 5-2 of the City of Cape Coral Code of Ordinances.

SECTION 5. Article III, Supplementary District Regulations, Section 3.3, Specific Use Regulations, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 3.3 Specific Use Regulations

In addition to other requirements of this Ordinance, the uses listed below are subject to the following specific use regulations.

• • •

.2 Multi-Family Residential: In addition to other provisions of this Ordinance, <u>conjoined residential structures, duplex and</u> multi-family residential uses shall be subject to the following requirements:

A. Distance between Buildings.

1. Clustered buildings. Buildings may be constructed on proper building sites in cluster style providing a minimum of twenty (20) feet is maintained between the buildings up to a height of thirty-eight (38) feet.

a. If unable to maintain the twenty (20) foot requirement, the distance between buildings must comply with Florida Building Code requirements for multi-family buildings and/or building separation requirements.

b. One (1) foot shall be added to the twenty-foot (20) distance for every foot of height increase over thirty-eight (38) feet.

c. If the roof overhang encroaches into the required setbacks, the overhang may not extend beyond ~~three (3)~~one and one-half (1½) feet from the principal structure.

d. In determining the twenty (20) foot distance between buildings, carports will not be considered.

2. Duplexes, conjoined residential structures and multi-family dwellings.

Where allowed by the zoning district regulations, dwelling units may be constructed as duplexes, conjoined residential structures or as multiple-family buildings, or within compound use buildings provided that all separation requirements of the Florida Building Code are met.

• • •

SECTION 6. Article III, Supplementary District Regulations, Section 3.4, Outdoor Display of Merchandise; Temporary Off-Site Vehicle Sales; Seasonal Fundraising Events, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 3.4 Outdoor Display of Merchandise; Temporary Off-Site Vehicle Sales~~;~~ Seasonal Fundraising Events.

.1 Outdoor Display of Merchandise in Commercial, Professional, Industrial and Agricultural Districts is prohibited, except on improved property in accordance with the following conditions:

A. All outdoor displays of merchandise in non-residential districts are prohibited with the exception of the following items when displayed in conjunction with an existing licensed business location which retails said items: boats; displays of new or used cars by auto dealerships or auto rental companies; bicycles; motorcycles; garden equipment such as lawnmowers, tillers and edgers; landscaping nursery items displayed by a nursery business; tires as displayed in service stations; vehicles displayed as part of a temporary off-site vehicle sale approved pursuant to sub-subsection 3.4.1.C; temporary sales approved pursuant to sub-subsection 3.4.1.D.; and seasonal fundraising events approved pursuant to subsection 3.4.3. In addition to the foregoing, the outdoor displays of fruits, vegetables, flowers, jewelry, books or antiques are allowed in the Downtown zoning districts.

B. Except in the Downtown zoning districts, sSuch displays may be no closer than ten (10) feet to the front or rear property lines and five (5) feet to side property lines or fifteen (15) feet to the side property line on corner lots. This display area shall be registered with the Department of Community Development and the prescribed fee paid as stated in Section 11-16 in the Code of Ordinances. Such displays may not be located in required parking. In the Downtown zoning districts, such displays are not required to be set back from any property lines. If such displays are placed on a public sidewalk, such displays shall comply with the following regulations:

1. Displays may be placed on the public sidewalk only directly in front of the lawfully existing business which retails the items being displayed.

2. Displays shall be placed on tables, shelves and/or racks that are moved indoors during any hours the business is not open and that do not exceed six (6) feet in height and do not extend more than two (2) feet onto the public sidewalk.

• • •

SECTION 7. Article III, Supplementary District Regulations, Section 3.8, General Regulations for Lots and Yards, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 3.8 General Regulations for Lots and Yards

.1 Double Frontage Other than Corner Lots: Double frontage lots, other than corner lots shall meet front yard regulations on all adjacent streets.

.2 Corner Lots:

In the Downtown zoning districts, corner lots shall be deemed to have front lot lines abutting all street right-of-way lines. For corner lots in all other zoning districts, the following shall apply:

A. The front of any building site shall be determined by the lesser dimension of a single lot (not building site). This frontage shall have the established setback for the particular zoning district, but in no instance be less than twenty five (25) feet.

B. The remaining street frontage shall have a setback of no less than fifteen (15) feet in all zoning districts except for single-family homes in R-1 districts which may be permitted at no less than ten (10) feet as specified in Section 2.7.1. Dimensional Regulations footnote (j). For purposes of this Section, this remaining street frontage shall be maintained as a front yard and the regulations for fences, shrubbery and walls of this Ordinance shall apply.

C. On sites bounded by three (3) streets, one lot line shall be designated by the Director as the rear and maintained as the rear setback of that zoning district. For purposes of this Section, all but the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery and walls of this Ordinance shall apply.

D. The front of a single-family residential building may not be offset from the front property line by an angle greater than 45 degrees.

.3 Prohibitions

A. No part of a yard required for any building may be included as fulfilling the yard requirements for an adjacent building.

B. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that lot area, yards, width or other dimension and area regulations of this Ordinance are not maintained. This provision shall not apply when a portion of a lot is acquired for public purpose.

SECTION 8. Article III, Supplementary District Regulations, Section 3.17, Sidewalks and Alleys, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 3.17 Sidewalks and Alleys

.1 Commercial, ~~and~~ Professional, and Downtown Zoning Districts

As part of the construction of each building erected in ~~a~~ Professional, ~~or~~ Commercial, and Downtown zoning districts of the City, sidewalks shall be installed prior to the issuance of a

Certificate of Occupancy pursuant to the standards and specifications set forth in the City of Cape Coral Engineering Design Standards, a copy of which is hereby adopted and on file in the Cape Coral City Clerk's Office, except such installation of sidewalks shall not be applied to the alteration or repair of existing primary use buildings or structures or the construction, alteration, or repair of buildings or structures which are accessory to primary use structures. Sidewalks, curbs and gutters shall be constructed only if the City has developed construction designs for that roadway segment. In areas without City approved construction designs for roadway segment, construction of sidewalks, curbs and gutters shall be done through a City established special assessment district. All sidewalks shall be constructed in the area to the widths shown in the City of Cape Coral Engineering Design Standards, except where a sidewalk has been installed and the established width is less than five (5) feet, the minimum width of the sidewalk to be installed shall be the width of the existing sidewalk. No ramp parking area shall be constructed in front of commercial buildings. As part of the construction of each building, there shall be constructed concrete curbing and gutters, plus that portion of the unpaved street fronting on each such building lying between the curb and gutter and the street, if any, in front of the proposed construction shall be paved, according to the standards and specifications as set forth in the City of Cape Coral Engineering Design Standards adopted and on file in the Office of the Cape Coral City Clerk. ~~All the erection of a building.~~ Lot owners who erect buildings or change the use on only a fractional portion of a lot must provide the curbs, sidewalks, gutters of the construction type as required by this subsection and shall be at the expense of the lot owner and ~~shall be~~ paid for by the lot owner before or concurrently with and paving for the entire lot as set out in this subsection.

As part of the construction of each building erected in a Professional, ~~or~~ Commercial, or Downtown zoning district of the City on any such development site located adjacent to a platted alley, an improved alley portion shall be installed at the site of such platted alley prior to the issuance of a Certificate of Occupancy. Such alley portion shall be constructed along the length of the property line of the site of the commercial or professional development lying adjacent to the platted alley. Such alley portion also shall be constructed in accordance with the requirements of the City of Cape Coral Engineering Design Standards. The City of Cape Coral Engineering Division shall provide drainage design and stakeout related to such alley improvement. In addition to developments involving new construction erected in a Professional, ~~or~~ Commercial, or Downtown zoning district, alteration(s) to the site of an existing ~~commercial or professional~~ site lying adjacent to a platted alley shall be required to make the alley improvements required by this section if the value of such alteration(s), as calculated by the City, exceeds fifty percent (50%) of the replacement value of the site improvements including, but not limited to, parking areas, internal curbing, and retention areas, but excluding internal modifications to the ~~commercial or professional~~ building, previously existing on the site.

.2 Residential

Sidewalks shall be required adjacent to streets designated for sidewalks by the Comprehensive Plan Traffic Circulation Element.

SECTION 9. Article III, Supplementary District Regulations, Section 3.24, City-owned Right-of-way, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 3.24 City-owned Right-of-way

.1 General. Except as provided below, no construction, change, modification, or alteration of any type or nature whatsoever, including but not limited to the addition or removal of fill, vegetation, or other materials, and/or the placement, installation or erection of any object or vegetation, shall be allowed within a City-owned right-of-way or swale.

.2 No Permit required. The following work and/or activities shall be allowed in City-owned right of way or roadway easement areas without the necessity of a City permit:

A. Trimming, cutting, and/or maintenance of trees, shrubs, and other vegetation existing as of the effective date of this Ordinance in City-owned rights-of-way or swales.

B. Markers, commonly known as buttons, turtles, or half-moons, may be placed eighteen (18) inches from the edge of the pavement in residential zoning districts provided that such markers shall not exceed a height of four (4) inches. However, no markers shall be placed within any City right-of-way which is adjacent to a roadway with four (4) or more lanes.

C. Mailboxes may be placed in City-owned rights-of-way or swales so long as they are in accordance with the City of Cape Coral Engineering Design Standards.

.3 Permit Required. The following work and/or activities shall be allowed in City-owned right of way or roadway easement areas provided that the property owner first obtains a permit from the City:

A. Culvert installation and appurtenant work;

B. Sod installation and appurtenant work;

C. Driveway installation and appurtenant work;

D. Curb, gutter, sidewalk, sod, and paving without alley improvements (Commercial, Professional, Downtown, and Industrial zones);

E. Curb, gutter, sidewalk, sod, and paving, with alley improvements (Commercial, Professional, Downtown, and Industrial zones).

F. Installation of sprinkler systems. However, if the sprinkler system is disturbed, damaged, or destroyed by the City performing work in the right-of-way, the owner shall be solely responsible for any cost resulting from such disturbance, damage to, or destruction of the sprinkler system in the right-of-way.

G. Median landscaping as permitted in the City of Cape Coral Land Use and Development Regulations, Article V, Section 5.3.

.4 Under no circumstances shall any of the activities permitted above result in any change, modification, or alteration of any type whatsoever, to the established grade, slope, or contour of a City-owned swale or right-of-way not specifically addressed by the City of Cape Coral Engineering Design Standards.

.5 None of the prohibitions contained in this ordinance shall apply to any construction, change, modification, or alteration within a City-owned right-of-way or swale which is performed by and/or required by a governmental entity or public utility.

.6 Utilities.

A. For new buildings, all onsite utilities including, but not limited to, telephone, electricity, cable television, and other wires of all kinds shall be placed underground. However, appurtenances to these systems that require aboveground installation including, but not limited to, utility panel boxes are exempt from this requirement if the appurtenances are not placed in front yards. When such appurtenances are located in utility easements abutting a platted alley, they shall be located at least ten and one-half (10½) feet from the centerline of the platted alley. These underground requirements also apply to those improvements to non-conforming structures that exceed the 50% thresholds as described in Sections 2.6.2 and 2.6.5. All utility infrastructures, including electric utility poles and power lines, shall be concealed from public view wherever possible and shall not be located on any property that abuts streets or sidewalks wherever possible. All new electric distribution lines shall be located in utility easements abutting platted alleys and their utility poles shall be positioned so that a minimum clearance of ten and one-half (10½) feet from the centerline of any platted alley is maintained. For properties that do not have a rear platted alley, the electric distribution lines and utility poles shall be located in the rear utility easement wherever possible.

B. On certain blocks where overhead or underground utility lines have been placed in the first six (6) feet beyond the edge of the street right-of-way (where improvements

might otherwise be placed in accordance with these regulations) a property owner shall choose one of the following options:

1. The property owner may relocate the utility lines to the alley or other acceptable location, at the property owner's sole expense and subject to approval by the affected utility provider(s) and the City of Cape Coral; or

2. The property owner may choose to place a concrete sidewalk, or architectural elements, on the front six (6) foot property setback. If overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or front porches may be constructed forward of this line even if otherwise required by this code. If underground lines of any type are in place, the property owner is solely responsible for repairing any damage to lawful encroachments into the six (6) foot easement resulting from maintenance or improvements to utility lines.

SECTION 10. Article IV, Land Development Regulations, Section 4.1, Subdivision Regulations, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 4.1 ~~Subdivision Regulations~~In General.

.1 ~~Applicability~~Purpose and intent

~~The subdivision of land within the City of Cape Coral, except as provided in Section 4.2. of this article, shall be permitted only within approved Developments of Regional Impact (DRI's) or Planned Development Projects (PDP's).~~ The City of Cape Coral has determined that new commercial, professional, industrial, and multi-family developments and all subdivision of land require additional regulations and a greater level of review than can be provided through the building permit process. This Article defines special procedures and standards to govern the review of such developments.

.2 Applicability

This Article describes four separate processes for the approval of new developments that are proposed for land that already has the proper zoning district for the proposed uses. None of these processes are required for single-family dwellings or duplex on existing platted lots, which can proceed directly to the building permit stage as described in Section 8.5 of this code. The four processes described in this Article are:

A. Planned Development Project (PDP) Procedure (Section 4.2):

The PDP procedure provides a more intensive review of certain more complex developments. The PDP is not a zoning district and may contain more than one zoning district. A PDP application may include requests for subdivision, rezonings, special exceptions, variances, vacations of plat and deviations that can be considered simultaneously with the PDP application. PDP applications require a public hearing before the Planning and Zoning Commission and in some cases also before the City Council. PDP approval is based on a specific development plan; innovative designs may be permitted to depart from standards in this code through the deviation process, as described in Section 4.2 below. The PDP procedure is mandatory for certain types of developments and is optional for others:

1. The subdivision of land within the City of Cape Coral, except as provided in Section 4.2. of this article, shall be permitted only within approved Developments of Regional Impact (DRI's) or Planned Development Projects (PDP's).

2. The PDP procedure is mandatory for new development in the Urban Services Reserve Area of the Comprehensive Plan except for uses permitted in single-family residential districts.

3. The PDP procedure is also mandatory, within certain zoning district uses for proposed or expanding developments as outlined in the regulation for those zoning districts.

4. The PDP procedure remains available as a voluntary option for any other development throughout the City, including the Downtown Community Redevelopment Area, as a route to request approval of deviations from the standards in this code, as provided in Section 4.2.4.K below.

B. Mobile Home Planned Development Projects (MHPDP) (Section 4.3): New or expanded mobile home parks and subdivisions can only be approved through this procedure, which is similar to the regular PDP procedure. Section 4.3 describes these standards and procedures.

C. Site Plan Review Procedure (Section 4.4): Site plans for commercial, professional, industrial, and multi-family developments shall be submitted for approval through this site plan review procedure. Final site plan approval may be granted under this procedure. Section 4.4 describes the standards and procedures for site plan review.

D. Transfer of Development Rights (Section 4.5): The City of Cape Coral encourages the voluntary dedication of privately owned land in areas planned for future park sites by permitting owners of such properties to sever and transfer their development rights to other properties. Section 4.5 describes the voluntary process for accomplishing such transfers.

SECTION 11. Article IV, Land Development Regulations, Section 4.2, Planned Development Project Procedure, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 4.2 Planned Development Project Procedure

• • •

.5 Procedures

• • •

I. Subdivision of Land

• • •

11. Minimum Design Standards

Minimum design standards for the planning and development of subdivisions shall be as follows:

a. Streets

(1) Conformity to the Major Street Plan and Trafficways Map

The widths and locations of all streets in a proposed subdivision shall conform to the Major Street Plan and Trafficways Map and the City of Cape Coral Engineering Design Standards.

(2) Street Extensions

(a) The street layout of the proposed subdivision shall provide for the continuation or projection of streets already existing in areas adjacent to the area being subdivided unless such continuation or extension is for specific reasons of topography or design.

(b) Where it is necessary for public safety to provide street access to adjoining properties, proposed streets

shall be extended by dedication to the boundaries of such properties. Where the Governing Body finds it necessary for public safety, such dead-end streets shall be provided with a temporary turnaround having a radius as specified in the City of Cape Coral Engineering Design Standards.

(c) The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in the City of Cape Coral Engineering Design Standards for a street in its category.

(3) Dedication of Right-of-Way for New Streets

(a) The dedication of rights-of-way for new streets, measured from lot line to lot line shall be as shown in the Major Street Plan and Trafficways Map, or if not shown thereon, shall meet the standards specified in the City of Cape Coral Engineering Design Standards.

(b) Dedication of one-half (1/2) of the rights-of-way for proposed streets along the boundaries of land proposed for subdivision shall be prohibited.

(4) Dedication of Right-of-Way for Existing Streets

(a) Subdivisions platted along existing streets shall dedicate additional rights-of-ways if necessary to meet the minimum street width requirements for new streets set forth in the City of Cape Coral Engineering Design Standards.

(b) The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, one-half (1/2) of the required right-of-way width, measured from the center line of the existing right-of-way or street, as appropriate, shall be dedicated.

(5) Intersections

Intersections shall be designed and spaced as set forth in the City of Cape Coral Engineering Design Standards.

(6) Curves in Streets; Horizontal and Vertical

All curves in streets shall be designed and constructed as set forth in the City of Cape Coral Engineering Design Standards.

(7) Street Grades and Elevations

(a) Street grades and elevations shall conform to the City of Cape Coral Engineering Design Standards.

(b) The City Council shall not approve streets which will be subject to inundation or flooding. All streets must be located at elevations which will make them flood free in order that portions of the subdivision will not be isolated by floods. Where flood conditions exist, the City Manager shall require profiles and elevations

of streets in order to determine the advisability of permitting the proposed subdivision activity. Fill may be permitted or necessary in areas subject to flooding in order to provide flood-free streets if such fill does not unduly increase flood heights. Drainage openings shall be designed so as not to restrict the flow of water and thereby unduly increase flood heights.

(8) Marginal Access Streets

Where the proposed subdivision abuts upon or contains an existing or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant special safety considerations, the Council shall require that marginal access streets be provided in order that no lots will front on such existing or proposed arterial street or highway.

(9) Street Jogs

Street jogs must be as set forth in the City of Cape Coral Engineering Design Standards.

(10) Dead-end Streets (cul-de-sacs)

Cul-de-sacs or dead-end streets must be designed so as to conform to the City of Cape Coral Engineering Design Standards.

(11) Street Names

Proposed streets which are in alignment with other already existing and named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing street.

(12) Alleys

Alleys may be provided to give access to the rear of all lots used for commercial and industrial purposes. Alleys shall not be provided in residential blocks except in the three Downtown zoning districts and/or in cases where the developer produces evidence of the need for alleys which is satisfactory to the Council.

• • •

SECTION 12. Article IV, Land Development Regulations, Section 4.4, Site Plan Review Procedure, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 4.4 Site Plan Review Procedure

.1 Purpose and Intent

This section is established to provide a review procedure which will encourage better planned and more harmonious and compatible developments within the City of Cape Coral. This review procedure is intended to aid in the reduction of traffic congestion, conflicting land use and other adverse conditions. It will permit maximum flexibility in evaluating each development plan on its own merits while encouraging variety and innovation within the intent and purpose of these regulations.

.2 Applicability

A. Site plans must be approved prior to the issuance of any development permits for the following development:

1. Any commercial, professional, or industrial development ~~of one (1) acre or more in land area~~or revision thereof;

2. Any multi-family residential development ~~of one (1) acre or more in land area~~or revision thereof;

3. Any site expansion due to acquisition, lease, or trade for 1 or 2 above ~~which makes the site one (1) acre or more~~.

B. This section shall not apply to a single-family dwelling or permitted accessory structure.

.3 Prohibition

No building or structure shall be erected, altered, or maintained and no use shall be permitted except in conformity with the provisions of this section, as applicable, and as contained within the approved Site Plan as provided herein.

.4 Standards

In reviewing Site Plans, the following standards and criteria shall be considered when evaluating such plans:

A. Traffic Impact

All State and local safety requirements, including those contained in the Engineering Design Standards adopted by the City of Cape Coral, as well as all level of service standards contained in the City's Comprehensive Plan shall be met.

B. Circulation and Parking

That the interior circulation system is adequate and that all required parking spaces are provided and are easily accessible. Off-street parking shall be provided in accordance with the requirements of Article V, Sec. 5.1, Off-Street Parking.

C. Utilization of Open Space

That in accordance with the spirit and intent of this Ordinance, wherever possible, open space is utilized in such a way as to ensure the safety and welfare of residents or users.

D. Arrangement of Buildings

That adequate provision has been made for light, air, access and privacy in the arrangement of the buildings to each other. Each structure shall have a minimum of one (1) exterior exposure with coordinated character.

E. Proper Landscaping

That the proposed site is properly landscaped, the purpose of which is to further enhance the natural qualities of the land. As provided in Article V, Sec. 5.2, proper screening and buffer zones may be required. Where special conditions warrant, additional landscaping and/or screening should be required.

F. Recreation Space for Residential Property

There shall be provided on the site, or on the property of a multi-family development, an area or areas, either enclosed or unenclosed, devoted to the joint

recreation use of the residents thereof. This requirement shall not apply in the three Downtown zoning districts.

G. Accessibility

All building groups shall be so arranged as to be accessible by emergency vehicles.

H. Compatibility

That the design, layout, and intensity is compatible with surrounding uses and zones.

I. Surface Water Management

Stormwater Retention located within the Downtown CRA shall adhere to the following criteria:

1. Water retention and water quality facilities shall be concealed wherever possible.

2. Open stormwater retention shall not be permitted to be located in front of the principal structure.

3. Stormwater retention areas are prohibited in utility easements except as follows:

   a. Stormwater retention areas may be located in utility easements so long as the utility easement is located at least ten (10) feet from the centerline of an platted alley; or

   b. Stormwater retention areas may be located in utility easements so long as the utility easement abuts neither a street nor a platted alley.

4. Retention areas shall not be visible from any street, sidewalk, public plaza or courtyard. If retention areas are used in side yards, they shall be located behind the front building line and completely screened from view with fencing, walls or approved landscaping.

5. Retention and water treatment areas may be located under paved parking lots and along unpaved edges of off-street parking and circulation facilities. Retention and water treatment areas may also be concealed under parking structures, patios, porches, courtyards, and paved areas for commercial type trash receptacles, landscaped islands located in off-street parking and circulation facilities and other green areas.

~~I~~J. Conformance with Other Provisions

The Site Plan shall conform to all applicable provisions of this Ordinance.

.5 Conditions, Safeguards and Limitations

The City may attach to its approval of a Site Plan any reasonable conditions, safeguards, limitations or requirements which are found necessary and consistent with the review criteria to effectuate the purpose of this section and to carry out the purpose of this Ordinance and Comprehensive Plan of the City of Cape Coral.

.6 Procedures

A. Filing of Application

An application for a Site Plan review shall be made to the Director prior to an application for a building permit on any parcels subject to the requirements of this Ordinance.

B. Administrative Review

Upon receipt of the Site Plan application, the Director shall forward it to all appropriate agencies for review and comment, and shall initiate his review for compliance with this Ordinance. For all Site Plan applications in the Downtown Community Redevelopment Area, the Director shall request comments from the Executive Director of the Downtown Community Redevelopment Agency. The Director and all City staff shall review the application within ten (10) working days of receipt to determine its completeness, and accept or reject the application in writing, and stating the reasons for any rejected application.

C. Issuance of Permits

Once the administrative review is complete, the Director shall, upon written application, issue a building permit provided the owner/developer complies with all other applicable rules and regulations.

• • •

SECTION 13. Article V, Supplementary Development Regulations, Section 5.1, Off-Street Parking and Circulation Facilities, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 5.1 Off-Street Parking and Circulation Facilities

.1 Purpose and Intent.

The purpose of these regulations is to ensure the appropriate provision of off-street parking for developments within the City of Cape Coral. The provisions outlined herein are intended to:

A. Avoid undue congestion on public streets and rights-of-way;

B. Protect the levels of service and capacity of existing streets;

C. Avoid unnecessary conflicts between pedestrian and vehicular traffic; and

D. Promote the general health, safety, and public welfare of the city and its visitors.

E. Spur the healthy redevelopment of Cape Coral's Downtown zoning districts into pedestrian friendly neighborhoods.

• • •

.7 Table of Parking Standards.

The following Table of Parking Standards identifies the number of parking spaces which shall be required for each use except as otherwise provided in this Ordinance (such as in the Downtown zoning districts, see Section 5.1.8 below). Use classifications referenced in the Table of Parking Standards are identical to the use classifications identified and referenced in the Table of Permitted Uses.

• • •

.8 Downtown zoning districts.

A. Purpose and Intent.

This subsection provides modified regulations for off-street parking in the three Downtown zoning districts.

1. These regulations provide urban rather than suburban parking strategies, recognizing that downtown is served by public transit and sidewalks and has an existing supply of shared parking spaces in on-street parking spaces and City-owned parking lots.

2. Improper placement of off-street parking and mandatory duplication of the entire public parking supply on each building site would separate and isolate the various land uses from each other. This separation would reduce the viability of compound use buildings and mixed-use developments and harm the walkability of the urban streets in the Downtown zoning districts.

B. Minimum Number of Off-street Parking Spaces. The following regulations shall apply to the minimum numbers of parking spaces required for individual use classifications by the Table of Parking Standards (Section 5.1.7) do not apply in the three Downtown zoning districts. The following regulations shall apply to determine the minimum number of off-street parking spaces. See Downtown zoning districts for specific regulation.

C. Placement of Off-street Parking

1. Surface parking lots. The placement of off-street surface parking lots and their setbacks from public streets and alleys are set forth for each Downtown zoning district (see Sections 2.7.15.–2.7.17.).

2. Parking structures. The design and placement of parking structures shall comply with the following standards:

a. Parking structures shall be concealed from all street frontages by liner buildings or other architectural methods.

(1) Liner buildings may be detached from, attached to or integral parts of the parking structure.

(2) Liner buildings shall be at least two stories in height and twenty (20) feet in depth and shall contain doors and windows opening onto the sidewalk.

b. Portions of the façade of a parking structure above the liner building that are visible from public streets shall appear to contain habitable space.

(1) All openings in the façade shall be taller than they are wide.

(2) Sloped ramps shall be concealed behind horizontal elements of the façade so as not to be apparent from public streets.

c. Ramps leading to upper stories of the parking structure shall be contained completely within the parking structure.

d. A shade-producing structure shall cover at least sixty (60%) of exposed top levels of parking structures.

D. Access to off-street parking.

1. Vehicular access between adjacent parking lots across property lines is encouraged.

2. Alleys shall be the primary source of access to off-street parking.

3. With the exception of parking structures, all developments that abut an alley, including corner lots, are encouraged to have their off-street parking areas accessed only via the alley.

4. In the Downtown Core and Edge districts circular drives are prohibited except for civic buildings, and hotels.

5. Garage doors shall face toward the rear alley. In locations where there are no alleys, garage door(s) shall be positioned no closer to streets, squares, or parks than twenty (20) feet behind the principal plane of the building frontage. Garage doors that face streets, squares or parks shall not exceed ten (10) feet in width.

SECTION 14. Article VI, Flood Damage Prevention, Section 6.2, Definitions, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 6.2 Definitions

. . .

"Flood-proofing" means a combination of structural and non-structural features that reduce or eliminate flood damage to buildings and/or their contents.

. . .

"Market Value" means the market value of a structure, less the land, as determined by the Lee County Property Appraiser, or by a private appraisal acceptable to the city, whichever is higher. This value shall not include the value of the land on which the structure is located, nor the value of other structures or site improvements on the site, nor the value of the structure after the proposed improvements are completed. Private appraisals shall be conducted by a state-certified general appraiser with a current MAI designation from the Appraisal Institute. Any proposed values submitted via private appraisal are subject to peer review by a qualified local appraiser, to be commissioned by the city at its expense; the city has the discretion to adjust the proposed value based on the peer review.

. . .

SECTION 15. Article VI, Flood Damage Prevention, Section 6.5, Provisions for Flood Hazard Reduction, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 6.5 Provisions for Flood Hazard Reduction.

. . .

Section B. Specific Standards.

In all areas of special flood hazard where Base Flood Elevation data have been provided, as set forth in Section 6.3, Subsection B, or Section 6.4, Subsection C.11, 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 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 flood waters shall be provided in accordance with standards of Section 6.5, Subsection B.3.

2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than the level of the base flood elevation.

   a. Dry flood-proofing. Structures located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

(1) A Florida registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

(2) Such certification shall be provided to the official as set forth in Section 6.4, Subsection B.3.

b. Downtown zoning districts: In the Downtown Core district, dry flood-proofing is the required method of providing retail space at sidewalk level while still protecting it from flood damage.

(1) Dry flood-proofing is mandatory for all new retail space that is located within 20 feet of public streets in the Downtown Core district.

(2) Dry flood-proofing is encouraged for retail space farther than 20 feet from a street and for other non-residential space at sidewalk level, but elevation of that space above base flood elevation is also acceptable.

(3) When evaluating site plans for compliance with the South Florida Water Management District (SFWMD) Basis of Review for Environmental Resource Permit Applications, dry flood-proofed floor space in the Downtown Core district shall be deemed by the City of Cape Coral as being equivalent to floor space elevated above the 100-year flood elevation.

(4) Dry flood-proofing is encouraged in the Downtown Gateway and Downtown Edge districts.

• • •

7. Substantially-Improved Building. For purposes of this section, "substantial improvement" means any combination of repairs, reconstruction, alteration, or improvements to a building, including but not limited to electrical, plumbing, hearing, and air conditioning, taking place during a ten (10) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the building.

a. Cumulative improvements:

(1) For purposes of this ordinance, the aforesaid ten (10) year period shall be measured retrospectively from the permit application date (if a permit is required for the proposed repairs, reconstruction, alterations or improvements) or, if no permit is required, from the date the proposed work is to commence.

(2) For improvements requiring permit(s), all repairs, reconstruction, alterations, or improvements that were permitted (based on the date(s) the permit(s) were issued) by the City during such ten (10) year period shall be presumed to have taken place during said ten (10) year period.

(3) For improvements for which no permits were required or for which permits were required but not obtained, all such repairs, reconstruction, alteration, or improvements which were actually performed during such ten (10) year period shall be included when calculating the cumulative cost of such improvements.

(4) Substantially-improved buildings must be elevated and otherwise brought into conformance with the requirements for new construction.

(5) Substantial improvement calculations shall include the cost of labor and materials, mechanical, electrical and plumbing systems, cabinetry,

finishes, and any other improvements that will be permanently affixed to the structure, except for exterior decks and porches.

(6) If the improvement project is conducted in phases, the total of all costs associated with each phase, beginning with issuance of the first permit, shall be utilized to determine whether "substantial improvement" has occurred. Interpretation and determination of substantial improvements shall rely on applicable FEMA publications and policy guidance.

~~(a)~~b. Rehabilitations, reconstructions, and renovations: When an existing building is rehabilitated, reconstructed, or renovated, with no or only minimal additions, and the total improvement costs meet the definition of "substantial" (equals or exceeds 50% of the value of the structure), the existing structure must be elevated and otherwise brought into conformance with Section 6.5.

~~(b)~~c. Lateral additions: When the substantial improvement is a lateral addition to an existing structure, only the addition is required to ~~be elevated and~~fully conform with the standards of Section 6.5, unless the common wall between the existing building and the addition is substantially removed or improvements are being made to the existing structure which, independently from the addition, equal or exceed 50% of the value of the structure. In such cases, the lateral addition is deemed to constitute only one part of a reconstruction or renovation, and both the existing structure and the addition must fully conform to Section 6.5.

~~(c)~~d. Vertical additions: When the substantial improvement is a vertical addition to an existing structure, the improvement is classified as a "renovation" or "reconstruction", and the existing structure must be ~~elevated and~~ brought into full conformance with Section 6.5.

~~TABLE I~~

e. The following is a list of items that may or may not be permitted below the Base Flood ~~Level~~Elevation. An "X" ~~check mark~~ has been placed in the appropriate blank.

			YES	NO
Special Flood Hazard Areas				
Zone A-1 through 30				
	1.	Garage, residential	X~~1~~	—
Zone A-1 through 30				
	2.	Unfinished storage areas, residential	X	—
	3.	Breakaway walls for enclosing Item Nos. 1 and 2	X	—
	4.	Flood proof walls (non breakaway) (non-residential)	X	—
	5.	Electrical outlets	—	X
	6.	Electric meters	X~~21~~	—
	7.	Automatic washer	—	X
	8.	Dryers	—	X
	9.	Air conditioning equipment	—	X
	10.	Heating equipment	—	X
	11.	Hot water tank	—	X
	12.	A second refrigerator in storage area or garage for cold storage	—	X
	13.	Bathrooms	—	X
Zone V-1 through 30				
	1.	Garage, residential	—	X~~32~~
	2.	Unfinished storage areas, residential	—	X~~32~~

3.	Breakaway walls for enclosing Item Nos. 1 and 2	X	
4.	Flood proof walls (non breakaway)	—	X
5.	Electrical outlets	—	X
6.	Electric meters	X[2]	
7.	Automatic washer	—	X
8.	Dryers	—	X
9.	Air conditioning equipment	—	X
10.	Heating equipment	—	X
11.	Hot water tank	—	X
12.	A second refrigerator in storage areas or garage for cold storage	—	X
13.	Bathrooms	—	X

~~1.~~ ~~Attached garages should be no more than one (1) foot below the lowest interior floor of primary structure if there is contemplation of future enclosure of the garage for livable uses.~~

21 Electric meters should be located at the highest elevation possible to accomplish the requirement of "minimizing or eliminating flood damage" and still meet the utility company's requirement to service the meter.

~~3~~2 If breakaway walls are utilized for enclosure, then answer is "yes".

Section C. Standards for Streams without Established Base Flood Elevations and/or Floodways.

Located within the areas of special flood hazard established in Section 6.3, Subsection B, where small streams exist but where no Base Flood data have been provided or where no floodways have been provided, the following provisions apply:

1. No encroachments, including fill material or structures shall be located within a distance of the stream bank equal to two (2) times the width of the stream at the top of bank or twenty (20) feet each side from top of bank, whichever is greater, unless certification by a Florida registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. New construction or substantial improvements of structures shall be elevated or flood-proofed to elevations established in accordance with Section 6.4, Subsection C.11.

Section D. 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 sewerage, gas, electric and water system located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

4. Base Flood Elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) ~~which is greater than the lesser of fifty (50) lots or five (5) acres~~.

SECTION 16. Article VII, Signs, Section 7.4, Definitions, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 7.4 **Definitions.**

1. *Animated Sign:* Any sign that uses movement or change of lighting to depict action or create a special effect or scene. Animated signs shall include signs which flash and/or beacon lights.

2. *Awning:* A cloth, plastic or other non-structural covering or canopy which is permanently attached to a building, regardless of whether the covering or canopy can be raised or retracted to a position against the building when not in use.

3. *Awning Sign:* A sign that is painted, installed, or otherwise applied to or located directly on an awning. For purposes of this Ordinance, signs that are suspended from awnings ("suspended signs") shall not be considered to be awning signs.

4. *Banner:* A sign composed of a logo or design on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow movement caused by the atmosphere, including "streamers" and "pennants".

   A "strings of pennants" consisting of any series of pieces of cloth, plastic, paper, or other material attached in a row at only one or more edges, or by one or more corners, the remainder hanging loosely, to any wire, cord, string, rope, or similar device shall be considered to be banner.

5. *Building Identification Sign:* A sign consisting of alpha or numeric text which serves to establish an identity of a building, such as the "Wrigley Building: or "Park 1000". The installation of such shall determine whether such sign is to be considered a wall, facia, freestanding, or monument sign.

6. *Building Sign:* Any sign attached to any part of a building, as contrasted to a freestanding sign.

7. *Bulletin Board:* A sign that is located on the premises of an institution or organization and which contains general announcements such as messages concerning events or activities occurring at the institution or organization and which may contain the name of such institution or organization and the name(s) of individuals connected with the institution or organization.

8. *Business Frontage:* The dimension (measured in linear feet) of the overall width of the primary side of a building containing one or more business establishments. For purposes of this Ordinance, the primary side of a building shall be the side of the building that faces the front lot line. If a building contains more than one floor or story, the dimension of the primary side of the building shall be determined by measuring (in linear feet) the overall width of the first floor or story of the building on the side that faces the front lot line and the sign allowance for each business establishment occupying the building shall be shared by such business establishments as determined by the property owner based on the business frontage of the building. In the event a building contains more than one business establishment, but the exterior of the building has not been subdivided into units, the sign allowance for each business establishment occupying the building shall be shared by such business establishments as determined by the property owner based on the business frontage of the building. However, in the event all or part of the exterior of a building has been subdivided into two (2) or more fully enclosed units capable of containing one or more business establishments (such as a multiple unit shopping center), the front dimension of each such unit shall be considered the business frontage of unit and the sign allowance for each business establishment occupying such unit shall be shared among the business establishments occupying such unit in the manner prescribed by the property owner. Any remaining part of the exterior of the building which has not been subdivided into fully enclosed units shall be treated the same as a building which has not been subdivided into units. In the event a single business establishment occupies more than one consecutive fully enclosed unit, the business frontage of such business shall be the total linear dimension of business frontage of all of such units combined.

9. *Changeable Copy Sign (Manual):* A sign or portions thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign in which the only copy that changes is an electronic or mechanical indication of

time or temperature shall not be considered a changeable copy sign for purposes of this ordinance.

~~10.~~ *Commercial Message*: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity. For purposes of this Ordinance, terms such as sale, special, clearance, or other words which relate to commercial activity shall be deemed to be commercial messages.

~~11.~~ *Construction Sign*: A sign which denotes the architect, engineer, developer, contractor or subcontractor, owner, future tenant and/or financing agency of a construction project.

~~12.~~ *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, which is erected by a governmental entity or which is located within a public right-of-way by a private business with the approval of the City of Cape Coral for the purpose of providing direction to both a major commercial, professional, industrial, or residential development or area and to at least one (1) public facility.

~~13.~~ *Directory Sign*: A sign denoting the business names, addresses, and/or occupations of those tenants located upon a subject site. For purposes of this ordinance, a directory sign established within a building identification sign shall be considered a directory sign. The installation of such shall determine whether such sign is to be considered a wall, facia, freestanding, or monument sign.

~~14.~~ *Fascia Sign*: A sign located on the fascia of a roof or canopy, or affixed to the front of a mansard roof that is a maximum of thirty (30) degrees from vertical, including signs that extend the plane of the structural fascia such that the vertical dimension of the sign is no more than one-third (1/3) the distance from the ground to the bottom of the fascia, and lateral supports are used.

~~15.~~ *Figure Structured Sign*: Any sign which consists of and/or contains a three dimensional character, symbol, or emblem portraying a commercial message which exists solely so as to attract the attention of the public. For purposes of this ordinance, memorial signs shall not be considered a figure structured sign.

~~16.~~ *Flag*: Any fabric, banner, or bunting used as a symbol (as of a nation, government, political subdivision, or other entity) or as a signaling device.

~~17.~~ *Flagpole*: A permanently attached fixture or pole which supports flags.

~~18.~~ *Flag Standard*: A readily transferable device or pole which supports flag(s). A tubular device which is set in the ground and does not extend above ground level, and any poles or tubes that support a flag or flags and are inserted into the tubular device set in the ground, are considered to be flag standards, provided the poles or tubes supporting the flag(s) do not extend more than eight (8) feet above ground level.

~~19.~~ *Freestanding Sign*: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building, fence, vehicle, or object other than the sign structure for support.

~~20.~~ *Incidental Sign*: A sign, generally informational, that has a purpose secondary to the use of the site on which it is located, such as "No Parking," "Entrance", "Exit", "Telephone", Open, Beware of Dog, Help Wanted, Welcome, and other similar directives. Incidental signs may contain a business name or logo together with an informational message. Such business name or logo shall not, however, exceed twenty-five (25%) of the sign area of the incidental sign. For purposes of this Ordinance, any sign for which more than twenty-five (25%) of its sign area is comprised of a business name or logo shall not be considered to be an incidental sign regardless of any other information which such sign may contain. Furthermore, the term incidental sign shall not include a sign designed to be transported by means of wheels, a sign converted to an A-or T-frame, a sandwich-board sign, or a skid-mounted sign, regardless of the nature of the information that such sign may contain.

~~21.~~ *Inflatable Object*: An object of any shape that is expanded or capable of expansion by means of air or gas, such as a balloon, wind sock, or air tube, and which is used as a means of attracting attention to a site, produce, or event.

~~22.~~ *Integral Sign*: A sign which is built in to or constructed as part of the architectural design of the building and if removed would change the design of the building.

~~23.~~ *Interior Sign*: Sign located within the interior of any building, or within an inner, outer or enclosed lobby or court of any building or theater, not including window signs.

~~24.~~ *Logo*: An emblem, character, pictograph, trademark, or symbol used to represent a firm, organization, entity, product, or service.

~~25.~~ *Marquee*: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

~~26.~~ *Memorial Sign*: A permanent sign, plaque, inscription, or similar group of symbols recording historical data relating to the construction of the building to which it is affixed, or to an historical event or site, or commemorating a significant event in the life or lives of one or more individual(s).

Menu Board: A permanently mounted sign displaying the type and price of food or beverages for the convenience of patrons of a drive-through establishment.

Menu Display Box: A small plaque or display case that displays only a restaurant's menu near its entrance for the convenience of potential patrons who arrive on foot.

~~27.~~ *Monument Sign*: A freestanding sign attached to a base affixed to the ground or mounted on short poles or posts which are no more than four (4) feet in height and no less than two (2) feet in diameter or width. Any other freestanding sign shall be considered a pole sign.

~~28.~~ *Multiple Business Sites*: Any professional, commercial, industrial or agriculturally zoned development housing two (2) or more tenants on one (1) ownership parcel. In addition, this term shall include all commercial, professional, industrial and agriculturally zoned properties approved under any planned development project.

~~29.~~ *Murals*: Any figures, designs, pictures, characters, etc. which are painted or otherwise applied directly onto the window or wall of a building. For purposes of this Ordinance, figures, designs, pictures, characters, etc. which are nailed, bolted, or otherwise attached to a building wall or window shall not be considered to be "applied directly" onto the wall or window of a building and, therefore, shall not be deemed to be "murals". Also for purposes of this Ordinance, murals shall not be considered to be signs so long as they contain no words or letters, either foreign or domestic. In the event a figure, design, picture, or character, that contains words or letters, either foreign or domestic, is painted or otherwise applied directly onto the window or wall of a building, the entire such figure, design, picture, or character shall not be considered a mural, but instead shall be deemed a "sign", the area of which shall encompass the entire figure, design, picture, and/or character that is applied directly onto the window or wall and not merely the portion containing the word(s) or letter(s).

~~30.~~ *Off-Site Sale*: A temporary sales event, conducted with the approval of the City Council, on a parcel that is not the permanent business location of the business conducting the sale for the purpose of selling merchandise such as boats, motor vehicles, or other items.

~~31.~~ *Off-Site Sign*: A sign identifying, advertising or directing the public to a business, institution, residential area, entertainment or activity which is located, sold, rented, based, produced, manufactured, furnished or taking place at a location other than on the property on which the sign is located. A sign containing a non-commercial message which is unrelated to any firm name, goods, or services rendered at the location at which the sign is located shall not be considered to be an off-site sign.

~~32.~~ *Parasite Sign*: Any sign not exempted by the sign code, for which no permit has been issued, and which is hung from, attached to or added onto an existing sign.

~~33.~~ *Permit Board*: A freestanding device erected on a construction site for the sole purpose of providing a conspicuous display of and shelter for the permits required for construction service(s) being performed on such construction site. A permit board may also display a contractor name or logo so long as such display does not exceed one (1) square foot.

~~34.~~ *Pole Sign*: A freestanding sign of which the base of the actual sign area is located more than four (4) feet above the ground and which is supported by one or more vertical poles or posts which pole(s) or post(s) are less than two (2) feet in diameter or width.

~~35.~~ *Portable Sign*: Any sign not permanently attached to the ground or to any permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; a sign converted to A-or T-frames; or skid-mounted signs. In order to be considered to be "permanently attached" for purposes of this Ordinance a sign must be attached to the ground or to a permanent structure in such a manner as to withstand wind loads of 110 miles per hour. For purposes of this ordinance, exempt signs, inflatable objects or umbrellas used as signs or signs attached to inflatable objects or umbrellas shall not be deemed to be portable signs.

~~36.~~ *Real Estate Sign*: A sign which advertises the sale or rental of the parcel, improved or unimproved, upon which it is located.

~~37.~~ *Residential Sign*: Any sign located in a district zoned for residential uses that contains no commercial message.

~~38.~~ *Roof Sign*: Any sign, structure or object painted or affixed to the roof of any building excluding components integrated into the roof structure of any design provided that no part of this structure(s) extends vertically above the highest portion of the roof nor extends horizontally breaking the vertical plane of the roofline and/or building, whichever is greater.

~~39.~~ *Sign*: Any character, letter, figure, symbol, design, model or device or combination of these used to attract attention or convey a message and which is visible to any area outside a building.

~~40.~~ *Special Event*: A social function, promotional, or fund raising event sponsored by a private, not-for-profit, or governmental entity which is open to the public, and which is distinct from the usual and customary business day functions of the organization. For purposes of this Ordinance, an "off site sale" shall not be considered to be a "special event".

~~41.~~ *Street Frontage*: The linear dimension of the front of a building site as described in Article III, Section 3.8. In the case of a double frontage site and for the purpose of administration of this ordinance, this dimension shall be based on a single lot front adjacent to the street right-of-way of which the site is addressed.

~~42.~~ *Suspended Sign*: A sign that is suspended from and supported by the underside of an awning, a marquee, a fascia, an umbrella, or a building overhang. Parasite signs shall not be considered to be "suspended signs".

~~43.~~ *Temporary Political Sign*: Any sign which indicates the name, cause, or affiliation of a person seeking public office or which indicates any issue for which a public election is scheduled to be held.

~~44.~~ *Temporary Place of Worship Sign*: A sign used for the purpose of identifying the worship services of a church, synagogue, mosque, or other house of worship, which are being conducted in a public building or community meeting room.

~~45.~~ *Umbrella*: A device, generally round in shape, that is supported by a center pole, attached to and supported by a table, and that provides to such table and abutting seats, if any, shade or protection from the elements. For purposes of this Ordinance, any device, structure, canopy, etc. that is handheld, or that is totally or partially enclosed, or that projects form or is connected to a building shall not be deemed to be an umbrella.

~~46.~~ *Umbrella sign*: A sign that is painted, installed, or otherwise applied to or located directly on an umbrella. For purposes of this Ordinance, signs that are suspended from umbrellas (suspended signs) shall not be considered to be umbrella signs.

~~47.~~ *Vehicle Sign:* Any sign that is attached to or painted on a vehicle and/or trailer, parked so as to be visible from and so as to clearly provide advertising visible from the public right-of-way or parked on public property so as to clearly provide advertising close to the public right-of-way, unless said vehicle is used by a proprietor or employee of the business for the purpose of commuting between the business location and home or is used in the usual course or operation of a business. Factors to be considered in determining whether a vehicle is used in the usual course or operation of a business shall include, but not be limited to, whether the vehicle is operable, whether the vehicle has a current registration in the State of Florida, the role the vehicle plays in the business and the frequency with which the vehicle is used in the course or the operation of the business. In addition, any sign that is composed of fabric, paper, or other lightweight material, or wood (unless the wood is an integral part of the vehicle itself), or that is physically supported by a motor vehicle, but not applied directly to the surface of the motor vehicle, or that is attached to the vehicle in such a manner as to constitute a safety hazard if the vehicle were to be driven with the sign in place, such as signs located so as to impair the vision of the driver of the vehicle or insecurely mounted so as to present a danger of falling off the vehicles while it is being driven, shall be presumed to be a vehicle sign. Further, any sign bearing a commercial message that is attached to or painted on a vehicle and/or trailer which is routinely parked or otherwise located on a site or sites other than that at which the firm, product, or services advertised on such sign is offered shall be presumed to be a vehicle sign.

~~48.~~ *Wall Sign:* Any sign affixed parallel, or perpendicular to, or painted on a wall of a building.

~~49.~~ *Window Sign:* Any sign, picture, symbol or combination thereof, that is placed upon a window, the window panes or glass and that is visible from the exterior of the window. The term window sign shall not include interior signs and/or product displays that are located within a business and that are visible from outside of the business unit. Furthermore, murals on windows shall not be deemed to be window signs.

SECTION 17. Article VII, Signs, Section 7.6, Prohibited Signs, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 7.6 Prohibited Signs.

The following signs shall be prohibited anywhere in the City:

1. Animated signs.

2. Signs located on public property or rights of way, except as otherwise provided in this Ordinance.

3. Signs attached to trees or utility poles.

4. Signs attached to fences on improved property. However, this prohibition shall not extend to signs attached to recreational fences around activity fields, playgrounds, or playing fields (such as football fields, baseball diamonds, etc.) located on public parks or playgrounds owned and operated by one or more governmental entities.

5. Figure Structured Signs.

6. Obscene Signs. No sign which contains any message which would be obscene under the judicially established definition of obscenity shall be permitted, erected, located, or maintained in the City of Cape Coral.

7. Offsite Signs (except development identification signs, political signs, real estate "open house" signs, signs for off-site sales which have been approved by the City Council, special event signs which shall be allowed only in accordance with the regulations for such signs as provided herein, and signs located on bus stop signs, bus stop benches, bus stop shelters, and telephone booths which shall be allowed only in accordance with the regulations for such signs as provided herein).

8. Outdoor Neon Signs which are not permanently attached either to a building or to a sign structure so as to withstand wind loads of 110 miles per hour.

9. Portable Signs.

10. Roof Signs.

11. Vehicle Signs.

.12 Downtown zoning districts: See Sections 2.7.15., 2.7.16. or 2.7.17. for additional types of signs that are prohibited within the Downtown zoning districts.

.13 Inflatable objects in the Downtown zoning districts only as provided in Section 7.7.3.

SECTION 18. Article VII, Signs, Section 7.7, Exempt Signs, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

• • •

2. In Pedestrian Commercial (C-1), Thoroughfare Commercial (C-3), Professional Office (P-1), Industrial (I-1), Agricultural (AG), and Worship (W) zoning districts and on sites containing non-residential uses lawfully located in residential zoning districts, the following signs shall be allowed without a permit, but shall be subject to all other requirements of this Ordinance:

   A. Awning signs-may be painted, installed, or otherwise located on any awning provided that the maximum area of the awning sign does not exceed eight (8) square feet.

   B. Exterior bulletin boards shall be allowed without a permit as follows:

      (1) Such bulletin board(s) shall be used exclusively by a public, religious, or nonprofit facility and located on the premises of such facility; and

      (2) No more than one (1) bulletin board per building entrance shall be allowed without a permit; and

      (3) The sign area of each such bulletin board shall not exceed twelve (12) square feet.

   C. Construction signs shall be allowed without a sign permit provided such sign(s) comply with the following:

      (1) One (1) sign per construction site which identifies the architect, engineer, contractor, subcontractor(s), future tenant and/or financing agency may be erected on new construction sites; and

      (2) No construction sign shall be erected, installed, or located on real property unless the construction occurring on the site is pursuant to a valid City of Cape Coral building permit. In the event the building permit for the construction on the site expires prior to the completion of the construction, the construction sign shall immediately be removed from the site. Furthermore, the construction sign for a site shall be removed from the site within thirty (30) days from the issuance of the certificate of occupancy by the City; and

      (3) On construction sites of less than one (1) acre, the area of a construction sign shall not exceed sixteen (16) square feet in area or eight (8) feet in height. On construction sites of one (1) acre or more, the area of a construction sign shall not exceed thirty-two (32) square feet in area or eight (8) feet in height.

   D. Credit Card/Membership signs shall be allowed without a sign permit provided that they comply with the following:

      (1) Credit Card/Membership signs shall be erected, installed, placed, or located only on sites in non-residential zoning districts or on sites lawfully containing non-residential uses in residential zoning districts; and

(2) Credit card/Membership signs shall not exceed six (6) square inches in area and shall be placed, erected, installed, or located only on the windows, or doors of the commercial establishment, or in the case of a service station, on the fuel pumps of such station; and

(3) No site, with the exception of sites on which service stations are located, shall contain more than one (1) credit card/membership sign per credit or membership organization per street frontage. In addition to the aforesaid one (1) credit card/membership sign per street frontage, service stations shall be allowed one (1) credit card/membership sign per fuel pump of such station.

E. Directional signs-provided that they are erected by or on behalf of a governmental entity and provided that directional signs that are to be located or installed on he public right-of-way conform with all requirements of Section 7.13 of this Article.

F. Flags-provided that they bear no commercial message. Flags bearing commercial messages shall be treated in the same manner as signs bearing commercial messages and shall be calculated in the sign area located on the site. The area of a freestanding flag that bears a commercial message shall be deducted from the freestanding sign allowance for the site on which such flag is located. The area of a flag that bears a commercial message and that is mounted on a building shall be deducted from the building sign allowance for the site on which such flag is located. Flags bearing an incidental sign message shall be treated in the same manner as incidental signs.

G. Incidental signs-provided that they are no more than six (6) square feet in area and three (3) feet in height. Furthermore, no more than one (1) "entrance" sign and one (1) "exit sign shall be located at any one entrance or exit. Open and welcome signs shall be located only at entrance(s) and shall be limited to only one open or welcome sign per entrance. In the event a signs which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such signs shall no longer be deemed to be an exempt signs, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.

H. Inflatable objects-provided that the inflatable objects are less than four (4) feet in width or diameter and four (4) feet in height. Inflatable objects that are greater than four (4) feet in width or diameter or greater than four (4) feet in height shall comply with the requirements of Section 7.13 of this Ordinance.

I. Interior signs.

J. Memorial signs-shall be allowed without a permit provided that they are engraved on a building, located on a cemetery tombstone, or located on a plaque, or located at memorials erected by a governmental entity or at a memorial erected by a private entity which has obtained approval from the City.

K. Menu boards-one (1) menu board, no greater than twenty-four (24) square feet in area, may be located adjacent to and oriented toward each drive-through lane lawfully located at a commercial enterprise, provided that such menu board is able to withstand wind loads of 110 miles per hour. Although such signs are allowed without a sign permit, the owner of such property shall obtain a menu board permit (at no cost) from the City prior to locating the menu board(s) on the site.

L. Menu display box - a menu display box, no greater than four (4) square feet in area and four (4) inches deep, may be attached to a building's exterior wall adjacent to each public entrance of an establishment that serves prepared food to the public. Only menus or highlights of the menu shall be displayed in a menu display box.

~~L~~M. Non-commercial signs-whether freestanding or building, shall be considered exempt provided that no more than one (1) non-commercial sign shall be erected, installed, placed, or located on a site in a non-residential zoning district or on a site lawfully

containing non-residential uses in a residential zoning districts. Such non-commercial sign may be either a freestanding or a building sign, but it shall not exceed four (4) square feet in sign area. Furthermore, in the event such non-commercial sign is a freestanding sign, it shall not exceed five (5) feet in height. Such non-commercial signs shall not contain any commercial message. In addition, awning signs, exterior bulletin boards, construction signs, credit card/membership signs, directional signs, flags, incidental signs, interior signs, memorial signs, menu boards, permit boards, professional nameplates, real estate signs, suspended signs, temporary place of worship signs, and window signs shall not be considered to be "non-commercial signs" for purposes of this Section.

~~M~~N. Permit boards-shall be allowed without a permit provided that the following requirements are met:

(1) No more than one (1) permit board shall be erected or located on a single site.

(2) A permit board located or erected on a site shall be of a size that is reasonable in light of the number and size of the permits required to be displayed on the site. No more than one contractor's name or logo may be displayed on the permit board and such display shall not exceed one (1) square foot in area. The identification of a contractor by name on a permit shall not be considered to be the "display" of a contractor's name for purposes of this Ordinance.

~~N~~O. Professional Nameplates-one (1) professional nameplate, not exceeding two (2) square feet in area, attached to the building and containing only the name and profession/occupation of the commercial enterprise located in the premises.

~~O~~P. Real Estate signs-shall be allowed without a permit provided the following requirements are met:

(1) "For Sale", "For Lease", or "For Rent" signs as follows:

(a) For parcels containing less than two hundred (200) linear feet of lot frontage, no more than one (1) "For sale", "For Lease", or "For Rent" sign shall be erected or located on a single site. However, on non-residential sites containing multiple non-residential uses in which the units are individually owned, either one (1) such sign per unit may be displayed on the site or one (1) such sign for the development as a whole may be displayed on the site. Furthermore, for sites located on golf course(s) or waterway(s), one additional real estate sign (or, in the case of multiple non-residential, individually owned units, one additional sign per unit) may be located on the side of the property which actually abuts the golf course or a waterway.

(b) The maximum sign area for such sign is four (4) square feet.

(c) The sign may be located anywhere on the subject property, provided that the sign is located so as to ensure safe visual sightlines for motorists and, on corner sites, so as to be clear from the traffic flow visibility triangle.

(d) For parcels containing at least two hundred (200) linear feet of street frontage, but not more than six hundred (600) linear feet of street frontage, no more than one (1) "For Sale", "For Lease", or "For Rent" sign per public street the site abuts shall be erected or located on the site. The maximum sign area of each such sign is sixteen (16) square feet. However, on non-residential sites containing multiple non-residential uses in which the units are individually owned and in lieu of any other real estate sign(s) otherwise allowed herein, one (1) real estate sign per unit [not exceeding four (4) square feet] may be displayed on the site. Furthermore, for sites located on golf course(s) or waterway(s), one additional real estate sign (or, in the case of

multiple non-residential uses with individually owned units, one additional sign per unit) may be located on the side of the property which actually abuts the golf course or a waterway.

(e) For sites with more than six hundred (600) linear feet of street frontage, mo more than one (1) "For Sale", "For Lease", or "For Rent" sign per public street the site abuts shall be erected or located on the site. The maximum sign area of each such sign shall be thirty-two (32) square feet. However, on non-residential sites containing multiple non-residential uses in which the units are individually owned and in lieu of any other real estate sign(s) otherwise allowed herein, one (1) real estate sign per unit [not exceeding four(4) square feet in sign area] may be displayed on the site. Furthermore, for sites located on golf course(s) or waterway(s), one additional real estate sign (or, in the case of multiple non-residential uses with individually owned units, one additional sign per unit) may be located on the side of the property which actually abuts the golf course or a waterway.

(f) All real estate signs shall be located so as to ensure safe visual sightlines for motorists and, on corner sites, such signs shall be located clear from the traffic flow visibility triangle.

(g) No real estate sign shall be erected or located in any median within the City.

(h) All "for sale", "for lease", and "for rent" real estate signs shall be removed from the premises not more than thirty (30) days after the close of sale or rental of the premises advertised for sale or rental.

~~P~~Q. Suspended signs - No more than one (1) suspended sign per business entrance shall be allowed without a permit provided that a minimum vertical clearance of eight (8) feet from any sidewalk, private drive, parking area, or public street is maintained at all times and provided that the sign area of such suspended sign does not exceed four (4) square feet.

~~Q~~R. Temporary political signs - shall be allowed without a permit provided the following requirements are met:

(1) Such signs shall be erected on a temporary basis for no more than thirty (30) days prior to each primary election and no more than sixty (60) days prior to each general election and shall be removed no more than ten (10) days after the election in which the candidate is eliminated or elected or the issue is decided.

(2) In Pedestrian Commercial (C-1), Thoroughfare Commercial (C-3), Professional Office (P-1), Industrial (I-1), Agricultural (AG), and Worship (W) zoning districts and on -sites containing non-residential uses lawfully located in residential zoning districts (except for model home sites), the maximum sign area for such signs is sixteen (16) square feet and the maximum height is ten (10) feet. Furthermore, on such sites, the maximum number of temporary political signs on such a site shall not exceed one (1) temporary political sign per twenty (20) feet of street frontage of the site. On model home sites, the maximum number of temporary political signs on a model home site shall not exceed one (1) temporary political sign per ten (10) feet of street frontage of the site provided that the maximum sign area for such sign is four (4) square feet and the maximum height is five (5) feet.

(3) Prior to the placement of all temporary political signs on sites located in non-residential districts or on sites containing non-residential uses lawfully located in residential zoning districts (except model home sites), the owner of the temporary political signs shall provide a list of locations of the signs, and written notarized permission from each property owner or his or her authorized agent for placement of the signs.

(4) In the event a "temporary political sign" is displayed on a site outside of the time period allowed herein or in the event the number of "temporary political signs" located on a property exceeds the number permitted herein, such sign(s) remaining outside the allowed period or the excess number of such signs shall no longer be deemed "temporary political signs", but instead shall be treated as and subject to all conditions and regulations applicable to a "non-commercial" sign located on the site. If, however, such a "temporary political sign" does not conform to the conditions and regulations applicable to non-commercial signs for the site at which the sign is located or if the one (1) "non-commercial sign" allowed as exempt under Section 7.7.2.K. is already located on the site at which the aforesaid "temporary political sign" is located, then any such "temporary political sign" displayed on a site outside of the aforesaid time period or the excess "temporary political signs" shall no longer be deemed to be an "exempt" sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.

~~R~~S. Temporary Place of Worship signs-One (1) on-site temporary place of worship sign and two (2) off-site directional signs shall be allowed without a permit provided the following requirements are met:

(1) The maximum sign area for each off-site directional sign and for each on-site sign shall be four (4) square feet.

(2) The signs may be located on private property or on an adjacent right-of-way provided that no portion of the sign shall be less than fifteen (15) feet from any street or sidewalk and provided that the owner of the property (or the property adjacent to the right-of-way) on which the sign is to be placed consents in writing to the location of the sign.

(3) Temporary place of worship sign shall be displayed not more than forty-eight (48) hours prior to the service and shall be removed not more than twenty-four (24) hours after the conclusion of the worship service.

~~S~~T. Umbrellas/Umbrella signs-provided that they bear no commercial message. Umbrellas bearing commercial messages shall be treated in the same manner as signs bearing commercial messages and shall be calculated in the freestanding sign area allowed on the site.

~~T~~U. Window Signs.

3. In the Downtown zoning districts, the following signs shall be allowed without a permit, but shall be subject to all other requirements of this Ordinance:

A. Awning signs - may be painted, installed, or otherwise located on any lawful awning provided that the maximum area of the awning sign does not exceed thirty-two (32) square feet.

B. Exterior bulletin boards

C. Construction signs shall be allowed without a sign permit provided such sign(s) comply with the following:

(1) One (1) sign per construction site which identifies the architect, engineer, contractor, subcontractor(s), future tenant and/or financing agency may be erected on new construction sites; and

(2) No construction sign shall be erected, installed, or located on real property unless the construction occurring on the site is pursuant to a valid City of Cape Coral building permit. In the event the building permit for the construction on the site expires prior to the completion of the construction, the construction sign shall immediately be removed from the site. Furthermore, the construction sign for a site shall be removed from the site

within thirty (30) days from the issuance of the certificate of occupancy by the City; and

(3) On construction sites of less than one (1) acre, the area of a construction sign shall not exceed sixteen (16) square feet in area or eight (8) feet in height. On construction sites of one (1) acre or more, the area of a construction sign shall not exceed thirty-two (32) square feet in area or eight (8) feet in height.

D. Credit Card/Membership signs shall be allowed without a sign permit provided that they comply with the following:

(1) Credit Card/Membership signs shall be erected, installed, placed, or located only on sites in non-residential zoning districts or on sites lawfully containing non-residential uses in residential zoning districts; and

(2) Credit card/Membership signs shall not exceed six (6) square inches in area and shall be placed, erected, installed, or located only on the windows, or doors of the commercial establishment, or in the case of a service station, on the fuel pumps of such station; and

(3) No site, with the exception of sites on which service stations are located, shall contain more than one (1) credit card/membership sign per credit or membership organization per street frontage. In addition to the aforesaid one (1) credit card/membership sign per street frontage, service stations shall be allowed one (1) credit card/membership sign per fuel pump of such station.

E. Directional signs-provided that they are erected by or on behalf of a governmental entity and provided that directional signs that are to be located or installed on the public right-of-way conform with all requirements of Section 7.13 of this Article.

F. Flags-provided that they bear no commercial message. Flags bearing commercial messages shall be treated in the same manner as signs bearing commercial messages and shall be calculated in the sign area located on the site. The area of a freestanding flag that bears a commercial message shall be deducted from the freestanding sign allowance for the site on which such flag is located. The area of a flag that bears a commercial message and that is mounted on a building shall be deducted from the building sign allowance for the site on which such flag is located. Flags bearing an incidental sign message shall be treated in the same manner as incidental signs.

G. Incidental signs-provided that they are no more than six (6) square feet in area and three (3) feet in height. Furthermore, no more than one (1) "entrance" sign and one (1) "exit sign shall be located at any one entrance or exit. Open and welcome signs shall be located only at entrance(s) and shall be limited to only one open or welcome sign per entrance. In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such signs shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.

H. Inflatable objects - provided that the inflatable objects are less than eighteen (18) inches in width or diameter, and eighteen (18) inches in height, twelve (12) in number, and contain no commercial message. All other inflatable objects are prohibited.

I. Interior signs

J. Memorial signs-shall be allowed without a permit provided that they are engraved on a building, located on a cemetery tombstone, or located on a plaque, or located at memorials erected by a governmental entity or at a memorial erected by a private entity which has obtained approval from the City.

K. Menu boards-one (1) menu board, no greater than twenty-four (24) square feet in area, may be located adjacent to and oriented toward each drive-through lane lawfully located at a commercial enterprise, provided that such menu board is able to withstand wind loads of 110 miles per hour. Although such signs are allowed without a sign permit, the owner of such property shall obtain a menu board permit (at no cost) from the City prior to locating the menu board(s) on the site.

L. Menu display boxes - a menu display box, no greater than four (4) square feet in area and four (4) inches deep, may be attached to a building's exterior wall adjacent to each public entrance of an establishment that serves food to the public. Only menus or highlights of the menu shall be displayed in a menu display box.

M. Non-commercial signs-whether freestanding or building, shall be considered exempt provided that no more than one (1) non-commercial sign shall be erected, installed, placed, or located on a site in a non-residential zoning district or on a site lawfully containing non-residential uses in a residential zoning districts. Such non-commercial sign may be either a freestanding or a building sign, but it shall not exceed four (4) square feet in sign area. Furthermore, in the event such non-commercial sign is a freestanding sign, it shall not exceed five (5) feet in height. Such non-commercial signs shall not contain any commercial message. In addition, awning signs, exterior bulletin boards, construction signs, credit card/membership signs, directional signs, flags, incidental signs, interior signs, memorial signs, menu boards, permit boards, professional nameplates, real estate signs, suspended signs, temporary place of worship signs, and window signs shall not be considered to be "non-commercial signs" for purposes of this Section.

N. Permit boards-shall be allowed without a permit provided that the following requirements are met:

(1) No more than one (1) permit board shall be erected or located on a single site.

(2) A permit board located or erected on a site shall be of a size that is reasonable in light of the number and size of the permits required to be displayed on the site. No more than one contractor's name or logo may be displayed on the permit board and such display shall not exceed one (1) square foot in area. The identification of a contractor by name on a permit shall not be considered to be the "display" of a contractor's name for purposes of this Ordinance.

O. Professional Nameplates - Located at the entrance(s) to a building, attached to the building, and containing only the name(s) and profession(s)/occupation(s) of the commercial enterprises(s) located in the premises. The maximum number of professional nameplates located on a site shall not exceed one (1) per building entrance. Each professional nameplate shall not exceed two (2) square feet in area.

P. Real Estate signs-shall be allowed without a permit provided the following requirements are met:

(1) "For Sale", "For Lease", or "For Rent" signs as follows:

(a) For parcels containing less than two hundred (200) linear feet of lot frontage, no more than one (1) "For sale", "For Lease", or "For Rent" sign shall be erected or located on a single site. However, on non-residential sites containing multiple non-residential uses in which the units are individually owned, either one (1) such sign per unit may be displayed on the site or one (1) such sign for the development as a whole may be displayed on the site. Furthermore, for sites located on golf course(s) or waterway(s), one additional real estate sign (or, in the case of multiple non-residential, individually owned units, one additional sign per unit) may be located on the side of the property which actually abuts the golf course or a waterway.

(b) The maximum sign area for such sign is four (4) square feet.

(c) The sign may be located anywhere on the subject property, provided that the sign is located so as to ensure safe visual sightlines for motorists and, on corner sites, so as to be clear from the traffic flow visibility triangle.

(d) For parcels containing at least two hundred (200) linear feet of street frontage, but not more than six hundred (600) linear feet of street frontage, no more than one (1) "For Sale", "For Lease", or "For Rent" sign per public street the site abuts shall be erected or located on the site. The maximum sign area of each such sign is sixteen (16) square feet. However, on non-residential sites containing multiple non-residential uses in which the units are individually owned and in lieu of any other real estate sign(s) otherwise allowed herein, one (1) real estate sign per unit [not exceeding four (4) square feet] may be displayed on the site. Furthermore, for sites located on golf course(s) or waterway(s), one additional real estate sign (or, in the case of multiple non-residential uses with individually owned units, one additional sign per unit) may be located on the side of the property which actually abuts the golf course or a waterway.

(e) For sites with more than six hundred (600) linear feet of street frontage, mo more than one (1) "For Sale", "For Lease", or "For Rent" sign per public street the site abuts shall be erected or located on the site. The maximum sign area of each such sign shall be thirty-two (32) square feet. However, on non-residential sites containing multiple non-residential uses in which the units are individually owned and in lieu of any other real estate sign(s) otherwise allowed herein, one (1) real estate sign per unit [not exceeding four(4) square feet in sign area] may be displayed on the site. Furthermore, for sites located on golf course(s) or waterway(s), one additional real estate sign (or, in the case of multiple non-residential uses with individually owned units, one additional sign per unit) may be located on the side of the property which actually abuts the golf course or a waterway.

(f) All real estate signs shall be located so as to ensure safe visual sightlines for motorists and, on corner sites, such signs shall be located clear from the traffic flow visibility triangle.

(g) No real estate sign shall be erected or located in any median within the City.

(h) All "for sale", "for lease", and "for rent" real estate signs shall be removed from the premises not more than thirty (30) days after the close of sale or rental of the premises advertised for sale or rental.

Q. Suspended signs -- No more than one (1) suspended sign per business entrance shall be allowed without a permit provided that a minimum vertical clearance of eight (8) feet from any sidewalk, private drive, parking area, or public street is maintained at all times and provided that the sign area of such suspended sign does not exceed eight (8) square feet.

R. Temporary political signs - shall be allowed without a permit provided the following requirements are met:

(1) Such signs shall be erected on a temporary basis for no more than thirty (30) days prior to each primary election and no more than sixty (60) days prior to each general election and shall be removed no more than ten (10) days after the election in which the candidate is eliminated or elected or the issue is decided.

(2) The maximum sign area for such signs is sixteen (16) square feet and the maximum height is ten (10) feet. Furthermore, on such sites, the maximum number of temporary political signs on such a site shall not exceed one (1)

temporary political sign per twenty (20) feet of street frontage of the site. On model home sites, the maximum number of temporary political signs on a model home site shall not exceed one (1) temporary political sign per ten (10) feet of street frontage of the site provided that the maximum sign area for such sign is four (4) square feet and the maximum height is five (5) feet.

(3) Prior to the placement of all temporary political signs on sites located in non-residential districts or on sites containing non-residential uses lawfully located in residential zoning districts (except model home sites), the owner of the temporary political signs shall provide a list of locations of the signs, and written notarized permission from each property owner or his or her authorized agent for placement of the signs.

(4) In the event a "temporary political sign" is displayed on a site outside of the time period allowed herein or in the event the number of "temporary political signs" located on a property exceeds the number permitted herein, such sign(s) remaining outside the allowed period or the excess number of such signs shall no longer be deemed "temporary political signs", but instead shall be treated as and subject to all conditions and regulations applicable to a "non-commercial" sign located on the site. If, however, such a "temporary political sign" does not conform to the conditions and regulations applicable to non-commercial signs for the site at which the sign is located or if the one (1) "non-commercial sign" allowed as exempt under Section 7.7.2.K. is already located on the site at which the aforesaid "temporary political sign" is located, then any such "temporary political sign" displayed on a site outside of the aforesaid time period or the excess "temporary political signs" shall no longer be deemed to be an "exempt" sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.

S. Temporary Place of Worship signs-One (1) on-site temporary place of worship sign and two (2) off-site directional signs shall be allowed without a permit provided the following requirements are met:

(1) The maximum sign area for each off-site directional sign and for each on-site sign shall be four (4) square feet.

(2) The signs may be located on private property or on an adjacent right-of-way provided that no portion of the sign shall be less than fifteen (15) feet from any street or sidewalk and provided that the owner of the property (or the property adjacent to the right-of-way) on which the sign is to be placed consents in writing to the location of the sign.

(3) Temporary place of worship sign shall be displayed not more than forty-eight (48) hours prior to the service and shall be removed not more than twenty-four (24) hours after the conclusion of the worship service.

T. Umbrellas/Umbrella signs-provided that they bear no commercial message. Umbrellas bearing commercial messages shall be treated in the same manner as signs bearing commercial messages and shall be calculated in the freestanding sign area allowed on the site.

U. Window Signs

SECTION 19. Article VII, Signs, Section 7.8, Signs Which Require Permits, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 7.8 Signs Which Require Permits.

Signs shall be regulated by sign type. The requirements of this section are in addition to all other applicable requirements. Unless otherwise indicated and subject to the other provisions of this Ordinance, the following signs are prohibited in residential zoning districts on sites containing residential uses, but shall be allowed in all other zoning districts as well as on sites containing non-residential uses lawfully located in residential zoning districts provided that a sign permit is obtained

from the City prior to installation or erection and maintained in full force and effect for so long as the sign is in use:

1. Freestanding signs (Pole or Monument) (other than residential and incidental signs as otherwise provided herein). See restrictions on freestanding signs in the Downtown zoning districts in Sections 2.7.15., 2.7.16., or 2.7.17.

2. Marquee signs. In the Downtown zoning districts only, marquee signs shall also comply with the standards as set forth in Sections 2.7.15., 2.7.16., or 2.7.17.

3. Parasite signs.

4. Wall signs. Wall sign(s) are also permitted in multi-family zoning districts only in accordance with Section 7.10 of this Ordinance. In the Downtown zoning districts only, wall signs shall also comply with the standards in Sections 2.7.15., 2.7.16., or 2.7.17.

5. Inflatable objects. In the Downtown zoning districts only, inflatable objects shall also comply with the standards in Sections 2.7.15., 2.7.16., or 2.7.17.

6. Banner signs.

7. Integral signs.

8. Fascia signs. In the three Downtown zoning districts only, fascia signs are restricted in accordance with Sections 2.7.15., 2.7.16., or 2.7.17.

9. Flags which bear a commercial message.

10. Awning signs. Awning signs exceeding eight (8) square feet in area, or exceeding thirty-two (32) square feet in area in any of the Downtown zoning districts, shall require a permit.

SECTION 20. Article VII, Signs, Section 7.9, Requirements Applicable to All Signs, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 7.9 Requirements Applicable To All Signs.

1. Computation of Sign Area

   The sign area of a sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater, excluding the area of the supporting structures provided that the supporting structures area not used for advertising purposes and are of an area equal to or less than the permitted sign area. Supporting framework and bracing which are incidental to the display itself shall not be included in the computation of the area unless, by the nature of their design, they form a continuation of the sign.

   The sign area of a multi-faced sign shall be computed on one (1) face in the same manner as the sign area of an individual sign, provided that the faces of the sign are not separated at any point by more than eighteen (18) inches. If the faces of a multi-faced sign are separated at any point by more than eighteen (18) inches, then each face constitutes a separate sign.

   Where individual characters are used without a supporting panel, the overall dimensions from the beginning of the first character to the end of the last character in the longest line and from the top of the uppermost character to the bottom of the lowermost character shall be regarded as the extreme dimensions in calculating the overall sign area of the sign.

2. Computation of Height

   The vertical height of a freestanding sign shall be computed from the established mean grade of the development site to the highest component of the sign or supporting framework, whichever is higher. The maximum vertical height of a building mounted sign shall not exceed the roof line of the structure.

3. Location of Signs on Property

Setbacks - The distance of a sign from a property line, right-of-way, or other point shall be computed by measuring a perpendicular line from the foremost part of the sign to the ground and then measuring from that point to the nearest point of the property line, right-of-way, etc.

Distance between Freestanding Signs - A minimum distance of twenty-five (25) feet shall be maintained between freestanding signs regardless of whether such signs are on one site or whether they located on adjacent sites.

Location - No sign may project beyond the property line(s) of the property on which the sign is located, except that sign(s) may be flush-mounted to the walls of buildings which are constructed with a zero (0) setback from the property line. Except as otherwise provided herein, signs shall be located on the same site on which the advertised goods or services are available. No part of any banner, sign, flag, or flagpole shall be hung, attached, or erected in any manner as to project into the right-of-way.

4. Traffic Hazards

No sign or flag shall be erected in any location or in any manner so as to create a traffic hazard or so as to increase a dangerous traffic situation.

5. Landscape Maintenance

The owner of the real property upon which a sign is located shall be responsible for maintaining the landscaping, including grassed areas, in accordance with City laws and regulations, within an area of five (5) feet in all directions from the sign support(s).

6. Illumination

Signs may be illuminated by any method not prohibited by this Ordinance provided that any light source shall be shielded in such a manner as to prevent direct rays of light from being cast into an occupied residence, hotel or motel room, a commercial business, or at any pedestrian traveling upon a street or sidewalk or any vehicle traveling upon a public street. In the Downtown zoning districts, lighted signs shall also comply with Sections 2.7.15., 2.7.16., or 2.7.17.

SECTION 21. Article VII, Signs, Section 7.10, Nonconforming Existing Signs, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 7.12 Nonconforming Existing Signs.

1. Nonconforming sign compliance. All signs lawfully erected prior to the effective date of this ordinance that do not comply with the requirement of this ordinance shall be considered to be nonconforming signs. Signs in the Downtown zoning districts may also become nonconforming as provided in Section 7.12.4. below. All nonconforming signs shall be either removed or brought into conformity with this ordinance no later than January 1, 2007. The owner of the real property on which such nonconforming signs exist shall be responsible for ensuring that such signs are removed or brought into conformity. Nonconforming signs shall not be altered, replaced, or repaired if such alteration, replacement, or repair would constitute more than twenty-five percent (25%) of the replacement value of the nonconforming sign.

2. Nonconforming sign permits. Sign permits will not be issued for the alteration, replacement, or repair of nonconforming signs if such alteration, replacement, or repair constitutes more than twenty-five percent (25%) of the replacement value of the existing nonconforming sign. Changing the information on the face of an existing nonconforming sign shall not be deemed an action increasing the degree or extent of the nonconformity so as to constitute a violation of this ordinance. Any other alteration to an existing nonconforming sign will be required to conform to this ordinance.

3. Exceptions. A sign which is erected, located, or installed prior to the effective date of this Ordinance and which was approved by a dimensional variance from the Board of Zoning

Adjustment and Appeals or the City Council shall retain such variance approval. However, any sign which has been approved by such a dimensional variance and is then changed to conform with this ordinance would forfeit the sign variance.

4. Nonconforming signs in the Downtown zoning districts. Some signs in the Downtown zoning districts were lawfully erected prior to the property having been zoned into one of the Downtown zoning districts but became nonconforming due to the special signage requirements of Sections 2.7.15., 2.7.16., or 2.7.17. Such signs shall also be considered to be nonconforming signs and shall either be removed or brought into conformity with this code no later than January 1, 2008, or the date which a new building (or a substantial improvement to an existing building, as described in Article VI) is certified for occupancy on that property, whichever occurs first. Certain establishments in the Downtown zoning districts whose existing signs will become nonconforming on January 1, 2008, may be situated on their lots in such a manner that without their existing pole or monument sign near the street, adjoining buildings placed nearer the street will block the visibility of any of the acceptable sign types for the Downtown zoning districts (see Sections 2.7.15., 2.7.16., or 2.7.17). Should this situation occur, the property owner may seek a deviation through the Director of the Department of Community Development to extend the January 1, 2008 date for the existing sign or for a suitable replacement sign. Any appeal of the Director's decision shall be filed pursuant to the procedure set forth in Section 7.15. of the Land Use and Development Regulations.

SECTION 22. Article VIII, Administration, Section 8.7, Amendments, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 8.7 Amendments

• • •

.6 Amendment Procedures

• • •

B. Administrative Review

The Director shall transmit all zoning or land use classification amendment petitions to all appropriate City agencies for review and comment, including the Executive Director of the Downtown Community Redevelopment Agency for all applications therein, and shall review the application for compliance with the requirements of this Ordinance. Upon receipt of all comments, the Director shall refer a copy thereof to the Planning & Zoning Commission/LocalPlanning Agency and the City Manager.

C. Review and Recommendation by the Planning & Zoning Commission

1. Notice and Hearing

The Commission shall hold at least one public hearing on the proposed amendment, within a reasonable period of time, after receipt of the application and recommendations from the Department of Community Development Director, and from the Downtown Community Redevelopment Agency, if appropriate ~~from the Director~~. Notice of the hearing shall be provided in accordance with the requirements of Article VIII, Sec. 8.3, Public Hearings.

2. Recommendation

Within a reasonable period of time after the close of the public hearing, the Commission shall review the petition and all evidence presented, and forward a recommendation to the City Council for official action.

• • •

SECTION 23. Article VIII, Administration, Section 8.8, Special Exceptions, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

Section 8.8 Special Exceptions

• • •

.6 Procedures

To request approval of a Special Exception, the following procedures shall be followed:

a. Generally

In applying for a Special Exception use, the applicant shall follow the same procedures as required by the Board of Zoning Adjustment & Appeals.

b. Administrative Review

The Director shall transmit all applications to all appropriate City agencies for review and comment, including the Executive Director of the Downtown Community Redevelopment Agency for all applications therein, and shall review the application himself for compliance with the requirements of this Ordinance. Upon receipt of all comments, the Director shall refer a copy thereof to the Board of Zoning Adjustment and Appeals and the City Manager.

c. Review and Action by the Board of Zoning Adjustment and Appeals

1. Upon receipt of the application and recommendations from the Department of Community Development Director, and from the Downtown Community Redevelopment Agency, if appropriate, the Board of Zoning Adjustment and Appeals shall hold a public hearing. Notice of the hearing shall be provided in accordance with the requirements of Article VIII, Sec. 8.3, Public Hearings.

2. Action

Within a reasonable period of time after the close of the public hearing, the Board of Zoning Adjustment and Appeals shall approve, approve with conditions, or disapprove the application, stating in writing, any reasons for denial or conditions.

• • •

SECTION 24. Article XI, Definitions, of the City of Cape Coral Land Use and Development Regulations, is hereby amended as follows:

• • •

Arcade: A series of piers topped by arches that support a permanent roof ~~over a sidewalk~~.

• • •

Balcony: An open portion of an upper floor that extends beyond a building's exterior wall and is not supported from below by vertical columns or piers.

• • •

Building Frontage: The width of a building façade that faces a street. For purposes of this definition, a building's façade that faces a plaza or a courtyard that is located between the façade and the street shall be considered a building frontage; a façade that faces a public park that is located between the façade and the street shall not be considered a building frontage. For purposes of this definition, walls that are not building walls shall not be considered part of the building frontage.

• • •

Build-to Zone: A build-to zone is a range of allowable distances from a street right-of-way in which a building shall be built in order to create a generally uniform line of buildings along a street.

• • •

Civic Building: A building that is allowed greater design flexibility due the prominence of its public functions and often its location. Civic buildings include government buildings, churches, synagogues, libraries, schools, auditoriums and public recreation facilities. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings, regardless of use.

• • •

Colonnade: A series of columns that are set at regular intervals and that support the base of an overhead structure.

• • •

Cornice: A decorative horizontal feature that projects outward near the top of an exterior wall.

Courtyard: A roofed or unroofed private open space surrounded by building walls on at least three (3) walls.

Cupola: An ornamental structure placed above a larger roof.

• • •

Downtown Community Redevelopment Plan: The community redevelopment plan adopted by City of Cape Coral Ordinance 11-03, including any future amendments or modifications adopted by City Council.

• • •

Duplex: See Dwelling Unit, Types.

Dwelling Unit: A room or rooms connected together, which could constitute a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure. Dwelling units must contain at a minimum one (1) sleeping room, one (1) bathroom, and one (1) kitchen, but shall not contain more than one kitchen. The term "Dwelling Unit" shall not include rooms in hotels, motels or institutional facilities.

Dwelling Unit, Types:

1. Single-Family Residence: A single, freestanding, conventional building designed for one (1) dwelling unit and which could be used for occupancy by one (1) family only.

2. Duplex: A single, freestanding, conventional building on a single lot designed for two (2) dwelling units under single ownership, or wherein each dwelling unit is separately owned or leased but the site is held under common ownership.

3. Multiple Family (multi-family): A group of three (3) or more dwelling units within a single conventional building, attached side by side, or one above another, or both, and wherein each dwelling unit may be individually owned or leased but the land on which the building is located is under common or single ownership. In addition, any dwelling unit or dwelling units, regardless of number, located in a lawfully existing compound use building shall be deemed to be multiple family dwelling unit(s).

4. Mobile Home: A building designed as a single-family dwelling unit, manufactured off-site in conformance with the Federal Mobile Home Construction and Safety Standards (24 CFR 3280, et seq), subsequently transported to a site complete or in sections where it is emplaced and tied down in accordance with Chapter 15C-1, FAC with the distinct possibility of being relocated at a later date.

5. Conjoined Residential Structure: See "Conjoined Residential Structure".

• • •

Expression Line: A decorative horizontal feature that projects outward from an exterior wall to delineate the top of the first story of a multi-story building.

Façade: The exterior walls of a building that face a right-of-way, (other than an alley) or which face a plaza, a public park, or a courtyard, which is open to a public sidewalk. For purposes of this definition, a plaza, public park, or courtyard that is separated from a public sidewalk by only a fence wall or landscaping less than 6 feet in height shall be deemed to abut a public sidewalk regardless of whether such plaza, public park, or courtyard is accessible from such sidewalk.

• • •

Liner Building: A building or portion of a building constructed in front of a parking garage, cinema, supermarket etc., to conceal large expanses of blank wall area and to face the street space with a façade that has doors and windows opening onto the sidewalk.

• • •

Multiple Family (Multi-family): See Dwelling Unit, Types.

• • •

Parking Structure: A building or structure that allows the parking of motor vehicles on two (2) or more levels, whether the structure is provided only for vehicles of occupants of the principal use or the structure is available for the use of the general public.

• • •

Plaza: An unroofed, open space that is open to a public sidewalk on at least one (1) side.

Porch: An elevated, roofed, and un-walled platform on the facade of a building.

• • •

Single-Family Residence: See Dwelling Unit, Types.

• • •

Stoop: A small, un-walled, elevated entrance platform which includes a means of access, generally being stairs or a ramp, and which usually leads to the main entrance door of a building.

• • •

Story: That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above. Stories used exclusively for parking vehicles count the same as habitable stories. Where upper floors are partially omitted to create an atrium or other taller space, the number of stories shall be determined by the portion of the building where the upper floors have not been omitted. Space within a roofline that is entirely non-habitable shall not be considered to be a story.

• • •

Street: A public traffic-carrying way set aside for vehicular traffic, regardless of size or designation, but excluding roads.

(a) Freeways and Interstates: Arterial streets designed primarily for major through traffic with full control of access and grade separations at all intersections.

(b) Arterial Streets: A street designed or utilized primarily for high vehicular speeds or for heavy traffic volumes.

(c) Major Collector Streets: A street which carries, or will carry, medium traffic volumes primarily from minor collector streets to arterial streets.

(d) Minor Collector Streets: A street which carries, or will carry, medium traffic volumes primarily from minor streets to major collector streets.

(e) Minor Streets: A street which is used or will be used primarily for access to abutting properties and which carries, or will carry, limited traffic volumes.

(f) Marginal Access Streets: A minor street which is parallel to and adjacent to arterial streets and which serves to reduce the number of access points to the arterial streets and thereby increase traffic safety.

(g) Alley: A street used primarily for vehicular service access to the back or side of properties which otherwise abut on a street. However, in the Downtown zoning districts, when these regulations refer to "visible from a public street," "facing a street," or similar language, the term street shall not be deemed to include alleys.

• • •

SECTION 25. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance, which shall remain in full force and effect.

SECTION 26. Effective Date. This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED AT A REGULAR COUNCIL MEETING THIS 14th DAY OF November, 2005.

ERIC P. FEICHTHALER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS 14th DAY OF November, 2005.

BONNIE J. VENT, CITY CLERK

APPROVED AS TO FORM:

DOLORES D. MENENDEZ
CITY ATTORNEY
ord\CRADistricts