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MEMORANDUM

TO: Chet Hunt, Executive Director, Cape Coral CRA
FROM: Bill Spikowski
DATE: September 27, 2002
SUBJECT: Cape Coral Downtown Code Revisions, Second Draft

Attached is the second draft of our proposed revisions to Cape Coral's land development regulations to implement the DesignDowntown Master Plan (Dover, Kohl & Partners, February 2002). This draft has benefited from many helpful comments and suggestions that have been made thus far; we welcome all further comments as well.

The first page of this package is a revised map showing our latest proposal as to how the three new Downtown zoning districts should be applied to land in the current CRA boundaries and in the proposed expansion. We anticipate that the actual rezoning of land into these new districts can occur simultaneously with (or immediately after) the adoption of the detailed revisions to Cape Coral's land development regulations, but even if that action is slightly delayed, it is not too early to consider the details of this map now.

The remainder of this package is an extensive revision to our first draft of the code revisions.

Those reviewing this draft should note the following:

- All text that is not underlined is already in the current land development regulations. Such text is shown in this draft only where needed to provide context for proposed changes in those same sections.
- Article XI contains all the definitions for these regulations. We are proposing to add a number of definitions, as shown on pages 51 and 52. Note, for instance, that when the term "the Director" is used in this code, it always means the Director of the Cape Coral Department of Community Development or his/her designee. Also note that when this code uses a phrase like "when visible from a public street," the term "street" does not apply to alleys (see page 52).

- When this draft contains ALTERNATE language (see pages 36 and 43), we are seeking advice from the CRA board as to which alternate should be included as the preferred option in the code proposal that will be scheduled for public hearings.
- Although the full PDP process with its public hearings would no longer be mandatory for any development in the CRA, new language on page 30 would keep that process available for landowners who wish to seek approval to build using different standards than are contained in this code (for instance, a taller or shorter building than allowed “by right” in a zoning district, or a physical design that does not meet all of the architectural standards). Variances can also be sought to any of these standards when the proper hardship criteria are met. The approach here is that landowners who comply in full with these regulations should be provided the most streamlined permitting process possible, without taking away the opportunity for other landowners to seek permission to modify these regulations for a specific property.

Please direct any questions or comments to me or to Amy Groves, Margaret Marshall, or Victor Dover of Dover, Kohl & Partners.

Attachments: Proposed downtown zoning map
Second draft of Downtown Code Revisions, dated September 27, 2002

cc: Dolores Menendez, City Attorney
Bill Nolan, Rick Sosnowski, Persides Zambrano, Dept. of Community Development

This document is available on-line at <http://www.spikowski.com/capecoralcodeSECONDDRAFT.pdf>

Article I – General Provisions *[no changes proposed]*

Article II – District Regulations

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:

- .1 Residential Districts** *[no changes proposed]*
- .2 Commercial Districts** *[no changes proposed]*
- .3 Professional Office District** *[no changes proposed]*
- .4 Industrial Districts** *[no changes proposed]*
- .5 Agricultural District** *[no changes proposed]*
- .6 Places of Worship District** *[no changes proposed]*
- .7 Downtown Districts**

Downtown Core District. This district promotes redevelopment of the historic 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.

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

Downtown General 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 2.2 Official Zoning District Map *[no changes proposed]*

Section 2.3 Interpretation of Zoning District Boundaries *[no changes proposed]*

Section 2.4 Application of District Regulations; Classification of Uses *[no changes proposed]*

Section 2.5 Schedule of Land Use Classifications *[no changes proposed]*

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.

.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. See also Section 2.6.5 regarding the Downtown Community Redevelopment Area.

.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.

.5 Nonconformities in the Downtown Community Redevelopment Area

- a. To implement the DesignDowntown Master Plan (Dover, Kohl & Partners, 2002), the City of Cape Coral created the Downtown Core, Downtown Gateway, and Downtown General zoning districts and made other modifications to these land development regulations. Any structure, use, or site in one of the three Downtown zoning districts which lawfully existed prior to *[insert effective date of these amendments here]* and does not conform with the new provisions of these land development regulations shall be deemed to be nonconforming 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. For purposes of computing 50% of fair market value, the formulas provided in Section 6.5.B.7.v shall be used.

Section 2.7 District Regulations

- .1 Single-Family Residential Districts (R-1A and R-1B) *[no changes proposed]***
- .2 R-3 Multi-Family Residential District *[no changes proposed]***
- .3 RD Residential Development District *[no changes proposed]***
- .4 RE Residential Estate District *[no changes proposed]***
- .5 RX Residential Receiving District *[no changes proposed]***
- .6 W-Places of Worship *[no changes proposed]***
- .7 C-1 Pedestrian Commercial District *[no changes proposed]***
- .8 C-3 Thoroughfare Commercial District *[no changes proposed]***
- .9 P-1 Professional Office District *[no changes proposed]***
- .10 I-1 Industrial Districts *[no changes proposed]***
- .11 Agricultural District *[no changes proposed]***

.12 Downtown Core District

A. Purpose and Intent

This district promotes redevelopment of the historic 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.

B. Permitted Uses

1. Animal Kennel
2. Assisted Living
3. Automatic Teller Machine (ATM)
4. Automotive Parking Establishment (parking structures must comply with Section 5.1.8.C).
5. Automotive Parts Store
6. Banks & Financial Establishments-Groups I and II
7. Bar or Cocktail Lounge
8. Bed and Breakfast Establishment
9. Boarding or Rooming House
10. Boat Parts Store
11. Business Offices-Groups I and II
12. Carryout/Delivery Food Service Establishment
13. Child Care Facility
14. Cleaning/Maintenance Services
15. Clothing Store-General
16. Clubs: Fraternal and Membership Organizations
17. Contractors and Builders-Group I
18. Cultural Facilities-Public/Private
19. Day Care Center, Adult
20. Department Store
21. Drug Store
22. Dwelling Unit, Duplex
23. Dwelling Unit, Live/Work
24. Dwelling Unit, Multiple Family Building
25. Essential Services
26. Family Day Care Home
27. Florist Shop
28. Foodcart
29. Food Stores-Groups I and II
30. Government Uses-Groups I and II
31. Hardware Store
32. Health Care Facilities-Groups I, II, III and IV
33. Hobby, Toy, Game Shops
34. Home Occupations
35. Hospice
36. Hotel/Motel and Resort
37. Household/Office Furnishings-Groups I and II
38. Insurance Company
39. Lodging House
40. Medical Office
41. Mortgage Broker
42. Mortuary, Funeral Home, Crematory
43. Motion Picture Theatre

44. Newsstand
45. Nightclub
46. Non-Store Retailers-Groups I, II and IV
47. Package Store
48. Parks-Groups I, II
49. Personal Services-Groups I, II, III and IV
50. Pet Services
51. Pet Shop
52. Pharmacy
53. Photo Finishing Labs
54. Places of Worship
55. Printing Services Establishment
56. Private Park
57. Radio and Television Stations (studios only; communications towers and any antennas over 50 feet tall are not permitted)
58. Recreation/Commercial-Groups I and III
59. Religious Facility
60. Rental Establishments-Groups I and II
61. Repair Shops-Groups I and II
62. Research, Development and Testing Labs-Groups II, III and V
63. Restaurants-Groups I, II, III and IV (fast-food restaurants require a Special Exception in Downtown Core)
64. Schools-Commercial
65. Schools-Nonprofit, Private, Parochial and Public-Group II
66. Social Services-Group I, II and IV
67. Specialty Retail Shops-Groups I, II, III and IV
68. Studio
69. Transportation Services-Group I, II and III
70. Used Merchandise Stores-Groups I, II and V
71. Variety Store
72. Veterinary/Animal Clinics

C. Special Exceptions

1. Drive-Thru Facility (whether freestanding or serving another permitted use; access must be from an alley or similar location that doesn't interfere with pedestrian flow)
2. Electric Transmission Corridor
3. Essential Service Facilities-Group I and II
4. Landscaping Services Establishment
5. Large Footprint Buildings (for any permitted uses), see Section 2.7.15.A.4
6. Repair Shops-Group III
7. Restaurant-Fast Food
8. Storage, Indoor (all doors to storage units must be accessed from indoors)

D. Downtown Core Special Regulations The following are special regulations for the Downtown Core district; refer also to section 2.7.15 for general regulations for all three Downtown zoning districts.

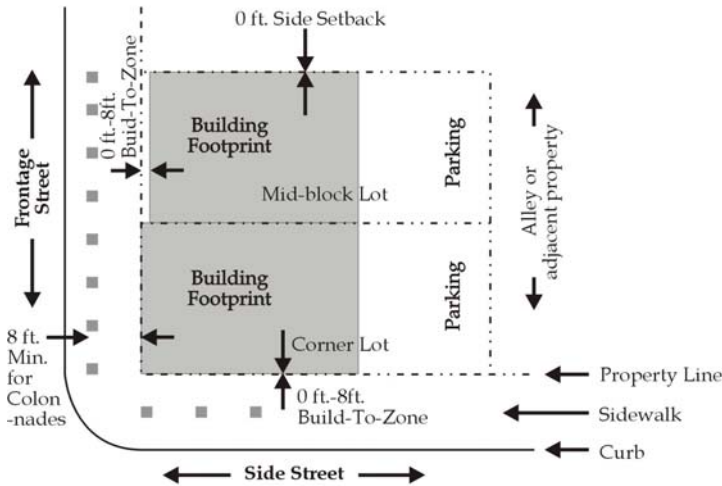


Figure 2-1

BUILDING PLACEMENT (see Figure 2-1)

<u>Build-to zone / Build-to line</u>	The build-to zone shall be 0 feet to 8 feet from front property line and side property lines that face a street, <i>with the exception</i> that all building frontages along Cape Coral Parkway shall observe a build-to line of 0 feet. Up to 35% of the building frontage may be set back up to a maximum of 15 additional feet beyond this build-to-zone/ build-to-line if this space is constructed as a plaza or courtyard for outdoor dining along the sidewalk.
<u>Side setbacks</u>	No side setbacks are required along interior side property lines.
<u>Rear setback</u>	6 feet minimum
<u>Building frontage</u>	Facade must be at least 75% of the lot’s width (measured at the front lot line)
<u>Parking location</u>	Rear of building only, and no closer than 50 feet to any front property line. Parking structures shall be concealed. See Section.5.1.8.C.
<u>Parking requirements</u>	No off-street parking spaces are required (see Section 5.1.8.B).

BUILDING HEIGHT

<u>Maximum</u>	6 stories
<u>Minimum</u>	3 stories

ARCHITECTURAL ELEMENTS

All new and substantially improved commercial and mixed-use buildings shall include one of the following architectural elements to provide shade and shelter to pedestrians: awnings, canopies, second-floor balconies, colonnades, or arcades. Refer to section 2.7.15.B, “Building Elements,” for descriptions and dimensional requirements of these architectural elements.

.13 Downtown Gateway District

- A. Purpose and Intent** This district promotes redevelopment of the easterly and westerly entrances 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** Permitted uses in the Downtown Gateway zoning district are the same as in the Downtown Core zoning district (see Section 2.7.12.B).
- C. Special Exception Uses** Special Exception uses in the Downtown Gateway zoning district are the same as in the Downtown Core zoning district (see Section 2.7.12.C).
- D. Special Regulations** The following are special regulations for the Downtown Gateway district; refer also to section 2.7.15 for general regulations for all three Downtown zoning districts.

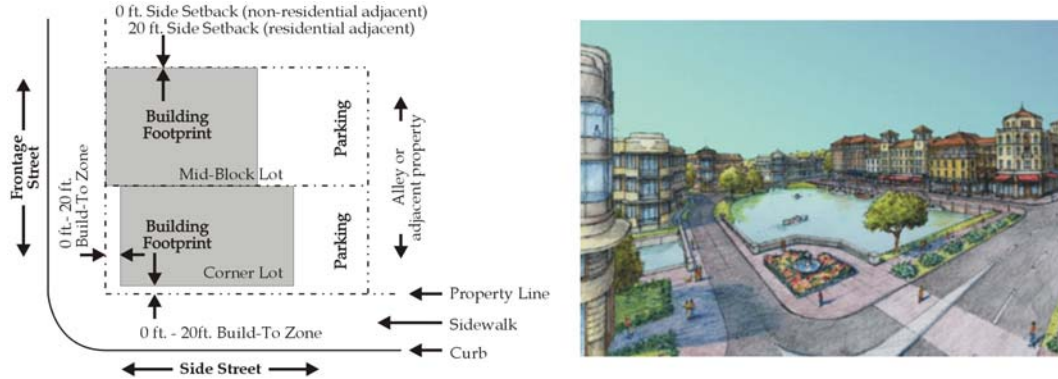


Figure 2-2

BUILDING PLACEMENT (see Figure 2-2)

<u>Build-to zone</u>	The build-to zone shall be 0 feet to 20 feet from front property line and side property lines that face a street.
<u>Side setbacks</u>	No side setbacks are required adjacent to non-residential neighbors; 20 feet is required adjacent to residential neighbors.
<u>Rear setback</u>	20 feet minimum
<u>Building frontage</u>	Facade must be at least 50% of the lot’s width (measured at the front lot line)
<u>Parking location</u>	Rear or side of building only, and no closer than 30 feet to any front property line or to any water body. Parking structures shall be concealed. See Section 5.1.8.C.
<u>Parking requirements</u>	The required minimum number of off-street parking spaces is 25% fewer than shown for each use classification in the Table of Parking standards (see Section 5.1.8.B). Additional reductions may be granted pursuant to Section 5.1.2.

BUILDING HEIGHT

<u>Maximum</u>	6 stories. Buildings between 7 and 10 stories may be permitted through the PDP process (see Section 4.1.2.A.4) only upon clear demonstration that the extra height will protect important view corridors or otherwise accomplish the aims of the DesignDowntown Master Plan (Dover, Kohl & Partners, 2002).
<u>Minimum</u>	2 stories

ARCHITECTURAL ELEMENTS

Cupolas and small-footprint towers are encouraged; refer to section 2.7.15.B, “Building Elements.”

.14 Downtown General District

A. Purpose and Intent

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.

B. Permitted Uses The following uses are permitted in the Downtown General zoning district, in addition to all permitted uses listed for the Downtown Core zoning district in Section 2.7.12.B:

1. Contractors and Builders-Group II
2. Flea Market-Indoor
3. Lawn and Garden Supply
4. Recreation/Commercial-Group III
5. Restaurant-Fast Food

C. Special Exceptions The following uses may be approved by Special Exception in the Downtown General zoning district, in addition to all Special Exception uses listed for the Downtown Core zoning district in Section 2.7.12.C:

1. Automotive Repair and/or Service
2. Automotive Service Station, Full or Limited Service
3. Business Offices-Group III
4. Helistop
5. Marina
6. Mini-Warehouse [*consider maximum size here?*]
7. Rental Establishments-Group III
8. Self-Service Fuel Pumps
9. Self-Service Fuel Pump Station
10. Storage, Enclosed

D. Downtown General Special Regulations The following are special regulations for the Downtown General district; refer also to section 2.7.15 for general regulations for all three Downtown zoning districts.



Figure 2-3

BUILDING PLACEMENT (see Figure 2-3)

<u>Build-to zone</u>	<u>The build-to zone shall be 0 feet to 15 feet from front property line and side property lines that face a street.</u>
<u>Side setbacks</u>	<u>No side setbacks are required along interior side property lines.</u>
<u>Rear setback</u>	<u>6 feet minimum</u>
<u>Building frontage</u>	<u>Facade must be at least 50% of the lot’s width (measured at the front lot line)</u>
<u>Parking location</u>	<u>Rear of building only on Cape Coral and Coronado Parkways (also permitted on side of building along all other streets), and no closer than 30 feet to any front property line. Parking structures shall be concealed. See Section.5.1.8.C.</u>
<u>Parking requirements</u>	<u>The required minimum number of off-street parking spaces is 50% fewer than shown for each use classification in the Table of Parking standards (see Section 5.1.8.B). Additional reductions may be granted pursuant to Section 5.1.2.</u>

BUILDING HEIGHT

<u>Maximum</u>	<u>4 stories</u>
<u>Minimum</u>	<u>2 stories</u>

ARCHITECTURAL ELEMENTS

Commercial or mixed-use buildings are encouraged to provide shade and shelter to pedestrians by using one or more of the following architectural elements: awnings, canopies, second-floor balconies, colonnades, arcades, or stoops. Refer to section 2.7.15.B, “Building Elements,” for dimensional requirements.

2.7.15 General Regulations for All Downtown Zoning Districts

A. General Provisions The following general provisions apply to all three Downtown zoning districts:

1. Civic Sites Civic buildings contain uses of special public importance. Civic buildings include, but are not limited to, municipal buildings, churches, libraries, schools, daycare centers, recreation facilities, and places of assembly. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings. In order to provide greater flexibility to create a special architectural statement, the Director may waive build-to-line requirements and building frontage requirements for civic buildings.

2. Drive-through facilities Drive-through service windows, where permitted by special exception, shall be sited in the rear, with access from an alley or similar location that does not substantially interfere with pedestrian flow or surrounding uses (see example in Figure 2-4).

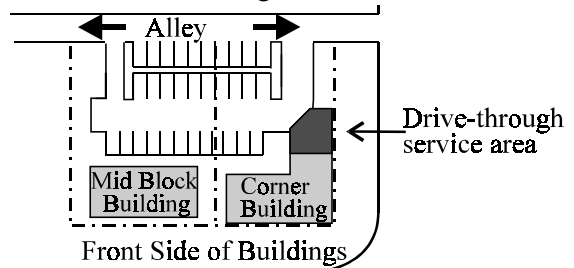


Figure 2-4

3. Exceptions From Build-To Lines

a. On corner lots, visibility triangles must be maintained in accordance with Section 3.7.

b. Exceptions from build-to lines may also be granted by the Director for avoiding trees with calipers greater than 8 inches.

4. Large Footprint Buildings Buildings with a footprint greater than 25,000 square feet and/or with a building frontage of greater than 150 feet may be built within the three Downtown zoning districts by special exception only. Such buildings must abide by all rules in this code with the following special requirements:

a. To encourage use by pedestrians and decrease the need for solely auto-oriented patronage, large-footprint buildings must reinforce the urban character of the downtown and shall therefore continue a connected system of walkable street frontages. The Executive Director of the Downtown Community Redevelopment Agency shall evaluate special exception applications as to site and architectural design and shall provide written comments prior to public hearings.

b. Buildings may be one story in height except within the Downtown Core District, but must be at least 24 feet in height. This may be accomplished with liner buildings (see Figure 2-5 and Section 5.1.8.C) or higher ceiling heights and/or parapets.

c. Building footprints may not be larger than a single block.

d. Building facades visible from public streets cannot have blank facades or be separated from public streets by parking lots (see unacceptable example in Figure 2-6).

d. Loading docks, service areas, and trash disposal facilities shall not be visible from public streets, sidewalks, parks, or squares, but may be visible from alleys.



Liner buildings

Figure 2-5, large-footprint buildings wrapped in a liner of smaller buildings with doors & windows facing the street



Not acceptable

Figure 2-6, large-footprint buildings cannot have blank facades or be separated from public streets by parking lots

B. Building Elements

1. AWNINGS & CANOPIES:

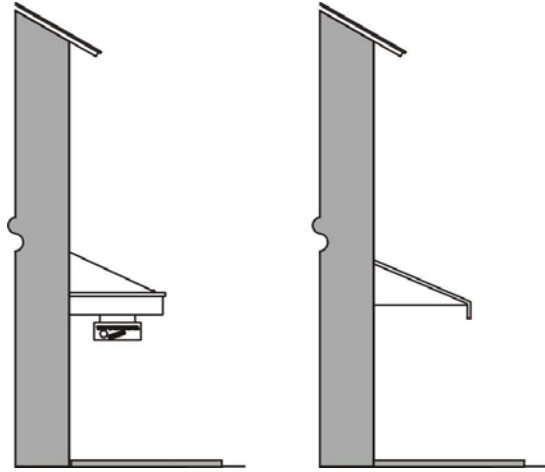


Figure 2-7

- a. Awning or canopies extending from the first story and facing the street must conform to the following dimensions:
- Depth = 5 feet (minimum) and strongly overlapping the sidewalk, but no closer than 2 feet to an existing curb
 - Height = 8 feet minimum clear, including suspended signs
 - Length/width = minimum of 75% of the building's facade
- b. The above requirements apply to first-floor awnings and canopies; there are no minimum requirements for awnings above the first floor.
- c. Awnings and canopies may occur forward of the build-to line and may encroach within the right-of-way, but shall not interfere with any street trees planted by the City of Cape Coral.
- d. Awnings shall be made of fabric. High-gloss or plasticized fabrics are prohibited. Canopies may be constructed of cast, stainless, painted, or enameled metals, wood, or glass, and may incorporate signs.
- e. Figure 2-7 indicates typical cross-sections of awnings and canopies and Figure 2-8 illustrates the proper use of awnings and canopies.



Photograph by Bernard Conzelmann



Figure 2-8

2. BALCONIES:

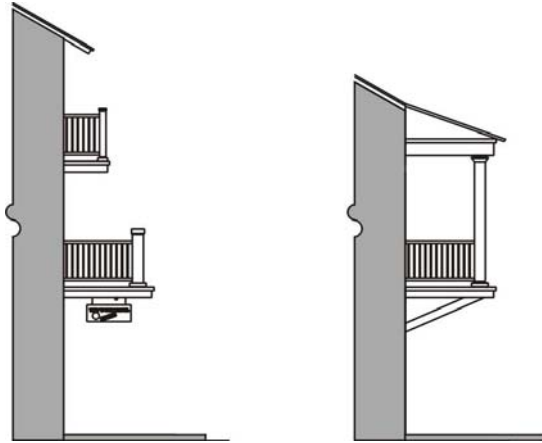


Figure 2-9

- a. Balconies facing the street must conform to the following dimensions:
 - i. Depth = 6 feet minimum for 2nd floor balconies, and no closer than 2 feet to an existing curb
 - ii. Height = 10 feet minimum clear
 - iii. Length/width = minimum of 75% of the building's facade

- b. Balconies shall occur forward of the build-to line and may encroach within the right-of-way, but shall not extend into the planting zone.

- c. Balconies may have roofs, but are required to be open, un-air conditioned parts of the buildings.

- d. On corners, balconies may wrap around the side of the building facing the side street.

- e. Figure 2-9 indicates typical proportions of balconies and Figure 2-10 illustrates the proper use of balconies.



Figure 2-10

3. COLONNADES / ARCADES:

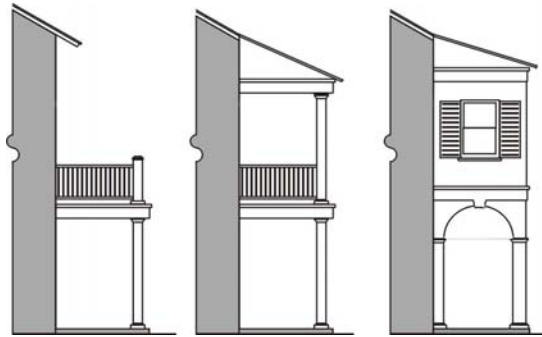


Figure 2-11

- a. Colonnades and arcades facing the street must conform to the following dimensions:
 - i. Depth = 8 feet minimum from the building face to the inside column face; 18 to 30 inches from outside column face to curb
 - ii. Height = 10 feet minimum clear
 - iii. Length/width = minimum of 75% of the building's facade
- b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above the colonnade or arcade.
- c. Colonnades or arcades shall only be constructed where the minimum depth can be obtained. Colonnades and arcades shall occur forward of the build-to line and may encroach within the right-of-way, but shall not extend past the curb line. Prior to construction, the applicant shall execute a lease and/or hold harmless agreement in forms acceptable to the City Attorney.
- d. On corners, colonnades and arcades may wrap around the side of the building facing the side street.
- e. Figure 2-11 indicates typical proportions of colonnades and arcades and Figure 2-12 illustrates the proper use of colonnades and arcades.

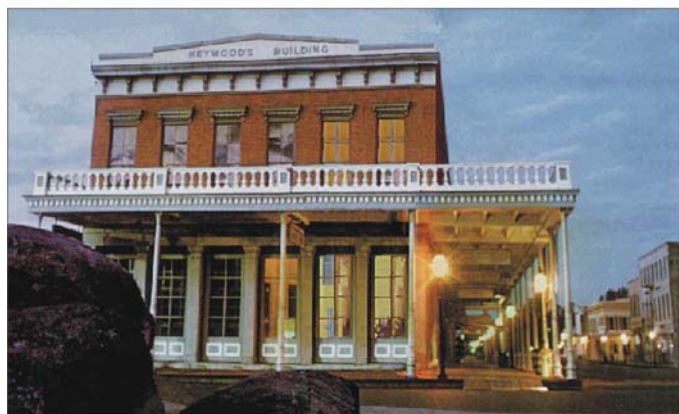


Figure 2-12

4. FRONT PORCHES:

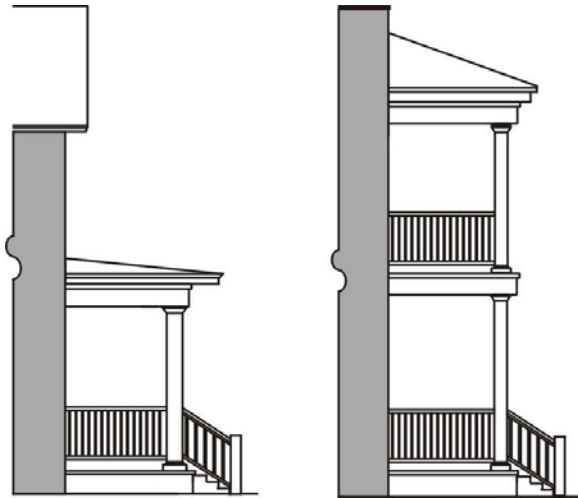


Figure 2-13

- a. Front porches facing the street must conform to the following dimensions:
- i. Depth = 8 feet minimum
 - ii. Length/width = minimum of 75% of the building's facade

- b. Front porches may have multi-story verandas and/or balconies above.

- c. Front porches shall occur forward of the build-to line. Porches shall not extend into the right-of-way.

- d. Front porches are required to be open, un-air conditioned parts of the buildings. More than 25% of the floor area of a porch shall not be screened if the porch extends forward of the build-to line.

- e. Figure 2-13 indicates typical proportions of front porches and Figure 2-14 illustrates the proper use of front porches.



Figure 2-14

5. STOOPS:

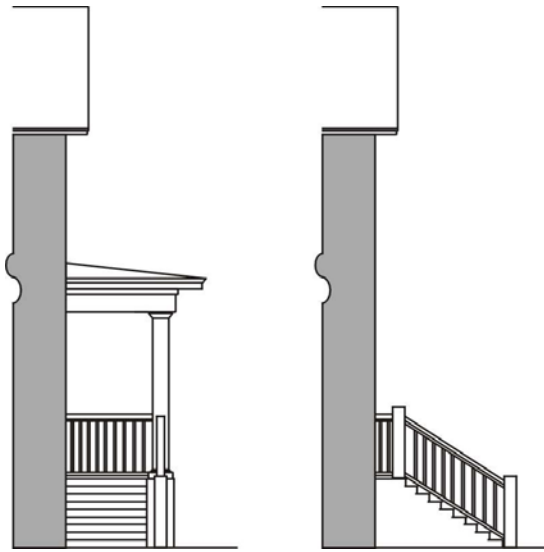


Figure 2-15

- a. Stoops facing the street must conform to the following dimensions:
i. Height = 3 feet 6 inches minimum from sidewalk level to top of stairs

- b. Stoops are permitted and may occur forward of the build-to line, provided that at least 5 feet of clear sidewalk width remains. Stoop stairs may run to the front or to the side. Stoops may be covered or uncovered.



- c. Figure 2-15 indicates typical proportions of stoops and Figure 2-16 illustrates the proper use of stoops.



Figure 2-16

6. CUPOLAS

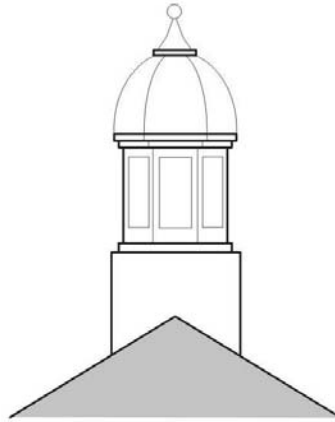


Figure 2-17

- a. Cupolas must conform to the following dimensions:
 - i. Plan area = 20 feet x 20 feet maximum
 - ii. Height = unlimited
- b. Cupolas are encouraged in the Downtown Gateway District.
- c. Figure 2-17 indicates typical proportions of a cupola and Figure 2-18 illustrates the proper use of cupolas.



Figure 2-18

C. Architectural Standards

1. **Purpose and Intent:** The lists of permitted materials and configurations come from study of traditional buildings found in Southwest Florida and have been selected for their appropriateness to the climate and physical setting. Authenticity is a primary goal of these standards, which encourage construction which is straightforward and functional and which draws its ornament and variety from the traditional assembly of genuine durable materials.

2. **General Requirements:**

a. The following shall be located only in rear yards or otherwise not visible from public streets:

- i. Air conditioning compressors
- ii. Antennas.
- iii. Electrical and other utility meters,
- iv. Irrigation and pool pumps,
- v. Permanent barbecues,
- vi. Satellite dish antennas,
- vii. Utility boxes and machinery including but not limited to backflow devices, and
- viii. Window and wall air conditioners.

b. The following products and materials are prohibited:

- i. Undersized shutters (the shutter or shutters must be sized so as to equal the length and width that would be required to cover the window opening),
- ii. Shutters made of plastic (inoperable shutters are strongly discouraged),
- iii. Reflective and heavily-tinted glass facing an existing or future sidewalk (the level of tint must comply with Section 2.7.15.C.5 below),
- iv. Plastic or PVC roof tiles,
- v. Backlit or glossy-finish awnings, and
- vi. Fences made of chain link, barbed wire, or plain wire mesh (coated chain link concealed by hedges or other landscaping may be permitted by the Director in less-visible locations). See other fence requirements in Section 2.7.15.C.8 below.

3. **Building Walls** The following is required for all buildings:

a. **Expression lines and cornices:**

- i. An expression line shall delineate the division between the first story and the second story, and a cornice shall delineate the tops of the facades. Figure 2-19 provides an illustration of an expression line and a cornice, and Figure 2-20 shows desirable and undesirable extensions of expression lines and cornices.
- ii. Expression lines and cornices shall either be moldings extending a minimum of 2 inches, or jogs in the surface plane of the building wall greater than 2 inches.

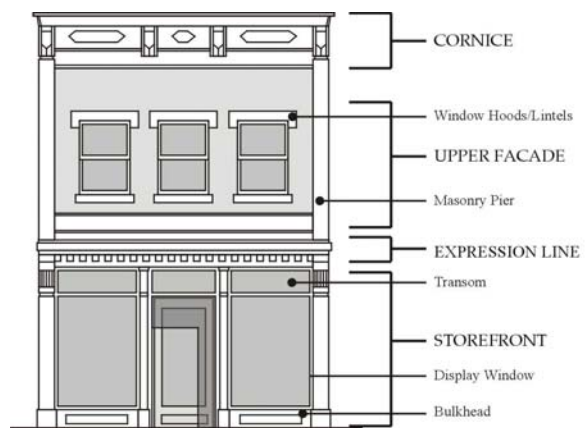


Figure 2-19

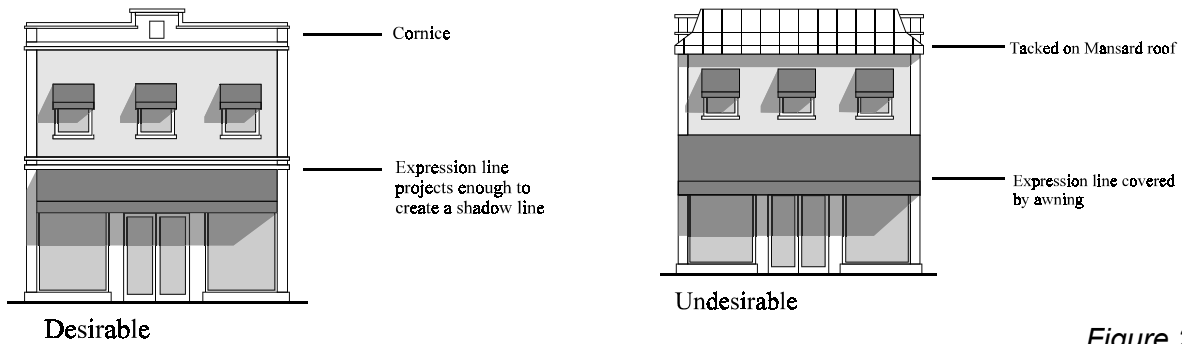


Figure 2-20

b. Permitted Finish Materials for Walls:

- i. Concrete block with stucco finish (CBS)
- ii. Reinforced concrete (with stucco finish)
- iii. Stone or brick, including cast (simulated) stone or brick
- iv. Wood (pressure-treated or termite-resistant), painted
- v. Fiber-reinforced cement panels or boards
- vi. Synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards or composite materials), provided that it is out of the reach of pedestrians and visually appears to have a hand-troweled finish.

4. Columns, Arches & Piers, Railings, and Balustrades:

a. **General Requirement:** Columns and piers shall be spaced no farther apart than they are tall.

b. Permitted Finish Materials:

- i. Columns:
 - (i) Wood (termite resistant), painted or stained
 - (ii) Wrought iron,
 - (iii) Concrete with stucco finish, and
 - (iv) Stone or brick, including cast (simulated) stone or brick.
- ii. Arches & Piers:
 - (i) Concrete masonry units with stucco finish (CBS),
 - (ii) Reinforced concrete with stucco finish, and
 - (iii) Stone or brick, including cast (simulated) stone or brick.
- iii. Railings & Balustrades:
 - (i) Wood (termite resistant), painted or stained,
 - (ii) Wrought iron, and
 - (iii) Stone, including cast (simulated) stone.

c. Permitted Configurations:

- i. Columns:
 - (i) Square, 6" minimum, with or without capitals and bases
 - (ii) Round, 6" minimum outer diameter, with or without capitals and bases (classical orders)
- ii. Arches: Semi-circular & Segmental
- iii. Piers for arches: 8" minimum dimension
- iv. Porch railings: 2-3/4" minimum diameter
- v. Porch balustrades: 4" minimum spacing, 6" maximum spacing.

5. Transparency of Facades:

- a. Each floor of any building facade facing a park, square, or street shall contain transparent windows covering from 15% to 70% of the wall area.
- b. Retail storefront areas only:
 - i. In order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces, the ground-floor along the building frontage shall have storefront windows covering no less than 75% of the wall area. Glass in storefront windows and doors, whether integrally tinted or with applied film, must transmit at least 50% of visible daylight.
 - ii. Storefronts shall remain unshuttered at night and shall provide clear views of interior spaces and are encouraged to remain lit from within until 10:00 PM to provide security to pedestrians.
 - iii. Doors or entrances for public access shall be provided at intervals no greater than 50 feet, unless specifically approved by the Director.

6. Paint Colors Paint colors are regulated in the three Downtown zoning districts to encourage a range of colors for visual variety, to encourage light colors for energy savings, and to favor colors appropriate for a tropical environment.

- a. A color palette list shall be maintained in the Department of Community Development to identify exterior paint/ finish colors that are pre-approved for buildings in all three downtown zoning districts.
- b. Departmental staff shall maintain a color chip chart or display illustrating the range of pre-approved colors.
 - i. Sherwin-Williams standard paint numbers are used on the Color Palette list for reference, but any manufacturer's paint is acceptable if similar in color.
 - ii. Minor variations may be permissible with approval by the Director.
- c. The following specific requirements also apply:
 - i. Landowners may choose up to four colors for a single building (one or two body colors, one or two trim colors, and one accent color; these may be the same or different).
 - ii. Body colors are intended for building walls, garden walls, and other primary building elements, and shall be used for no less than 70% of the painted surface area of any one floor of the building. Recommended but not required: use of two shades of body color – one above and one below the expression line between the first and second floors.
 - iii. Trim colors are intended for door frames, storefront elements, windows and window frames, railing, shutters, ornament, fences, and similar features. Trim colors shall be used for no more than 30% percent of the painted surface area of the building. Recommended but not required: trim colors usually appear best in a lighter shade than the body color.
 - iv. The accent color is used to highlight special features such as doors, shutters, gates, ornament, or storefront elements. The accent color shall be used for no more than 25% of the painted surface of the building.

7. Roofs & Gutters

a. General Requirements:

- i. Permitted Roof Types (as illustrated in Figure 2-21):
 - (i) Hip, gable, shed, flat, mansard, domed, or barrel vaulted roofs are permitted.
 - (ii) Applied mansard roofs are not permitted.
 - (iii) Roofs without overhangs and with slopes of less than 2 inches vertical per 12 inches horizontal shall have their edges concealed with parapets wherever the edges are visible from streets. Parapet walls must be of sufficient height to visually conceal rooftop mechanical equipment.
- ii. Exposed rafter ends (or tabs) at overhangs are encouraged.
- iii. Downspouts are to match gutters in material and finish.

b. Permitted Finish Materials:

- i. Metal: galvanized, copper, aluminum, or zinc-alum
- ii. Shingles: asphalt or metal (“dimensional” type), slate, or cedar shake
- iii. Tile: clay, terra cotta, or concrete
- iv. Gutters: copper, aluminum, or galvanized steel

c. Permitted Configurations:

- i. Metal: standing seam or “five-vee,” 24" maximum spacing, panel ends exposed at overhang
- ii. Shingles: square, rectangular, fish-scale, or shield
- iii. Tile: barrel, flat, french
- iv. Gutters: rectangular, square, or half-round section

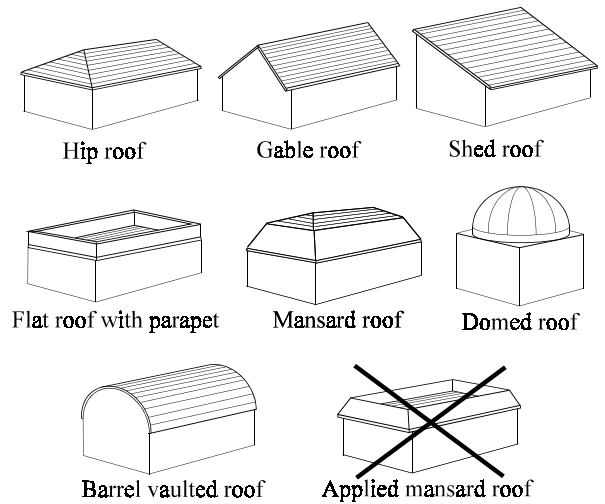


Figure 2-21

8. Garden Walls, Fences & Hedges:

a. General Requirements:

- i. Fences, garden walls, or hedges are strongly encouraged along street frontages without buildings and are required on street frontages for unbuilt portions of corner lots (see illustration in Figure 2-22).
- ii. For all new townhouses and rowhouses, fences, garden walls, or hedges are required along side yards (behind the front plane of the primary structure) and along rear yards.

b. Height:

- i. For required fences in front yards and for side yards in front of the primary structure: maximum height of 42 inches; pillars and posts may extend farther.
- ii. Side yards (behind the front plane of the primary structure), and rear yards: minimum height of 36 inches, no maximum height.

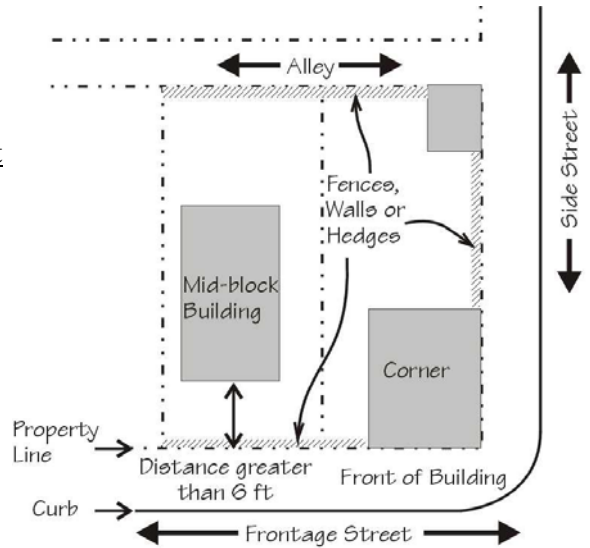


Figure 2-22

c. Permitted Finish Materials:

- i. Wood (termite resistant), painted or stained
- ii. Concrete masonry units with stucco (CBS),
- iii. Reinforced concrete with stucco,
- iv. Wrought iron,
- v. Stone or brick, including cast (simulated) stone or brick, and
- vi. Concrete.

d. Prohibited Finish Materials (see Section 2.7.15.C.2.b).

e. Permitted Configurations:

- i. Wood:
 - (i) Picket fences with corner posts
 - (ii) Rear yard fences may be board on board
- ii. Stone, brick, or stucco: with texture and color to match building walls, and
- iii. Wrought iron: Vertical, 5/8" minimum dimension, 4" to 6" spacing

D. Signage Within the Downtown Zoning Districts

1. **Purpose and Intent** Many businesses in Cape Coral identify themselves to customers with freestanding pole- or ground-mounted signs because their buildings are too far from the street to be easily seen to pedestrians and motorists. However, when new buildings are placed close to the sidewalk and street as required in the three Downtown zoning districts, those suburban-style signs become impractical. The regulations below, and the corresponding regulations in Article VII for signs in the three Downtown zoning districts, provide alternate standards for appropriate signage for urban buildings: signs that are mounted flat against a building's facade, or that project from the facade, or that are mounted above the top of the facade.
2. **General Sign Requirements for New and Substantially Rebuilt Buildings**
 - a. **Signs flat against the facade.**
 - i. Signs placed flat against the facade may be approved under Article VII as wall signs or as professional nameplates.
 - ii. Figure 2-23 illustrates desirable and undesirable placement of signs on facades.
 - iii. Figure 2-24 shows examples of various types of signs mounted flat against facades.
 - b. **Signs projecting from the facade.**
 - i. Signs projecting from the facade may be approved under Article VII as awning signs, as suspended signs, or as marquee signs.
 - ii. Figure 2-25 shows examples of various types of signs mounted projecting from the facade.
 - iii. Projecting signs may extend over a street right-of-way but not within 2 feet of an existing or proposed curb.
 - iv. Suspended signs must maintain vertical clearance of at least 8 feet from the sidewalk.
 - c. **Signs mounted above the top of the facade.**
 - i. Signs mounted above the top of the facade may be approved under Article VII as roof signs.
 - ii. Figure 2-26 shows examples of acceptable signs mounted above the top of the facade. The Director shall determine whether proposed signs are substantially similar in character and scale to these examples.
 - d. **Freestanding signs and fascia signs.** Freestanding monument signs or signs elevated on poles are not permitted for new or substantially rebuilt commercial or mixed-use buildings. Plastic fascia signs as illustrated at the bottom of Figure 2-24 are also not permitted.
3. **Lighting.** Signs for new and substantially rebuilt buildings shall be externally lit, except that individual letters and symbols may be internally lit or backlit.
4. **Finish Materials.**
 - a. Wood: painted, stained, or natural.
 - b. Metal.
 - c. Painted canvas (no glossy-finish or back-lit canvas).
 - d. Neon (non-flashing), or
 - e. Painted/engraved directly on facade surface.



Figure 2-23

Examples of Signs Flat Against the Facade:



This wall sign is centered within the symmetrical arrangement of the window above and shopfront below

Internally lit letters

Internally lit letters

This wall sign runs horizontally along the expression line



Lamps for external lighting

This wall sign is centered above the main entrance at the top of the facade

Lamps for external lighting

The top edge of the facade is sculpted to create a special focal spot for this wall sign



Elegant and reserved cast bronze professional nameplate located at pedestrian eye level

Wall sign painted directly on the facade above the main entrance

External lighting discreetly located above the awning



Internally lit plastic signs are designed for the "strip," not downtown businesses.

(Plastic fascia signs such as this are not permitted on new and substantially rebuilt buildings.)



Figure 2-24

Examples of Signs Mounted Projecting from the Facade:



Discreetly located external lighting

Sign painted on the face of a canvas awning over entry

Neon signs can provide a warm glow, enhancing night time pedestrian activity



Photograph by Bernard Greenstein

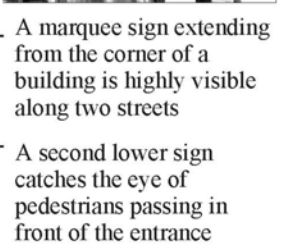


Awning signs are directly in the line of sight of pedestrian customers

Vertical projecting marquee signs are highly visible far down the street



A lower marquee sign caters to people on foot and in cars passing directly in front of the venue



A marquee sign extending from the corner of a building is highly visible along two streets

A second lower sign catches the eye of pedestrians passing in front of the entrance



Signs suspended from the ceilings of colonnades command the attention of pedestrian shoppers



Freestanding signs fit within the setbacks of the "strip" to direct motorists to stores set far back *(Monument signs are not permitted for new and substantially rebuilt buildings.)*

Figure 2-25

Examples of Signs Mounted Above the Top of the Facade:



Roof signs projecting from the tops of buildings are highly visible from a great distance

This distinctive roof sign, made of individual letters projecting from the front of the facade and extending above the cornice line, is memorable to shoppers and is highly visible from many directions



Photograph by Brent Bates

A lower marquee sign marks the entrance to the store



Projecting signs which break the skyline are visible from a variety of distances and serve as beacons to customers when lit at night

Signs projecting above the roof stand out against the sky, adding an architectural flair to a shop's identity



Pole signs are designed to fit in suburban setbacks, not downtown businesses (*Pole signs are not permitted for new and substantially rebuilt buildings.*)

Billboards advertise off-site businesses and cater entirely to motorists traveling at high speeds (*Off-site billboards are not permitted in Cape Coral.*)



Figure 2-26

Article III – Supplementary District Regulations

Section 3.1 Accessory Uses *[no changes proposed]*

Section 3.2 Temporary Uses *[no changes proposed]*

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.

.1 Single-Family Residential: *[no changes proposed]*

.2 Multi-Family Residential: In addition to other provisions of this Ordinance, 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 Standard 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) feet from the principal structure.

d. In determining the twenty (20) foot distance between buildings, carports will not be considered.

2. Multiple family buildings. Multiple family dwellings may also be constructed as rowhouses or townhouses, or within mixed-use buildings that also contain commercial or professional uses, provided that all separation requirements of the Florida Building Code are met.

B. *Commercial type trash receptacles.*

Commercial trash receptacles used to service multiple family dwellings must meet the same criteria as provided for property zoned commercial, professional, or industrial zoning (see Section 3.3.3.D). may be located in the front or rear setback but not in the public utility easement. All commercial trash receptacles must meet the following guidelines:

~~1. The proposed location of the receptacle(s) must be shown on the approved site plan.~~

~~2. Accessway for the trash pickup vehicle must be kept clear at all times.~~

~~3. The storage area must be paved with concrete, and the top surface of the pad must be at the same elevation as that of the accessway. The Public Works Department shall review plans to ensure proper drainage of waste storage areas.~~

~~4. Trash receptacles shall not be placed in any parking space which is needed to meet the minimum parking requirements on the site.~~

~~5. An opaque visual barrier, constructed of materials which conform to applicable codes, must be erected and maintained to conceal commercial type trash receptacles. The screen must be constructed along at least three (3) sides of the container and must extend at least six (6) inches above the height of the closed container, except that in no case shall the height of the barrier exceed six (6) feet.~~

C. *Adequate toilet facilities* *[no changes proposed]*

D. *Construction Trailers* *[no changes proposed]*

E. Overhangs. If the overhang of the principal structure encroaches into the required setbacks, the overhang may not extend beyond three (3) feet from the principal structure. This includes but is not limited to roofs, awnings, and canopies. This limitation shall not apply in the three Downtown zoning districts (see Sections 2.7.12 through 2.7.15).

.3 Property Zoned Commercial, Professional, or Industrial:

A. Construction Trailers. *[no changes proposed]*

B. Overhangs.

If the overhang of the principal structure encroaches into the required setbacks the overhang may not extend beyond three (3) feet from the principal structure. This includes but is not limited to roofs, awnings, and canopies. This limitation shall not apply in the three Downtown zoning districts (see Sections 2.7.12–2.7.15).

C. Toilets. *[no changes proposed]*

D. Commercial trash receptacles.

1. Outside the Downtown Zoning Districts. Commercial trash receptacles may be located in the front or rear setback but not in the public utility easement. All commercial trash receptacles must meet the following guidelines:

a. 1: The proposed location of the receptacle(s) must be shown on the approved site plan.

b. 2: Accessway for the trash pickup vehicle must be kept clear at all times.

c. 3: The storage area must be paved with concrete, and the top surface of the pad must be at the same elevation as that of the accessway. The Public Works Department shall review plans to ensure proper drainage of waste storage areas.

d. 4: Trash receptacles shall not be placed in any parking space which is needed to meet the minimum parking requirements on the site.

e. 5: An opaque visual barrier, constructed of materials which conform to applicable codes, must be erected and maintained to conceal commercial type trash receptacles. The screen must be constructed along at least three (3) sides of the container and must extend at least six (6) inches above the height of the closed container, except that in no case shall the height of the barrier exceed six (6) feet.

2. Inside the Downtown Zoning Districts. Commercial trash receptacles may be located in the rear setback but may not be located between a building and a public street.

a. The proposed location of the receptacle(s) must be shown on the approved site plan.

b. Accessway for the trash pickup vehicle must be kept clear at all times. Where available, alleys must be used for access by the trash pickup vehicle.

c. The storage area must be paved to ensure proper drainage of waste storage areas.

d. If the commercial type trash receptacles are visible from a public street or city-operated parking lot, an opaque visual barrier, constructed of materials which conform to applicable codes, must be erected and maintained to fully conceal the receptacles from view from any public street and any city-operated parking lot. The opaque visual barrier must extend at least six (6) inches above the height of the closed container, except that in no case shall the height of the barrier exceed six (6) feet.

E. Party Walls.

When and where the use of a party wall is not in conflict with the laws and regulations governing fire protection, party walls are permissible by the mutual consent of all parties concerned.

F. Buildings constructed on the side property line shall be designed so that roof drainage will not flow upon adjoining property.

G. No ramp parking is permitted in front of buildings.

H. No building shall be used or occupied as living quarters except bona fide hotels, motels, and funeral parlors except in the Downtown zoning districts, which are mixed-use districts (see Sections 2.7.12, 2.7.13, and 2.7.14). When a building ceases to be used as a funeral parlor, the authority for use of the living quarters, as such, is no longer valid.

.4 Lodging Houses: *[no changes proposed]*

.5 Boarding or rooming houses, fraternity or sorority houses and dormitories: *[no changes proposed]*

.6 Automotive and Watercraft Uses: *[no changes proposed]*

.7 Junkyards: *[no changes proposed]*

.8 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, Downtown Gateway, Downtown General, and Industrial (I-1) Zoning Districts provided that all of the following criteria are met: *[no further changes proposed]*
- 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), and Agricultural (A) Zoning Districts provided that all of the following criteria are met: *[no changes proposed]*

Section 3.4 Outdoor Display of Merchandise *[no changes proposed]*

Section 3.5 Access Required *[no changes proposed]*

Section 3.6 Building Number Required *[no changes proposed]*

Section 3.7 Visibility Triangles

The intersection of project roads, alleys, or drives with public road right-of-way presents potential traffic hazards due to on-site visual obstructions. Therefore, project property at these intersections have a triangular area within which trees and other landscape plantings must be regulated. If landscaping which is located closer than three (3) feet from the edge of any accessway pavement presents a vision obstruction, then it shall not be allowed. Landscaping within this area must be maintained to meet the standards contained herein. In instances where the Department of Health and Rehabilitative Services (HRS) requires septic mounds, such mounds may be permitted in the visibility triangle. The latter referenced triangular areas are:

1. **Corner Lots:** On corner lots in any zoning district where front yards are required, no obstruction shall be permitted to impede visibility between a height of two (2) feet and ten (10) feet above the grades of the intersecting streets at their point of intersection in an area bounded by the intersection of any two (2) right-of-way lines at points forty-five (45) feet from their intersection. (Reference City of Cape Coral Engineering Design Standards.) At the intersections of two local roads (two-laned roadways), this visibility triangle may be reduced to twenty-five (25) feet.
2. **Accessway Intersection with a Public Road.** No fence, signs, hedge or other growth shall be erected or planted on property situated in the City which would obstruct the view of either a pedestrian or driver of a vehicle which would create a hazard to the health and welfare of its citizens.
3. **Acceptable Alternative Methods.** As an alternative to the dimensions provided in this section and in the City of Cape Coral Engineering Design Standards, the City Engineer may approve smaller dimensions for a visibility triangle if it is acceptable under the analytical methods for clear sight triangles set forth in *A Policy on Geometric Design of Highways and Streets (AASHTO, 2001)* for the actual and expected conditions at a given location.

Section 3.8 General Regulations for Lots and Yards

.1 Double Frontage Other than Corner Lots:

Double frontage other than corner lots shall meet front yard regulations on all adjacent streets.

.2 Corner Lots:

- A. The front of any building site shall be determined by the lesser dimension of a single lot (not building site).
 - 1. This frontage shall have the established setback for the particular zoning district, but in no instance be less than twenty five (25) feet.
 - 2. 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.
- B. 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.
- C. The front of a single-family residential building may not be offset from the front property line by an angle greater than 45 degrees.
- D. In the three Downtown zoning districts, lot frontages and setbacks for corner lots shall be as set forth in Sections 2.7.12 through 2.7.15 rather than as described in this subsection.

.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 3.9 Fences, Shrubby, Walls

.1 – .5 *[no changes proposed]*

.6 The following regulations apply only to fences in non-residential zones:

- A. Construction of fences must meet the following restrictions: *[no changes proposed]*
- B. Fences within the City of Cape Coral must meet the following location and height regulations:
 - 1. Commercial and Professional Zoning Districts: *[no changes proposed]*
 - 2. Industrial Zoning Districts: *[no changes proposed]*
 - 3. Agricultural Zoning Districts: *[no changes proposed]*
 - 4. Places of Worship Zoning Districts: *[no changes proposed]*
 - 5. Downtown Zoning Districts: see regulations in Section 2.7.15.C.8.

Sections 3.10 – 3.18 *[no changes proposed]*

Section 3.19 Home occupations conducted within residential premises

.1 Definitions

- A. **Home occupation:** An occupation for monetary gain or support conducted by members of a family residing on residential premises, and conducted entirely within the dwelling, provided that no article is sold or offered for sale except such as may be produced or acquired by members of the immediate family residing on the premises. Home occupations shall not be construed to include barbershops, beauty shops, tearooms, restaurants, dress shops, commercial kennels, real estate offices, dance studios, astrologists/palmists and the like, band instrument instructors, photographic studios, and child care facility for more than five (5) children. Live/work dwelling units as defined in Article XI of this code shall not be construed to be home occupations.
- B. **Immediate family:** The term immediate family shall include husband, wife, child, grandparent, brother, sister or legal guardian of any of the aforementioned.

.2 Establishment of home occupations. [no changes proposed]

.3 Intent of Section. [no changes proposed]

.4 Penalty. [no changes proposed]

Section 3.20 Home businesses conducted in or from residential premises

.1 Definition.

Home business: Any personal service business or product resales which are provided for others at or away from the applicant's residence for monetary gain or support which is conducted from or in residential premises. "Home businesses" shall not be construed to include barbershops, beauty shops, tearooms, restaurants, dress shops, commercial kennels, real estate offices, dance studios, astrologists/palmists and the like, band instrument instructors, photographic studios, and child care facility for more than five (5) children. Live/work dwelling units as defined in Article XI of this code shall not be construed to be home businesses.

.2 Establishment of home businesses. [no changes proposed]

.3 License fees. [no changes proposed]

.4 Exemption from payment of fee. [no changes proposed]

.5 Intent of section. [no changes proposed]

.6 Penalty. [no changes proposed]

Section 3.21 Garage sales not to be considered home occupation or business; regulations [no changes proposed]

Section 3.22 Excavations--Protection of underground pipelines and utilities

.1 Intent.

It is the intent of the City Council to protect underground pipelines and utilities from destruction or damage to prevent ~~A:~~ death or injury to persons; ~~B:~~ property damage to private and public property; ~~C:~~ and loss of essential pipeline or utility services to the general public. It is the further intent of the City Council to place utility lines underground wherever possible to protect them from storm and other physical damage and to reduce the unsightly nature of overhead power lines.

.2 Definitions.

- A. **Person** means any business entity whether operated by an individual, firm, corporation, association, partnership, cooperative association, joint venture, joint stock association or business trust, whether or not incorporated.
- B. **Excavation** means an operation utilizing any tools, equipment or explosives for the purpose of:
1. Moving, removing or otherwise displacing or distributing earth, rock or other materials in or on the ground;
 2. Wrecking, razing, rending, moving or removing any structure or mass of material.
- C. **Utility line** means an underground conduit and related facilities, including pipe or cable, by which a person furnishes material or service.

D. *Excavator* means any person having direction or control of the excavation.

E. *Supplier* means any person who operates a utility line.

.3 Notice requirements for excavation. No excavator shall make or begin any excavation on public property or within dedicated easements without first obtaining information concerning the possible location of utility lines in the area of the proposed excavation. The excavator may obtain such information by contacting each supplier who may have utility facilities in the area of the proposed excavation. Such contact may be made by telephone, written correspondence, telegraph, messenger or in person.

.4 Notice requirements when marking of lines is necessary. If marking of utility lines is necessary, the excavator shall notify that supplier so that the supplier receives notification at least forty-eight (48) hours (excluding Saturdays, Sundays and legal holidays) prior to the commencement of the excavation. When marking is necessary the utility line concerned shall be marked by the supplier. Marking of a utility line is necessary when:

A. A proposed excavation, except blasting, is planned with five (5) feet of a utility line located on public property or a dedicated easement.

B. A proposed excavation, by blasting, is planned in such proximity to a utility line that the utility line will be destroyed, damaged or disturbed.

.5 Downtown Zoning Districts. It is a priority of the City Council to prohibit new overhead power lines in the Downtown Community Redevelopment Area. To that end:

A. Power lines to individual buildings. Landowners shall supply new buildings in the three Downtown zoning districts with electric, telephone, and cable service using underground cables from the supplier's distribution system to the building, except where undergrounding is demonstrably infeasible.

B. Utility-owned power transmission and distribution lines. *POSSIBLY INSERT HERE – regulations for major overhead transmission lines; possibly require a special exception to go higher than FERC minimum heights? The city has hired attorneys and engineers to analyze this and they may provide language that could be placed here.*

.6 .5 Penalties for Violation.

Any person violating this section shall be punished as provided in Section 1-14 of the Code of Ordinances of the City of Cape Coral.

Sections 3.23 – 3.26 *[no changes proposed]*

Article IV – Land Development Regulations

Section 4.1 ~~In general. Subdivision Regulations:~~

- .1 **Applicability Purpose and intent** The City of Cape Coral has determined that most new commercial, professional, industrial, and multifamily developments and the 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 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 procedure is not a zoning district, but a PDP application may include requests for special exceptions, variances, and other zoning actions that can be considered simultaneously with the PDP application. Most PDP applications require a public hearing before the Planning and Zoning Commission and in some cases before the City Council. PDP approval is based on a specific development plan; innovative designs may be permitted to depart from dimensional 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). However, subdivision of land in any of the three Downtown zoning districts is permitted without the DRI and without the public hearing portion of the PDP procedure provided that all other standards in this code are met (see Section 4.2.G.3 below).
 2. The PDP procedure is mandatory for new development in the Urban Services Reserve Area of the Comprehensive Plan, except for permitted single-family residential district uses.
 3. The PDP procedure is also mandatory for proposed commercial/professional uses on C-1, C-3, or P-1 zoned properties located adjacent to a residential zoning district or land use classification, in accordance with Sections 2.7.7, 2.7.8, and 2.7.9 of this code.
 4. The PDP procedure remains available as a voluntary option for any other development throughout the City including the Downtown zoning districts as a route to request approval of deviations from the standards in this code, as provided in Section 4.2.4.K below. The Executive Director of the Downtown Community Redevelopment Agency shall provide a written recommendation to the Planning and Zoning Commission on any such requests.
 - 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 new commercial, professional, industrial, and multifamily developments on sites larger than one acre must be submitted for approval through this site plan review procedure. Developments using the PDP procedure must complete that procedure prior to final approval under this site plan review 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 4.2 Planned Development Project Procedure

.1 Purpose and Intent This section is established to provide standards, requirements and procedures for Planned Development Projects and to provide a simplified procedure for the subdivision of land in the three Downtown zoning districts (see Section 4.2.G.3 below).

.2 Generally *[no changes proposed]*

.3 Permitted Uses *[no changes proposed]*

.4 General Standards and Requirements

A. Environmental Control Standards *[no changes proposed]*

B. Maintenance of Improvements *[no changes proposed]*

C. Consistency with Comprehensive Plan *[no changes proposed]*

D. Financial Responsibility *[no changes proposed]*

E. Dimensional Requirements *[no changes proposed]*

F. Maximum Density *[no changes proposed]*

G. Minimum Parcel Size *[no changes proposed]*

H. Time Limitation *[no changes proposed]*

I. Ownership Requirements *[no changes proposed]*

J. Special Exceptions *[no changes proposed]*

K. Deviations

To provide design flexibility in developing land through the PDP process, deviations from the City of Cape Coral Land Use and Development Regulations which relate to standards of the zoning district of the site in question, including but not limited to area, dimensional, and other standards, may be approved in a PDP development order by the City Council provided that the PDP demonstrates unique and innovative design which would be enhanced by the approval of such deviation(s) and that the intent of such regulations to protect the health, safety, and welfare of the public would be served by the approval of the deviation. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application for PDP approval and shall be accompanied by documentation including, but not limited to, sample detail drawings, schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the detriment, of the public interest. For purposes of this Section, examples of unique and innovative design may include, but are not limited to, the following:

1. Providing usable common open space within the development to offset and compensate for decreases in typical lot sizes or yard requirements.
2. The use(s) occurring within the PDP are such that compatibility with surrounding uses can be assured by applying different requirements than would be otherwise applicable under the zoning district of the site in question.
3. Providing places for public assembly such as parks and plazas which are linked together and centrally located to ensure accessibility.
4. Locating buildings and dwelling units to provide optimum access to open space areas.
5. Providing for the integration and preservation of natural resources with development, through conservation of natural resources such as streams, lakes, floodplains, groundwater, wooded areas and areas of unusual beauty or importance to the natural ecosystem.
6. Providing a better pedestrian environment or allowing buildings of outstanding architectural merit despite minor inconsistencies with adopted standards.

.5 Procedures

A. *Generally*

1. *Standards*

The review and approval of all amendments to PDP or MHPDP shall be governed by the standards and requirements of this Section and Article VIII, Sec. 8.7, Amendments. The review and approval of requests for subdivision of land within any of the three Downtown zoning districts shall be governed by the standards and requirements of this Section (see special requirements in Section 4.2.G.3), Article II, Secs. 2.7.12– 2.7.15, and Article VIII, Sec. 8.7. The review and approval of all Special Exception use permits for Planned Development Projects shall be governed by the standards and requirements of this Section and Article VIII, Sec. 8.8, Special Exceptions. The review and approval of all variances within Planned Development Projects shall be governed by the standards and requirements of this Section and Article VIII, Sec. 8.10, Variances. The review and approval of site plans within Planned Development Projects shall be governed by this Section, Section 4.4, and Article VIII, Sec. 8.3.2. The review and approval of all vacations of plats within Planned Development Projects shall be governed by the standards and requirements of this Section and Article VIII, Sec. 8.11. The review and approval of all borrow pits within Planned Development Projects shall be governed by the standards and requirements of this Section and Article III, Sec. 3.23.

2. *Conditions* [no changes proposed]

3. *Amendment* [no changes proposed]

B. *Advisory Meeting* [no changes proposed]

C. *Submission* [no changes proposed]

D. *Administrative Review* [no changes proposed]

E. *Planned Development Project Application*

After receipt of the draft Planned Development Project Development Order, the Developer of the proposed Planned Development Project may submit a Planned Development Project application to the director. Upon receipt of the application and all required plans and supplementary material, the Director shall forward it to all appropriate reviewing agencies for determination of consistency with the Draft Planned Development Project Development Order. Upon receipt of all comments, the Director shall forward a copy of the application and comments to the Planning and Zoning Commission/Local Planning agency for consideration, except for applications for the subdivision of land within the three Downtown zoning districts (see Section 4.2.G.3).

F. *Procedure for Adoption of Planned Development Projects (PDPs) that require City Council Approval* [no changes proposed]

G. *Procedure for Adoption of Planned Development Projects (PDPs) that do not require City Council Approval*

Except for applications for the subdivision of land within the three Downtown zoning districts (see Section 4.2.G.3), the following procedures shall apply to all PDP applications that do not contain a request for rezoning, a request for vacation of plat or of easement, a request for subdivision approval, a request for borrow pit approval, adjustment of and/or credit to impact fee(s), betterment fee(s), or assessment(s) otherwise required by City Ordinance, the extension or expansion of infrastructure (not including site development work, such as the installation of curbs, gutters, sidewalks, etc. required by the City Engineering Design Standards), the transfer of development rights, or other request that would require approval by the City Council:

1. *Notice and Hearing* [no changes proposed]

2. *Action* [no changes proposed]

3. Subdivision of Land Within the Downtown Zoning Districts

Applications for subdivision of land within the three Downtown zoning districts must comply with all requirements for Planned Development Projects and the additional requirements of Sections 2.7.12– 2.7.15, except as provided below:

- a. In place of the public hearing before the Planning and Zoning Commission, the Director shall review the development and subdivision plan in regard to the provisions of this code after consulting with the Executive Director of the Downtown Community Redevelopment Agency.
- b. The Director may require revised or additional plats, data, drawings, or profiles of the proposed project when necessary.
- c. The Director may not grant any deviations (see Section 4.2.4.K), but may prepare special conditions to ensure there shall be no departure from the intent of this code. The Director may administratively certify that compliance with the proposed PDP, subject to such special conditions if necessary.
- d. The Director’s certification shall be considered as equivalent to a decision by the Planning and Zoning Commission for purposes of obtaining approval of a final development plan and subdivision plat approval.
- e. Any appeal of the Director’s rejection of a proposed subdivision of land within the three Downtown zoning districts shall be in the form of a regular PDP request to be heard by the Planning and Zoning Commission. The Executive Director of the Downtown Community Redevelopment Agency shall provide a written recommendation on any such requests to the Planning and Zoning Commission.

H. *Final Development Plan and Subdivision Plat Approval [no changes proposed]*

I. *Subdivision of Land*

1. *Applicability [no changes proposed]*
2. *Subdivision Defined [no changes proposed]*
3. *Compliance with Zoning and Other Regulations [no changes proposed]*
4. *Building Permits and Certificates of Use [no changes proposed]*
5. *Transferring of Land Violations [no changes proposed]*
6. *General Standards [no changes proposed]*
7. *Procedures [no changes proposed]*
8. *Failure to Commence [no changes proposed]*
9. *Variances [no changes proposed]*
10. *Enforcement [no changes proposed]*
11. ***Minimum Design Standards***

a. *Streets*

(1) *Conformity to the Major Street Plan and Trafficways Map [no changes proposed]*

(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. However, the DesignDowntown Master Plan (Dover, Kohl & Partners, 2002) proposes new

local streets in the Downtown Community Redevelopment Area to reduce oversized blocks and improve walkability. The City Engineer is authorized to waive the conventional minimum width standards to accommodate new local streets in the three Downtown zoning districts.

(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. The DesignDowntown Master Plan (Dover, Kohl & Partners, 2002) proposes new local streets in the Downtown Community Redevelopment Area to reduce oversized blocks and improve walkability. The City Engineer is authorized to modify the conventional minimum width standards to accommodate new local streets in the three Downtown zoning districts.
- (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 [no changes proposed]

(5) Intersections

Intersections shall be designed and spaced as set forth in the City of Cape Coral Engineering Design Standards. The DesignDowntown Master Plan (Dover, Kohl & Partners, 2002) proposes new local streets in the Downtown Community Redevelopment Area to reduce oversized blocks and improve walkability. The City Engineer is authorized to modify the conventional intersections standards including minimum curb radii to accommodate new local streets and to minimize the length of pedestrian crossings in the three Downtown zoning districts.

(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. The DesignDowntown Master Plan (Dover, Kohl & Partners, 2002) proposes new local streets in the Downtown Community Redevelopment Area to reduce oversized blocks and improve walkability. The City Engineer is authorized to modify the conventional curve standards to accommodate new local streets in the three Downtown zoning districts.

(7) Street Grades and Elevations [no changes proposed]

(8) Marginal Access Streets [no changes proposed]

(9) Street Jogs

Street jogs must be as set forth in the City of Cape Coral Engineering Design Standards. The DesignDowntown Master Plan (Dover, Kohl & Partners, 2002) proposes new local streets in the Downtown Community Redevelopment Area to reduce oversized blocks and improve walkability. The City Engineer is authorized to modify the conventional street jog limitations to accommodate new local streets in the three Downtown zoning districts.

(10) Dead-end Streets (cul-de-sacs) [no changes proposed]

(11) Street Names [no changes proposed]

(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 in cases where the developer produces evidence of the need for alleys which is satisfactory to the Council.

b. Blocks

Block lengths shall not exceed twelve hundred (1,200) feet or be less than four hundred (400) feet, except as the Council considers necessary to secure efficient use of land or desired features of street layout. The DesignDowntown Master Plan (Dover, Kohl & Partners, 2002) proposes new local streets in the Downtown Community Redevelopment

Area to reduce oversized blocks and improve walkability. The City Engineer is authorized to modify the minimum block lengths to accommodate new local streets in the three Downtown zoning districts.

- c. **Lots** [no changes proposed]
- d. **Utility and Drainage Easements** [no changes proposed]

12. **Required Improvements Approval**

- a. **Monuments**
- b. **Streets**
 - (1) **Grading Specifications** [no changes proposed]
 - (2) **Minimum Pavement Widths**

As established in the City of Cape Coral Engineering Design Standards. The DesignDowntown Master Plan (Dover, Kohl & Partners, 2002) proposes new local streets in the Downtown Community Redevelopment Area to reduce oversized blocks and improve walkability. The City Engineer is authorized to modify the minimum pavement widths and curb radii to accommodate new local streets and to minimize the length of pedestrian crossings in the three Downtown zoning districts.

- (3) **Pavement Specifications for Streets** [no changes proposed]
- (4) **Curbs and Gutters** [no changes proposed]
- (5) **Sidewalks** [no changes proposed]
- (6) **Street Name Signs** [no changes proposed]
- (7) **Street Lights** [no changes proposed]

- c. **Utilities and Drainage Facilities** [no changes proposed]

.6 **Development Plan Submission Requirements** [no changes proposed]

.7 **Noncompliance** [no changes proposed]

Section 4.3 Mobile Home Planned Development Projects [no changes proposed]

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. It will also allow the City of Cape Coral to ensure that all Site Plan applications meet any specialized requirements applicable to their geographic location.

.2 **Applicability** [no changes proposed]

.3 **Prohibition** [no changes proposed]

.4 **Standards** In reviewing Site Plans, the following standards and criteria shall be considered when evaluating such plans:

A. **Traffic Impact** [no changes proposed]

B. **Circulation and Parking** [no changes proposed]

C. **Utilization of Open Space** [no changes proposed]

D. **Arrangement of Buildings** [no changes proposed]

E. **Proper Landscaping** [no changes proposed]

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** [no changes proposed]

H. **Compatibility** [no changes proposed]

I. Surface Water Management

1. **Engineering Design Standards.** The City of Cape Coral Engineering Design Standards set forth minimum city-wide drainage design standards for new development and redevelopment.
2. **Downtown Zoning Districts.** The City of Cape Coral is promoting substantial redevelopment within the three Downtown zoning districts. Because the entire downtown has already been subdivided and sold as individual building parcels, the potential for retrofitting each parcel with conventional retention/detention ponds is very limited.
 - a. At the municipal level, the City of Cape Coral and the Downtown Community Redevelopment Agency intend to retrofit the existing municipal drainage system in downtown Cape Coral to improve the timing and quality of stormwater discharges into the surrounding canal system.
 - b. Until those retrofits are complete and the current on-site retention/detention standards are amended or eliminated, individual landowners are encouraged *[ALTERNATE: required]* to provide required retention/detention of stormwater underground rather than in surface impoundments. Landowners developing or substantially redeveloping property at this time are required as follows:
 - (1) Parcels smaller than one acre are not subject to the site plan review process and are not required to retain or detain stormwater on-site.
 - (2) Parcels larger than one acre but falling below the thresholds for a SFWMD individual environmental resource permit (2 acres impervious surface or 10 acres total project area) will have their drainage plan reviewed and approved by the Surface Water Management Section of the City's Public Works Department for compliance with the *Basis of Review for Environmental Resource Permit Applications* (SFWMD) *[ALTERNATE: except the additional requirement that all required retention/detention of stormwater must be placed underground]*. For purposes of this review:
 - i. The City of Cape Coral endorses "dry flood-proofing" of sidewalk-level commercial and professional space to protect it from flood damage while keeping it accessible to the public (see Section 6.5.B.2). The City of Cape Coral deems dry flood-proofed floor space in the three Downtown zoning districts to be equivalent to elevating commercial floor space above the 100-year flood elevation for purposes of compliance with the building floor elevation requirements in the *Basis of Review*.
 - ii. The limitation on land uses provided by the three Downtown zoning districts (see Sections 2.7.12 through 2.7.14) provides reasonable assurances that hazardous materials will not enter the municipal drainage system in downtown Cape Coral, thus eliminating the need for the retention/detention pretreatment described in subsection 5.2.2(a) in the *Basis of Review*.
 - (3) Parcels exceeding the thresholds for a SFWMD environmental resource permit must obtain that permit and the City of Cape Coral will honor it in lieu of an independent review of stormwater impacts *[ALTERNATE: except the the additional requirement that all required retention/detention of stormwater must be placed underground]*. The City of Cape Coral encourages SFWMD to use the same interpretations contained in the previous subsections when reviewing permit application in the three Downtown zoning districts.

J. F. Conformance with Other Provisions *[no changes proposed]*

- .5 Conditions, Safeguards and Limitations** *[no changes proposed]*
- .6 Procedures**
 - A. Filing of Application** *[no changes proposed]*
 - 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** *[no changes proposed]*
- .7 Expiration** *[no changes proposed]*
- .8 Modifications; Amendments** *[no changes proposed]*
- .9 Phasing** *[no changes proposed]*
- .10 Site Plan Review Application Requirements** *[no changes proposed]*

Section 4.5 Transfer of Development Rights *[no changes proposed]*

ARTICLE V – Supplemental Development Regulations

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 Community Redevelopment Area into walkable neighborhoods as recommended by the CRA’s DesignDowntown Master Plan (2002).

.2 Off-Street Parking Facilities. *[no changes proposed]*

.3 Proximity to Dedicated City Parking Areas. *[no changes proposed]*

.4 Satellite Parking Areas. *[no changes proposed]*

.5 Appeals. *[no changes proposed]*

.6 Special Regulation for Condition of Parked Vehicles. *[no changes proposed]*

.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 three 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.

- A. Automotive. *[no changes proposed]*
- B. Entertainment. *[no changes proposed]*

- C. Institutional/Care Facilities. *[no changes proposed]*
- D. Manufacturing. *[no changes proposed]*
- E. Office. *[no changes proposed]*
- F. Parks, Recreation, and Open Space. *[no changes proposed]*
- G. Residential. *[no changes proposed]*
- H. Residential/Commercial. *[no changes proposed]*
- I. Retail. *[no changes proposed]*
- J. Restaurant. *[no changes proposed]*
- K. Service. *[no changes proposed]*
- L. Service/Manufacturing. *[no changes proposed]*
- M. Special. *[no changes proposed]*
- O. Utilities. *[no changes proposed]*
- P. Wholesale. *[no changes proposed]*

.8 Downtown zoning districts.

A. Purpose and intent. This subsection provides modified regulations for off-street parking in the three Downtown zoning districts in accordance with the principles of the DesignDowntown Master Plan (Dover, Kohl & Partners, 2002).

1. These regulations provide urban rather 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.
3. This separation would reduce the viability of mixed-use buildings and harm the walkability of the urban streets throughout the Downtown Community Redevelopment Area.

B. Minimum number of off-street parking spaces. The minimum numbers of parking spaces required for individual use classifications by the Table of Parking Standards do not apply in the three Downtown zoning districts; the following regulations shall apply instead:

1. In the Downtown Core zoning district, no off-street parking spaces are required.
2. In the Downtown Gateway zoning district, the minimum number of off-street parking spaces required is 25% fewer than shown for each use classification in the Table of Parking standards. Additional reductions may be granted pursuant to Section 5.1.2.
3. In the Downtown General zoning district, the minimum number of off-street parking spaces required is 50% fewer than shown for each use classification in the Table of Parking standards. Additional reductions may be granted pursuant to Section 5.1.2.

C. Placement of off-street parking

1. **Surface parking lots.** The placement of off-street surface parking lots and their setbacks from public streets are set forth for each Downtown zoning district (see Sections 2.7.12–2.7.15).

2. **Parking structures.** Parking structures shall be concealed from all street frontages by liner buildings of at least two stories in height and 20 feet in depth and containing doors and windows opening onto the sidewalk. Liner buildings may be detached from or attached to parking structures (detached liner buildings are illustrated in Figure 5-1).

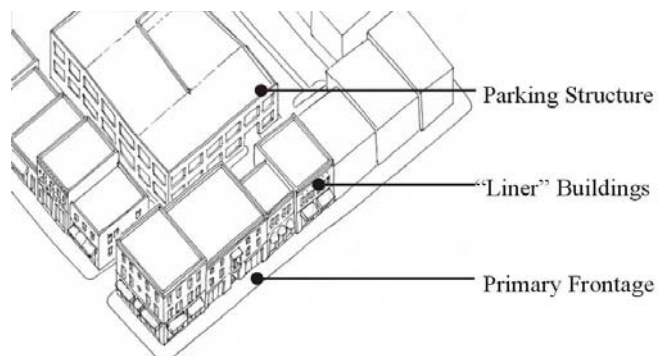


Figure 5-1

D. Access to off-street parking (see Figure 5-2).

1. Alleys shall be the primary source of access to off-street parking.
2. Alleys may be incorporated into parking lots as standard drive aisles; parking along alleys may be head-in, diagonal or parallel.
3. Access to all properties adjacent to the alley shall be maintained.
4. Access between adjacent parking lots across property lines is required.
5. Corner lots that have both rear and side access shall access parking through the rear (see Figure 5-3).
6. Circular drives are prohibited except for civic buildings.
7. Garage doors shall face toward the rear alley. In locations where space does not permit the garage door to face the rear, or where there are not alleys, garage door(s) shall be positioned no closer to streets, squares, or parks than 20 feet behind the principal plane of the building frontage. Garage doors that face streets, squares or parks shall not exceed 10 feet in width.

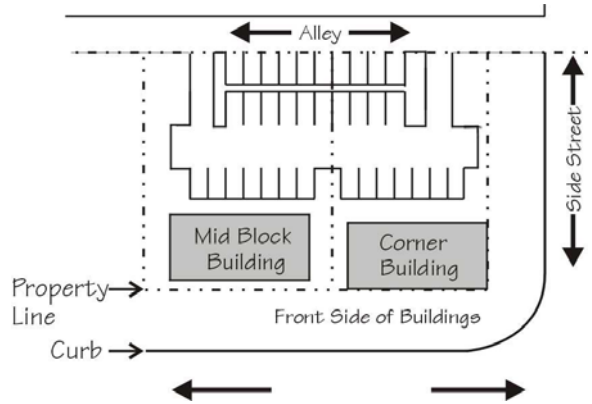


Figure 5-2

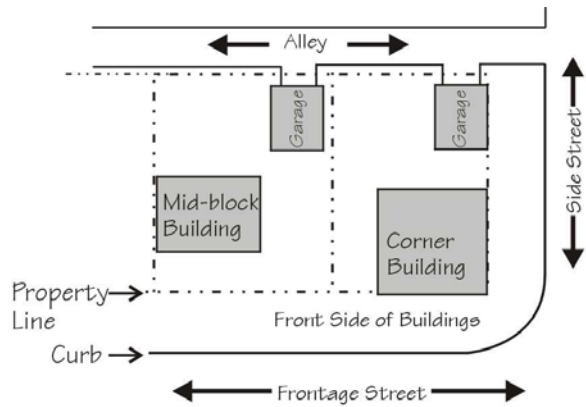


Figure 5-3

E. Dimensional requirements for off-street parking. Parking lot aisle widths must be at least 11 feet (22 feet for two-way traffic). Parallel parking spaces must be at least 8 feet by 20 feet with 10-foot aisles (20 feet for two-way traffic). Other dimensions shall be as shown in the Engineering Design Standards.

G. Monitoring of public parking supply. The Downtown Community Redevelopment Agency is charged with monitoring the adequacy and effectiveness of the public parking supply during the redevelopment of downtown. Based on this monitoring and well in advance of actual need, the Downtown Community Redevelopment Agency shall propose and implement strategies that would increase the public parking supply, improve walkability and public transit, reduce the need for additional parking through mixing of compatible uses, and/or propose changes to this section of the Land Development Regulations so that sufficient parking remains available for downtown businesses, residents, and visitors.

Section 5.2 Landscaping

1. **Purpose and Intent.** [no changes proposed]
2. **Definitions.** [no changes proposed]
3. **Landscape Requirements.** [no changes proposed]
4. **Additional Requirements: Planned Developments and Subdivisions.** [no changes proposed]

.5 Quality of Materials. *[no changes proposed]*

.6 Compliance Required Prior to Issuance of Certificate of Occupancy. *[no changes proposed]*

.7 Maintenance. *[no changes proposed]*

.8 General Limitations. *[no changes proposed]*

.9 Landscaping Requirements. The following landscape requirements must be met for all land uses, except single-family and two-family units.

A. Landscaping for a Building Site's Perimeter Boundary; Screening Required Adjacent to Residential Property; Parking Lot Barrier Hedges *[no changes proposed]*

B. Tree Planting Requirements

1. All sites must have one tree for each one thousand five hundred (1,500) square feet of gross land area, except in the three Downtown zoning districts. Such trees may be planted singularly or grouped together. Each tree shall be planted in a planting area of twenty-five (25) sq. ft. 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.
2. All perimeter trees are subject to the overhead power line and easement requirements set forth in Section 5.2.8.A.
3. New construction. *[no changes proposed]*

C. Landscaping Adjacent to Roads Where a building site abuts a public right-of-way, excluding a dedicated alley:

1. A strip of land, a minimum five (5) feet in depth, shall be provided and located between the abutting right-of-way and an off-street parking area. This strip shall be landscaped and must include one (1) tree for each thirty (30) linear feet and one (1) three (3) gallon shrub for every five (5) feet of landscaped area. Shrubs may be planted separately or grouped. This requirement for trees is part of the tree standard identified in Subsection .9B. Where overhead power lines exist, tree plantings must conform to Subsections .8A and B.
2. For nonresidential sites less than thirty thousand (30,000) square feet, the five (5) feet strip requirement may be waived if the equivalent landscaped square footage is substituted within the front setback area of the building; however, this waiver cannot be granted in the three Downtown zoning districts. For sites thirty thousand (30,000) square feet or greater in size, planted trees shall be spaced one (1) every thirty (30) linear feet. Otherwise, the plantings can be installed singularly or be grouped. Such trees shall be located between the abutting right-of-way and off-street parking area or other vehicular use area and shall be placed in a planting area.
3. Necessary accessway (e.g., sidewalks) from the public right-of-way through all such landscaping shall be permitted to service the parking or other vehicular use areas and such accessways may be subtracted from the linear dimension used to determine the number of trees required.
4. The City may require a property owner to install root barrier *[no changes proposed]*

D. Parking Area Interior Landscaping

1. Off-street parking areas shall have at least ten (10) square feet of interior island landscaping for each parking space, as well as one tree for each five (5) parking spaces. In the three Downtown zoning districts, the requirement shall be for one tree for each ten (10) parking spaces, with each tree being accompanied by at least twenty-five (25) square feet of interior island landscaping.
2. Each required landscaped area shall contain a minimum diameter dimension of at least five (5) feet, and shall include at least one (1) tree with the remaining area adequately landscaped with shrubs, ground cover or other landscaping material not to exceed three (3) feet in height.

- Any landscaped areas which exceed the minimum area required by this section shall not be required to comply with such restrictions.
3. Landscaped areas shall be protected from vehicular encroachment either by the installation of curbing or wheel stops.
 4. When curbs are used, tree trunks, hedges, or shrubs must be set in at least two and one-half (2 1/2) feet from either side of a parking space to avoid damage by vehicles.
 5. The above parking area interior landscaping requirements shall not apply to single-family units, two-family units, or to non-residential sites less than thirty thousand (30,000) square feet in lot area.

E. Visual Obstructions *[no changes proposed]*

.10 Visual Obstructions. *[no changes proposed]*

Section 5.3 Planting in Medians and Cul-de-Sac Islands on City Owned Property
[no changes proposed]

Section 5.4 General Environmental Control Criteria and Performance Standards
[no changes proposed]

Section 5.5 City Right-of-Way Reservation and Acquisition Standards *[no changes proposed]*

ARTICLE VI – Flood Damage Prevention

Section 6.1 Finding of Fact, Purpose and Objectives *[no changes proposed]*

Section 6.2 Definitions

Unless specifically defined below words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

“Floodproofing” means a combination of structural and non-structural features that reduce or eliminate flood damage to buildings and/or their contents. One variation is “dry floodproofing,” where a building is made watertight up to the base flood elevation and strengthened to resist all hydrostatic and hydrodynamic loads and to counter the effects of buoyancy.

“Substantial Improvement” means the total cost of repairs, reconstruction, alteration, rehabilitation, addition, or other improvements to a building (including electrical, plumbing, heating, and air conditioning) taking place during a ten year period, which equals or exceeds fifty (50) percent of the market value of the building. The market value of the building is the appraised or assessed value of the building, less the land, prior to the start of the initial repair or improvement. In the case of damage, the market value of the building is the value prior to the damage occurring. If the assessed value represents only a percentage of building value, then the market value equals the assessed value plus an amount representing the discount percentage.

This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. It does not include repairs for damage from any origin which are determined to be less than “substantial damage” as defined in this ordinance.

For purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

The term does not, however, include:

- (1) any project for improvement of a building required to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official, which have been cause for issuance of a citation or condemnation, and which are solely the minimum necessary to assure safe living conditions; or
- (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure,” and for which a variance has been granted pursuant to this ordinance.

For redevelopment in the three Downtown zoning districts only, certain modifications to this definition of “substantial improvement” are provided in Section 6.5.B.7.v below.

[no other changes proposed to Section 6.2]

Section 6.5 Provisions for Flood Hazard Reduction

Section A. General Standards. *[no changes proposed]*

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.** *[no changes proposed]*

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. Structures located in all A-zones may be dry 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; in the three Downtown zoning districts, such dry flood-proofing is the preferred *[ALTERNATE: required]* means of allowing sidewalk-level commercial and professional space while still protecting it from flood damage *[ALTERNATE: for all portions of buildings within 15 feet of a public street; landowners are encouraged to provide dry flood-proofing for the remainder as well]*. Dry flood-proofed floor space in the Downtown zoning districts shall also be deemed by the City of Cape Coral as being equivalent to floor space elevated above the 100-year flood elevation when evaluating development applications for compliance with the *Basis of Review for Environmental Resource Permit Applications (SFWMD)*. A Florida registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 6.4, Subsection B

3. Elevated Buildings. *[no changes proposed]*

4. Standards for Manufactured Homes and Recreation Vehicles. *[no changes proposed]*

5. Floodways. *[no changes proposed]*

6. Coastal High Hazard Areas (V Zones). *[no changes proposed]*

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, heating, 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.

i. For purposes of this ordinance, the aforesaid ten-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.

A. 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-year period shall be presumed to have taken place during said ten-year period.

B. 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-year period shall be included when calculating the cumulative cost of such improvements.

ii. Substantially-improved buildings must be elevated and otherwise brought into conformance with the requirements for new construction.

iii. 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.

iv. 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.

v. For redevelopment in the three Downtown zoning districts only:

A. The aforesaid ten-year period shall be reduced to three years.

B. When determining the cumulative cost of substantial improvements (but not the cost for a single improvement or repair), the calculations may exclude the cost of nonstructural interior finishings including, but not limited to, finish flooring and floor coverings, base

molding, nonstructural substrates, drywall, plaster, paneling, wall covering, tapestries, window treatments, decorative masonry, paint, interior doors, tile, cabinets, moldings and millwork, decorative metal work, vanities, electrical receptacles, electrical switches, electrical fixtures, intercoms, communications and sound systems, security systems, HVAC grills and decorative trim, freestanding metal fireplaces, appliances, water closets, tubs and shower enclosures, lavatories, water heaters, and roof coverings.

C. When determining the market value of the building, value will be as determined (for the building only) by the Lee County Property Appraiser or by a private appraisal acceptable to the city. 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 must 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.

- (a) 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) Lateral additions:** When the substantial improvement is a lateral addition to an existing structure, only the addition is required to be elevated and 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 conform to Section 6.5.
- (c) 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 conformance with Section 6.5.

TABLE I

The following is a list of items that may or may not be permitted below the Base Flood Level. A check mark has been placed in the appropriate blank.

Special Flood Hazard Areas	YES	NO
Zone A-1 through 30		
1. Garage, residential	<u>X</u> ¹	—
2. Unfinished storage areas, residential	<u>X</u>	—
3. Breakaway walls for enclosing Item Nos. 1 and 2	<u>X</u>	—
4. <u>Dry flood-proof walls (non breakaway) (non-residential only; these walls may enclose space that can be used for any permitted commercial professional uses, but not for any lodging or residential uses)</u>	<u>X</u>	—
5. Electrical outlets	—	<u>X</u>
6. Electric meters	<u>X</u> ²	—
7. Automatic washer	—	<u>X</u>
8. Dryers	—	<u>X</u>

9. Air conditioning equipment	—	<u>X</u> ⁴
10. Heating equipment	—	<u>X</u>
11. Hot water tank	—	<u>X</u>
12. A second refrigerator in storage area or garage for cold storage	—	<u>X</u>
13. Bathrooms	—	<u>X</u>

Zone V-1 through 30

1. Garage, residential	—	<u>X</u> ³
2. Unfinished storage areas, residential	—	<u>X</u> ³
3. Breakaway walls for enclosing Item Nos. 1 and 2	<u>X</u>	—
4. Flood proof walls (non breakaway)	—	<u>X</u>
5. Electrical outlets	—	<u>X</u>
6. Electric meters	<u>X</u> ²	—
7. Automatic washer	—	<u>X</u>
8. Dryers	—	<u>X</u>
9. Air conditioning equipment	—	<u>X</u> ⁴
10. Heating equipment	—	<u>X</u>
11. Hot water tank	—	<u>X</u>
12. A second refrigerator in storage areas or garage for cold storage	—	<u>X</u>
13. Bathrooms	—	<u>X</u>

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.

² 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 If breakaway walls are utilized for enclosure, then answer is “yes”.

Section C. Standards for Streams without Established Base Flood Elevations and/or Floodways.
[no changes proposed]

Section D. Standards for Subdivision Proposals. *[no changes proposed]*

Section 6.3 General Provisions *[no changes proposed]*

Section 6.4 Administration *[no changes proposed]*

Section 6.5 Provisions for Flood Hazard Reduction *[no changes proposed]*

ARTICLE VII – Signs

Section 7.1 Purpose and Intent *[no changes proposed]*

Section 7.2 Scope of Regulation *[no changes proposed]*

Section 7.3 Compliance with Codes and Ordinance Required *[no changes proposed]*

Section 7.4 Definitions *[no changes proposed]*

Section 7.5 Sign Permits *[no changes proposed]*

Section 7.6 Prohibited Signs

- .1 **Animated signs** *[no changes proposed]*
- .2 **Signs located on public property or rights of way** *[no changes proposed]*
- .3 **Signs attached to trees or utility poles** *[no changes proposed]*
- .4 **Signs attached to fences on improved property** *[no changes proposed]*
- .5 **Figure Structured Signs** *[no changes proposed]*
- .6 **Obscene Signs** *[no changes proposed]*
- .7 **Offsite Signs** *[no changes proposed]*
- .8 **Outdoor Neon Signs** *[no changes proposed]*
- .9 **Portable Signs** *[no changes proposed]*
- .10 **Roof Signs**, except that certain roof signs are permitted in the three Downtown zoning districts when they comply with the standards in Section 2.7.15.D.2.c.
- .11 **Vehicle Signs** *[no changes proposed]*

Section 7.7 Exempt Signs

- .1 In residential zoning districts [Single Family Residential (R-1A and R-1B), Multi-family Residential (R-3), Residential Development (RD), Residential Estate (RE), and Residential Receiving (RX)], the following signs shall be allowed without a sign permit on sites containing residential uses: *[no changes proposed]*
- .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** *[no changes proposed]*
 - C. **Construction signs** *[no changes proposed]*
 - D. **Credit Card/Membership signs** *[no changes proposed]*
 - E. **Directional signs** *[no changes proposed]*
 - F. **Flags** *[no changes proposed]*
 - G. **Incidental signs** *[no changes proposed]*
 - H. **Inflatable objects** *[no changes proposed]*
 - I. **Interior signs** *[no changes proposed]*
 - J. **Memorial signs** *[no changes proposed]*
 - 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. **Non-commercial signs** [no changes proposed]
 - M. **Permit boards** [no changes proposed]
 - N. **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. **Real Estate signs** [no changes proposed]
 - P. **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. **Temporary political signs** [no changes proposed]
 - R. **Temporary Place of Worship signs** [no changes proposed]
 - S. **Umbrellas/Umbrella signs** [no changes proposed]
 - T. **Window Signs** [no changes proposed]
- .3 In the Downtown Core, Downtown Gateway, and Downtown General 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 permitted awning provided that the maximum area of the awning sign does not exceed thirty-two (32) square feet.
 - B. **Exterior bulletin boards** - same as 7.7.2.B
 - C. **Construction signs** - same as 7.7.2.C
 - D. **Credit Card/Membership signs** - same as 7.7.2.D
 - E. **Directional signs** - same as 7.7.2.E
 - F. **Flags** - same as 7.7.2.F
 - G. **Incidental signs** - same as 7.7.2.G
 - H. **Inflatable objects** - same as 7.7.2.H
 - I. **Interior signs** - same as 7.7.2.I
 - J. **Memorial signs** - same as 7.7.2.J
 - K. **Menu boards** - same as 7.7.2.K; in addition, one portable menu board, no greater than twelve (12) square feet in area, may be located immediately adjacent to each exterior door of a restaurant, provided that the menu board is placed indoors after business hours.
 - L. **Non-commercial signs** - same as 7.7.2.L
 - M. **Permit boards** - same as 7.7.2.M
 - N. **Professional Nameplates** - professional nameplates, each not to exceeding four (4) 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. **Real Estate signs** - same as 7.7.2.O
 - P. **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 ten (10) square feet.
 - Q. **Temporary political signs** - same as 7.7.2.Q
 - R. **Temporary Place of Worship signs** - same as 7.7.2.R
 - S. **Umbrellas/Umbrella signs** - same as 7.7.2.S
 - T. **Window Signs** - same as 7.7.2.T

Section 7.8 Signs Which Require Permits

- .1 **Freestanding signs** (Pole or Monument) (other than residential and incidental signs as otherwise provided herein). See restrictions on freestanding signs in the three Downtown zoning districts in Section 2.7.15.D.

- .2 **Marquee signs.** In the three Downtown zoning districts only, marquee signs must also comply with the standards in Section 2.7.15.D.2.b.
- .3 **Parasite signs.** *[no changes proposed]*
- .4 **Wall signs.** In the three Downtown zoning districts only, wall signs must also comply with the standards in Section 2.7.15.D.2.a.
- .5 **Inflatable objects.** *[no changes proposed]*
- .6 **Banner signs.** *[no changes proposed]*
- .7 **Integral signs.** *[no changes proposed]*
- .8 **Fascia signs.** In the three Downtown zoning districts only, fascia signs are restricted in accordance with Section 2.7.15.D.2.d.
- .9 **Flags which bear a commercial message.** *[no changes proposed]*
- .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 three Downtown zoning districts, shall require a permit.
- .11 **Roof signs.** In the three Downtown zoning districts only, certain types of roof signs are permitted provided they comply with the standards in Section 2.7.15.D.2.c.

Section 7.9 Requirements Applicable To All Signs *[no changes proposed]*

- .1 **Computation of Sign Area** *[no changes proposed]*
- .2 **Computation of Height** *[no changes proposed]*
- .3 **Location of Signs on Property** *[no changes proposed]*
- .4 **Traffic Hazards** *[no changes proposed]*
- .5 **Landscape Maintenance** *[no changes proposed]*
- .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 three Downtown zoning districts, see additional restrictions on internally lit signs in Section 2.7.15.D.3.

Section 7.10 Maximum Total Sign Area Per Site *[no changes proposed]*

Section 7.11 Signs in the Public Right-of-Way *[no changes proposed]*

Section 7.12 Nonconforming Existing Signs *[no changes proposed]*

Section 7.13 Miscellaneous Signs *[no changes proposed]*

Section 7.14 Obscenity Prohibited *[no changes proposed]*

Section 7.15 Deviations *[no changes proposed]*

ARTICLE VIII – Administration

Section 8.1 General Provisions; Enforcement of Ordinance *[no changes proposed]*

Section 8.2 Filing of Applications *[no changes proposed]*

Section 8.3 Public Hearings *[no changes proposed]*

Section 8.4 Reconsideration of Action *[no changes proposed]*

Section 8.5 Building Permits *[no changes proposed]*

Section 8.6 Certificate of Use *[no changes proposed]*

Section 8.7 Amendments *[no changes proposed]*

Section 8.8 Special Exceptions

.1 Purpose and Intent *[no changes proposed]*

.2 Special Exception Defined *[no changes proposed]*

.3 Consistency with the Comprehensive Plan *[no changes proposed]*

.4 Authorization *[no changes proposed]*

.5 Standards The following standards shall apply to all applications for Special Exception uses.

a. Generally *[no changes proposed]*

b. Compatibility *[no changes proposed]*

c. Minimum Lot Frontage; Access *[no changes proposed]*

d. Building Location; Setbacks

All buildings shall be located an adequate distance from all property lines and street right-of-way lines. Greater building setback lines may be required when the lot has more than the minimum lot area required or when deemed necessary to protect surrounding properties, except in the three Downtown zoning districts where no increased setbacks shall be required.

e. Screening and Buffering

A continuous strip of properly maintained landscaped area should be provided along all property lines and along all streets serving the premises. Such continuous strip of properly maintained landscaped area may, however, be allowed to contain walkway(s) and driveway entrances. The Board shall also require that the premises be permanently screened from adjoining and contiguous properties by a fence, evergreen hedge and/or other approved enclosure when deemed appropriate to buffer the Special Exception use from surrounding uses. In the three Downtown zoning districts, landscaped strips, screening, or other enclosures shall not be required beyond the standards contained in those zoning districts.

.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.

.7 Permits and Licenses Required *[no changes proposed]*

Section 8.9 Appeals *[no changes proposed]*

Section 8.10 Variances *[no changes proposed]*

Section 8.11 Vacation of Plats, Rights-of-way and Other Property *[no changes proposed]*

Section 8.12 Fees *[no changes proposed]*

Section 8.13 Procedures for special master dispute resolution *[no changes proposed]*

ARTICLE IX – Boards, Commissions and Committees *[no changes proposed]*

ARTICLE X – Violations and Penalties *[no changes proposed]*

ARTICLE XI – Definitions *[changes proposed only as noted below]*

Build-to line: A build-to line identifies the precise horizontal distance from a street right-of-way that the bottom two stories of all buildings must be built to, in order to create a uniform line of buildings along the street. Building floors above the second story may be built to this line, or may step back. In some cases it may be necessary to relocate underground utilities and utility easements to comply with this requirement.

Build-to zone: A build-to zone is range of allowable distances from a street right-of-way that the bottom two stories of all buildings must be built to in order to create a moderately uniform line of buildings along the street. Building floors above the second story may be built within this zone, or may step back.

Building frontage: The length of a building facade that faces a street.

Downtown Community Redevelopment Area (CRA): The Downtown CRA is the area in the City of Cape Coral established by City of Cape Coral Ordinance 49-87 adopted by City Council on April 27, 1987. *[change this wording if the City Council agrees to the proposed boundary expansion]*

Director: The Director (or his/her designee) of the Department of Community Development of Cape Coral, Florida or its successor agency.

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. *Live/work:* A single dwelling unit in a detached building, or in a multifamily or mixed-use building, that also accommodates commercial activities that are permitted in the zoning district where the dwelling unit is located.
4. ~~3-~~ *Multiple Family building:* 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.
5. ~~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.

Facade: The exterior wall of a building that is roughly parallel to a right-of-way or which faces a plaza or public park.

Habitable: A space in a structure available for living, sleeping, eating, cooking, or any commercial purposes. However, storage space is not considered to be habitable space.

Liner building: A building built 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 facade that has doors and windows opening onto the sidewalk.

Live/work: See *Dwelling Unit, Types*.

Parking structure: A building or structure that allows the parking of motor vehicles on two 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.

SFWM: South Florida Water Management District

Story: That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above. Space at ground level is considered as the first story if it is six feet or more in height. 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 three 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.

ARTICLE XII – Building Codes and City of Cape Coral Engineering Design Standards *[no changes proposed]*