

**CITY OF  
EVERGLADES CITY**

**LAND DEVELOPMENT CODE**

**Adopted January 2, 2001**

**Ordinance No. 2000-5**

Last Amended December 2021

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**EVERGLADES CITY  
LAND DEVELOPMENT CODE**

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# EVERGLADES CITY LAND DEVELOPMENT CODE

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**ARTICLE I  
GENERAL PROVISIONS**

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# ARTICLE I

## GENERAL PROVISIONS

### 1.00.00 TITLE

This Code shall be entitled the "Land Development Code For The City Of Everglades City" and may be referred to herein as the "Code."

### 1.01.00 AUTHORITY

This Code is enacted pursuant to the requirements and authority of §163.3202, Florida Statutes (hereinafter "F.S."); "The Local Government Comprehensive Planning and Land Development Regulation Act;" the City of Everglades City Charter effective on the passage of House Bill No. 951, Chapter 29068, Laws of Florida, Acts of 1953, as revised and amended effective November 29, 1994; and the general powers in Chapter 166, F.S.

### 1.02.00 APPLICABILITY

#### 1.02.01 *General Applicability*

Except as specifically provided below, the provisions of this Code shall apply to all development in the City of Everglades City (hereinafter "City"), and no development shall be undertaken without prior authorization pursuant to this Code.

#### 1.02.02 *Exceptions*

##### **A. Previously Issued Development Permits**

The provisions of this Code, and any amendments thereto, shall not affect the validity of any lawfully issued development permit if:

1. The development activity authorized by the permit has been commenced prior to the effective date of this Code or any amendment thereto, or will be commenced after the effective date of this Code, but within 6 months of the issuance of the building permit; and
2. The development activity continues without interruption (except because of war or natural disaster) until the development is complete. If the development permit expires, any further development on that site shall occur only in conformance with the requirements of this Code or any amendment thereto.

**B. Previously Approved Development Orders**

Projects with development orders that have not expired at the time this Code or an amendment thereto is adopted, and on which development activity has commenced, or does commence and proceed according to the time limits in the regulations under which the development was originally approved, must meet only the requirements of the regulations in effect when the development plan was approved. If the development plan expires or is otherwise invalidated, any further development on that site shall occur only in conformance with the requirements of this Code or amendment thereto.

**C. Consistency With The Plan**

Nothing in this Section shall be construed to authorize development that is inconsistent with the City's Comprehensive Plan.

*1.02.03 Relation to County, State and Federal Statutes*

**A. Required County, State and/or Federal Permits**

Where proposed use or development requires County, State or Federal Permits prior to use or development, such permits must be secured from County, State or Federal agencies prior to commencement of any construction and/or development, including any changes in land conformation or land preparation.

**B. Development of Regional Impact**

Where a proposed use or development is a Development of Regional Impact (DRI), it shall meet all of the requirements of Chapter 380.06, Florida Statutes, prior to the issuance of any required City Permits and commencement of construction or development. If a change in zoning is required, the DRI application for development approval and rezoning application shall be submitted to the City concurrently.

**1.03.00 GUIDE FOR USERS**

*1.03.01 The Integration Of Land Development Regulations*

This integrated Code is enacted to replace land development regulations adopted in response to local needs over the course of time since the City's incorporation in 1953. These regulations lack coordination and present certain difficulties to the users and

administrators of the City's previous code of ordinances in finding and understanding the specific features of ordinances addressing land development regulations. The adoption of this efficient, integrated Code should enhance greatly the ease and effectiveness of land development regulations within the City.

The user of this integrated Code may discover that it does not employ conventional subject headings. For example, the Code does not have a part of the Code labeled "Subdivision Regulations." That is due to the fact that regulations relating to subdivisions are essentially the same as the regulations relating to other development activities. Thus stormwater requirements for all development, including subdivisions, are found in the part of the Code labeled "Stormwater Management;" tree planting requirements are found in the part of the Code labeled "Landscaping;" and so forth throughout the Code.

Similarly, the Code contains no part labeled "Planned Unit Development" (hereinafter "PUD"). The distinction between PUDs and other developments may be eliminated in an integrated Code. Under this Code, all developments are treated as, traditionally, PUDs were in the past. Thus all commercial development and all residential development must go through a review process. Importantly, the flexible site-design criteria normally reserved for PUDs are now applied to all developments covered by this Code.

In sum, this Code establishes a single set of site-design and development-review procedures. It incorporates a subject-matter format and a Table Of Contents that may be unfamiliar to many users. It is designed to streamline the City's regulatory procedures and make the overall regulation of land use more effective.

#### *1.03.02 Checklist For Preparation And Review Of Development Proposals*

Articles in this Code are arranged in an order that reflects the process to be used by those proposing to develop a parcel of land from the first step through to an approved development. It is designed to facilitate its use by interested citizens, developers and City officials. The ordered process provides a checklist approach for all those reviewing a proposed development for its compliance with the Code's requirements.

The procedural order and checklist are as demonstrated below:

### **ARTICLE I - GENERAL PROVISIONS**

This Article contains general provisions necessary to determine the applicability of the Code and to ensure the Code's validity in law. Section 1.02.00, "Applicability,"

establishes which developments must comply with the Code's requirements. Certain development activities are not covered if they have been authorized by development plans approved previously. The first criteria established by the Code is to determine whether the proposed development activity is covered by the terms of this Code or by regulations in effect prior to this Code's adoption. Following a determination that this Code applies to the proposed development, the Guide For Users should be reviewed to facilitate an understanding of the Code. Other parts of Article I should be reviewed, as required, to resolve any questions arising from matters related to intent, interpretation, or the validity of regulations provided for in this Code.

**ARTICLE II - LAND USE: TYPE, DENSITY, INTENSITY**

The first question regarding the development of any site is what use and what density and/or intensity of use is allowed on a proposed site. Article II provides the answer to this question. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

**ITEM**

- \_\_\_\_\_ In what land use district is the development site located? See Section 2.02.00.
- \_\_\_\_\_ What uses are allowed in that district? See Section 2.02.00.
- \_\_\_\_\_ If a residential development is to be proposed, what is the allowable density, or dwelling-units-per-acre? See Sections 2.02.03-2.02.04.

**ARTICLE III - OVERLAYS AND FLOATING ZONES**

Following determination of the land use and its density and/or intensity, a second determination must be made as to whether the proposed site is within an overlay district, e.g., a site within such a district will be subject to certain development restrictions. Article III contains all overlay districts that might affect a site. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

**ITEM**

- \_\_\_\_\_ Is the development site within a designated zoning district? See Section 3.01.00.
- \_\_\_\_\_ Does the proposed development activity involve the construction of a



residence in an existing land use zone? See *Infill Development Standards* in Section 3.01.00.

\_\_\_\_\_ Is the proposed site within an area designated for Traditional Neighborhood Development, or is there a desire to develop the site as a Traditional Neighborhood Development? See Section 3.02.00.

\_\_\_\_\_ Is the proposed development in the Airport Overlay District? See Section 3.03.00.

#### **ARTICLE IV - CONSISTENCY AND CONCURRENCY DETERMINATIONS**

The last basic determination to be made regarding the proposed land use and the density and/or intensity of that use is whether the consistency and concurrence requirements of this Code are being met. The regulations provided for in Article IV are designed to ensure that a proposed development is consistent with the City's Comprehensive Plan. In order for the concurrence requirement to be met, each development proposal must demonstrate that no adopted level of service for public facilities specified in the Comprehensive Plan will be adversely affected or degraded by the impacts of development. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

#### **ITEM**

\_\_\_\_\_ Is the development, except for the concurrence requirement, consistent with the City's Comprehensive Plan? See Section 4.01.00.

\_\_\_\_\_ Is the concurrence requirement being met? See Section 4.02.00, **specifically:**

\_\_\_\_\_ Will the proposed development use potable water? See Section 4.03.01.

\_\_\_\_\_ Will the proposed development create wastewater? See Section 4.03.02.

\_\_\_\_\_ Will the proposed development increase traffic on surrounding streets? See Section 4.03.03.

\_\_\_\_\_ Will the proposed development change the amount, nature or patterns of stormwater runoff? See Section 4.03.04.

\_\_\_\_\_ Will the proposed development create solid waste? See Section 4.03.05.

\_\_\_\_\_ Will the proposed development create a need for additional public recreation facilities? See Section 4.03.06.

#### **ARTICLE V - RESOURCE PROTECTION STANDARDS**

Once the use and the density and/or intensity of that use is determined for a proposed development site, the next step is to determine whether any portions of the site must remain partially or totally free of development activity. Article V prescribes those restriction that apply to areas that must be exempt from development. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

**ITEM**

\_\_\_\_\_ Does the proposed development site contain protected trees as defined in the Code? See Section 5.01.00.

\_\_\_\_\_ Does the proposed site contain wetlands or other environmentally sensitive lands as identified in the City's Comprehensive Plan? See Section 5.02.00.

\_\_\_\_\_ Does the proposed site contain a habitat of some threatened or endangered species? See Section 5.04.00.

\_\_\_\_\_ Does the proposed site contain land within the 100-year flood plain that can meet FEMA flood-elevation standards? See Section 5.05.00.

**ARTICLE VI - DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS**

Upon determining the developable portions of the proposed site, the next determination concerns the design and required improvements to be incorporated in the actual development. Article VI contains flexible standards that guide and control the design of the proposed development so that a maximum public benefit is realized for City residents. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

**ITEM**

\_\_\_\_\_ Will the proposed development involve the subdivision of unplatted land? See Section 6.01.01 for minimum-lot-area requirements and Section 12.02.12 for platting procedures.

\_\_\_\_\_ Will the proposed development contain buildings or other impervious surfaces? See Section 6.01.02 for impervious surface coverage requirements.

\_\_\_\_\_ Will the proposed development contain buildings or other structures? See Section 6.01.03 for building setback requirements.

\_\_\_\_\_ Will the proposed development contain streets, parking or other vehicle use areas? See Sections 6.02.00, 6.03.00 and 6.06.00, **specifically:**

\_\_\_\_\_ See Sections 6.02.02, 6.02.03 and 6.02.04 for street layout, design and right-of-way requirements.

\_\_\_\_\_ See Section 6.02.05 for sidewalk and bikeway requirements.

\_\_\_\_\_ See Section 6.02.06 for access requirements.

\_\_\_\_\_ See Section 6.02.07 for standards relating to drive-up facilities.

\_\_\_\_\_ See Section 6.03.00 for off-street parking and loading requirements.

\_\_\_\_\_ See Section 6.06.00 for landscaping requirements.

\_\_\_\_\_ Will the proposed development involve the installation of utilities? See Section 6.04.00 for installation and design standards.

\_\_\_\_\_ Will the proposed development affect the quality or quantity of stormwater runoff from the site? See Section 6.05.00 for stormwater management requirements.

#### **ARTICLE VII - ACCESSORY STRUCTURES AND USES**

Article VII creates standards for the creation, placement and construction of accessory structures or uses. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

#### **ITEM**

\_\_\_\_\_ Is a satellite-dish antenna to be installed? See Section 7.01.02.

\_\_\_\_\_ Is a storage building, utility building or greenhouse to be installed? See Section 7.01.03.

\_\_\_\_\_ Is a swimming pool, hot tub or similar structure to be installed? See Section 7.01.04.

\_\_\_\_\_ Is a fence to be installed? See Section 7.01.05.

\_\_\_\_\_ Is a home occupation to be started? See Section 7.02.01.

#### **ARTICLE VIII - SIGNS**

Article VIII provides standards and prohibitions relating to signs. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

**ITEM**

- \_\_\_\_\_ Exempt signs are described in Section 8.01.00.
- \_\_\_\_\_ Prohibited signs are described in Section 8.02.00.
- \_\_\_\_\_ Regulations relating to temporary signs are described in Section 2.02.00.
- \_\_\_\_\_ Regulations relating to permanent accessory signs are described in Section 2.02.00.
- \_\_\_\_\_ Regulations relating to outdoor advertising signs are described in Section 8.02.00.
- \_\_\_\_\_ Sign measurement determinations, e.g., sign height and size, are described in Section 2.02.00.
- \_\_\_\_\_ Regulations relating to the design, construction and location of signs are described in Section 2.02.00.

**ARTICLE IX - OPERATIONAL PERFORMANCE STANDARDS**

Article IX provides standards governing certain potentially noxious aspects of ongoing development activities. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

**ITEM**

- \_\_\_\_\_ Will the proposed development create an exceptional amount of noise?  
See Section 9.01.00.
- \_\_\_\_\_ Will the proposed development create air pollution? See Section 9.02.00.
- \_\_\_\_\_ Will the proposed development create an exceptional amount of odor?  
See Section 9.06.00.
- \_\_\_\_\_ Will the proposed development create a risk of fire or explosion? See Section 9.03.00.
- \_\_\_\_\_ Will the proposed development create a risk of electromagnetic interference? See Section 9.05.00.

## **ARTICLE X - HARDSHIP RELIEF**

Article X provides opportunities for seeking relief from requirements in this Code that may create an undue hardship upon those seeking development approvals. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

### **ITEM**

\_\_\_\_\_ Is the proposed development an existing development that does not conform to the use regulations promulgated in Article II of this Code and/or the development design and improvement standards promulgated in Article VI of this Code? See Section 10.01.00.

\_\_\_\_\_ With regard to the proposed development, is relief sought from the strict application of a development design standard? See Section 10.02.00.

\_\_\_\_\_ With regard to the proposed development, is relief sought from the resource protection standards through the use of clustering? See Section 10.03.02.

\_\_\_\_\_ With regard to the proposed development, is relief sought from the resource protection standards through the use of transferable development rights? See Section 10.03.03.

## **ARTICLE XI - BOARDS AND AGENCIES**

To this point in this Code, all substantive provisions relating to the use and design of a development site have been reviewed. When the decision to proceed with development is made, the procedures for development review outlined in Article XII must be followed. Article XI establishes and describes the following development review entities:

\_\_\_\_\_ Planning and Zoning Committee. See Section 11.01.02.

## **ARTICLE XII - ADMINISTRATION AND ENFORCEMENT**

Article XII establishes the procedures for making land-use decisions. Importantly, it delineates procedures for reviewing development plans for the purpose of determining plan compliance with Code Requirements. Following is a checklist of Code provisions that should be consulted with regard to development proposals:

**ITEM**

- \_\_\_\_\_ Is the proposed activity “development” as defined in this Code? See Section 12.00.03.
- \_\_\_\_\_ If the proposed activity is development, must a development plan showing the proposed development be approved prior to the issuance of a construction permit? See Section 12.01.00.
- \_\_\_\_\_ If a development plan is required, is the proposed development a minor development or a major development? See Section 12.02.02. Also, see the submittal requirements in Section 12.02.11.
- \_\_\_\_\_ If the proposal is a minor development, follow the review procedures in Sections 12.02.02, 12.02.03, and 12.02.04.
- \_\_\_\_\_ If the proposal is a major development, follow the review procedures in Sections 12.02.02, 12.02.03, and 12.02.05.
- \_\_\_\_\_ If the development is to be built in phases, see Section 12.02.06.
- \_\_\_\_\_ If the development proposal involves platting, see Section 12.02.06.
- \_\_\_\_\_ If the development proposal requires an amendment to the Comprehensive Plan or this Code, see Section 12.05.00. If an appeal of a decision of the City of Everglades Planning Agency, or by the Code Enforcement Board, is sought, see Section 12.00.00.

*1.03.03 Description Of Development Review Procedures*

The development review process includes those procedures which determine if a development plan complies with the requirements of this Code. Development Plan Review is required for virtually all development activity, except the installation of a sign or the removal of a protected tree.

The development review process includes 2 mandatory steps and 1 optional step: Pre-application Conference [optional], Development Plan Review [mandatory], and the issuance of Development Orders or Construction Permits [mandatory].

**1.04.00 FINDINGS**

*1.04.01 General Findings*

**A. Statutory Requirement**

Chapter 163, F.S., requires each local government to enact a single land development code which implements and is consistent with the local comprehensive plan, and which contains all land development regulations for each jurisdiction.

**B. General Public Need**

Controlling the location, design and construction of development within the City is necessary to maintain and improve the quality of life in the City as more fully described below.

*1.04.02 Specific Findings Relating To The Various Subject Areas Of This Code*

With regard to the following specific subject areas of this Code, the Everglades City Council finds:

**A. Administration and Enforcement**

1. A single set of administrative procedures for making all land use decisions in the City promotes efficiency, predictability and citizen participation.
2. All development proposals should undergo a Development Review process to ensure compliance with the requirements of this Code.
3. An optional pre-application conference requirement enhances communication and understanding between the City and the Developer, thereby improving the efficiency of the development review process by allowing developers to modify proposals in response to early comment by City officials.
4. Developments representing large potential impact on the community should be subjected to a more rigorous review process than other developments.
5. Review of basic planning decisions should be independent of specific land-development decisions to avoid ad-hoc planning on a site-specific basis.
6. All administrative decisions in respect to development should be supported by a written record with findings to ensure accountability and an efficient appellate review.
7. A timely, efficient and impartial avenue of appeal should be available to affected parties when appealing all ministerial and/or administrative decisions.

8. Enforcement of development orders and the provisions of this Code should be facilitated by procedures that are efficient, effective, and consistent with the code enforcement procedures established by State statute and administrative code.

**B. Signs**

1. The manner of the erection, location and maintenance of signs affects the public health, safety, morals and welfare of the City.
2. The safety of motorists, cyclists, pedestrians and other users of the City's public streets is affected by the number, size, location, lighting and movement of signs that, by their very nature and purpose, divert the attention of motorists.
3. The size and location of signs may, if unregulated, constitute an obstacle to the employment of effective fire-fighting measures in the case of an emergency.
4. The construction, erection and maintenance of large signs placed upon or suspended from the tops of buildings or other structures, and placed upon the walls of buildings or other structures may constitute direct endangerment of pedestrians, vehicular traffic, or other structures, especially during periods of high winds.
5. Unregulated and unlimited signs may diminish the attractiveness of the natural and man-made aesthetic features of the City, and thereby degrade the potential for economic growth and value of gainful employment in tourism generally and winter-season visitor use of the City and its resources.

**C. Landscaping and Tree Protection**

1. Utilization of landscaping and the buffering of development with trees and other vegetation promotes the health, safety, and welfare of the City to such an extent as to justify the inclusion of landscaping and buffering requirements in this Code.
2. Landscaping, especially trees, benefits the City by:



- a. Absorbing carbon dioxide and returning oxygen to the surrounding atmosphere;
  - b. Assimilating dust and other particulates from the atmosphere;
  - c. Providing wildlife habitat, particularly for birds, which in turn helps to control insects;
  - d. Providing soil stabilization which reduces erosion and mitigates the effects of flooding;
  - e. Providing shade which reduces energy consumption and glare, making outdoor areas more temperate during the warm months of the year;
  - f. Enhancing the developed portion of the City by adding a variety of colors, shapes and patterns in order to increase the value of private property and establish a sense of community pride;
  - g. Providing attractive buffering between adjoining properties to mitigate incompatible land uses; and
  - h. Abating noise.
3. Due to the fact that native vegetation adapts well to local plant diseases, pests, indigenous soils and climate, it is desirable, and generally more economical, that native vegetation is preferred over those exotic species which require more use of water, fertilizers and pesticides.
  4. Exotic vegetation can crowd out native vegetation, use excessive water, and damage the native environment due to increased use of fertilizers and pesticides.
  5. Due to the fact that some trees are deemed to be more beneficial to the native environment than other trees, the public benefits of tree protection regulations may be obtained without preserving each and every tree within the City.
  6. Mangrove trees are especially valuable in stabilizing, building and protecting shoreline, providing for the spawning and breeding grounds for marine organisms and other wildlife, and serving as the basis for many estuarine food chains that are critical to preserving 70 to 90 percent of those species considered important to commercial and recreational activities in the general area.

**D. Off-Street Parking and Loading**

1. Off-street parking and loading of vehicles promotes the public safety and welfare by reducing traffic congestion.
2. Well-designed, off-street parking and loading areas promote the safe and efficient storage, loading and circulation of vehicles.
3. Deferring the construction of some parking areas pending determination of the actual need for parking spaces by accounting for public demand and the size of vehicles to be parked conserves open space and developable land, and reduces the expense and hazard of controlling stormwater runoff.
4. Allowing the use of porous paving materials and unpaved parking areas whenever possible conserves water and energy, moderates the "microclimate" surrounding parking areas, and reduces the expense and hazard of controlling stormwater runoff.

**E. Stormwater Management**

1. Increased stormwater runoff may cause erosion and the pollution of ground and surface water with a variety of contaminants, e.g., heavy metals and petroleum products.
2. Stormwater runoff often contains nutrients, such as phosphorus and nitrogen, which adversely affect plants and animals by accelerating the eutrophication of the receiving waters.
3. Erosion silts-up water bodies, decreases their capacity to hold and transport water, interferes with navigation, and damages plants and animals.
4. Installation of an impervious surface increases the volume and rate of stormwater runoff, and decreases groundwater recharge.
5. Improperly managed stormwater runoff increases the incidence and severity of flooding inland and endangers property and human life.
6. Improperly managed stormwater runoff alters the salinity of estuarine areas and diminishes their biological productivity.
7. Degradation of surface and ground waters imposes unproductive economic costs upon the City and the surrounding community.

8. Up to 80 to 95 percent of the total annual loading of most stormwater pollutants discharged into receiving waters is concentrated in the “first flush” of the initial one (1) inch of rainfall, and carried off-site in the initial one-half inch of runoff.
9. Improperly managed stormwater from a developed site adversely affects the drainage of property off-site.

**F. Floodplain Protection**

1. Flooding is a natural, recurring phenomenon in the City.
2. Natural flood-prone lands serve important functions in the regional hydrological cycle and ecological system, e.g.:
  - a. Natural flood-prone lands provide conveyance of and storage for flood waters;
  - b. They normally facilitate groundwater recharge;
  - c. They provide temporary storage of surface waters that moderates flood elevations and the timing, velocity and rate of flood discharges.
  - d. They reduce erosion and filter nutrients, sediments and other pollutants from flood waters.
  - e. They export detritus and other food sources to open water bodies and help maintain a vital habitat for fish, birds, wildlife and native plant communities.
3. Recurring flooding may provide for recharge to groundwater and a basic source of natural flow to renourish surface waters.
4. Uncontrolled development of flood-prone lands degrades the health, safety, and welfare of the community in the following ways:
  - a. Owners, residents, customers, visitors, and employees of local business who occupy residences, businesses, and other structures located in flood-prone areas are at risk of personal injury and damage to their personal and real property;
  - b. Costly and potentially dangerous search, rescue and disaster relief operations may be required when developed properties are flooded;

- c. Public facilities, roads, and local utilities associated with development may be damaged by flooding resulting in unplanned costs to City taxpayers and utility rate-payers;
- d. Flooding of developed properties may lead to a public demand that government construct flood-control projects that may prove to be costly and damaging to the local environment;
- e. Under normal circumstances, flood-free lands are only placed at risk of flooding when natural flood-prone areas are altered to obstruct, divert, displace or channel flood waters toward upland areas;
- f. Excessive, uncontrolled flooding degrades water quality, disrupts the supply of freshwater to estuaries, and destroys natural habitats; and
- g. Property values are lowered and gainful economic activity in the City is disrupted by excessive flood damage.

**G. Protection of Environmentally Sensitive Lands**

- 1. Protection of environmentally sensitive lands mapped in the Future Land Use Element of the Comprehensive Plan promotes the well-being of the City's residents and property owners as described below and in the Plan's Coastal Management and Conservation elements.
- 2. Wetlands serve the following beneficial functions:
  - a. Wetlands provide for the natural storage and conveyance of flood waters, and minimize erosion sedimentation by moderating flood-flows and the velocity of flood waters;
  - b. Coastal wetlands protect wildlife and the shoreline from destructive wave action;
  - c. Wetlands filter and facilitate the decomposition of sediments, nutrients, and other natural and man-made pollutants that would otherwise contribute to the degradation of surface waters and groundwater;

- d. They support commercial and recreational fishing because they provide essential nutrients and natural hatcheries for aquatic life;
  - e. They provide habitat for rare and endangered species, and provide essential breeding and protective habitats for other birds, mammals and reptiles; and
  - f. They recharge surface water and groundwater.
3. Shorelines serve the following beneficial functions:
- a. Land which adjoins open waters or wetlands can generally be subdivided into submergent, transitional and upland vegetation zones, provides essential habitats for many plant and animal species including those that have been identified as endangered, threatened, or of special concern;
  - b. Submergent, transitional and upland vegetation zones serve as effective buffers against noise and other human activities which may have adverse effects on aquatic and wetland-dependent wildlife;
  - c. Submergent, transitional, and upland vegetation zones moderate flows of stormwater runoff and facilitate the filtration of stormwater, nutrients and other substances; and
  - d. Submergent, transitional and upland vegetation zones reduce predatory activities by domestic pets on wetland and wetland-dependent wildlife.
4. Before the City's incorporation in 1953, development activities may have impaired the beneficial functions of certain environmentally-sensitive lands in the City.
5. Existing residential and commercial areas on Everglades main island, Pleasure Island, and the DuPont peninsula that were platted prior to 1953 were developed for urban purposes and are considered exempt from the special shoreline protection provisions of this Code.

#### **H. Protection of Historical and Cultural Resources**

- 1. Historical buildings, objects, sites, and structures are located within the City that represent unique and irreplaceable assets for the City and its residents.
- 2. The City's Comprehensive Plan has recognized these assets as an important feature of the Plan's Conservation Element.

3. The Conservation Element features a survey of historical and cultural resources that has been adopted as an official inventory of these resources.
4. Protection, enhancement, and use of these resources are recognized public purposes designed to promote the cultural, economic, educational, and general public welfare by leading to increasing property values, stabilizing neighborhoods and older areas of the City, increasing economic benefits to the City and its residents while enriching their quality of life, and fostering general civic pride.
5. City officials are exerting efforts to encourage redevelopment of the City's older areas and will continue to do so.
6. The Florida Legislature has expressed in Chapter 267, F.S., that the State's historic sites and properties, buildings, artifacts, treasure troves, and objects of antiquity which are of public interest and scientific and historical value be protected and preserved.

**I. Land Use**

1. The need for efficiency and economy in the process of future development and redevelopment.
2. That appropriate use of land in accordance with the Future Land Use Map of the Comprehensive Plan is necessary.
3. Convenience in circulation of traffic for the transportation of people, goods and commodities is in the best interest of the City.
4. The need for healthful and convenient distribution of population.
5. The necessity of adequate and continuously maintained public facilities and utilities.
6. Promotion of amenities, both public and private, is required.
7. Maintenance and improvement of the quality of life for all residents should be a priority.
8. Ensuring development in accordance with the Comprehensive Plan shall be implemented.

**1.05.00 INTENT**

**1.05.01 *General Intent***

With regard to this Code in general, the Code's provisions shall be construed and implemented to achieve the following intentions and purposes of the Everglades City Council:

- A. To establish the regulations, procedures and standards for review and approval of all proposed development in the City.
- B. To foster and preserve the public health, safety, comfort, and general welfare, and to aid in the harmonious, orderly, aesthetically-pleasing and socially-beneficial development of the City in accordance with its Comprehensive Plan.
- C. To adopt a development review process that is:
  - 1. Efficient, in terms of time and expenses to both government and private citizens;
  - 2. Effective, in terms of addressing the natural resource and public facility implications of proposed development; and
  - 3. Equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the individual and collective interests of the citizens of the City.
- D. To implement the City's Comprehensive Plan pursuant to the requirements and authority "The Local Government Comprehensive Planning and Land Development Regulation Act."
- E. To provide specific procedures to ensure that the granting of development orders and permits that observe the "concurrency" rule by demonstrating that public facilities and services are made available concurrent with development.

*1.05.02 Specific Intent Relating To The Various Subject Areas Of This Code*

The provisions of this Code, dealing with the following specific subject areas, shall be construed and implemented in a manner that achieves the following intentions and purposes of the Everglades City Council:

- A. **Administration and Enforcement**
  - 1. To ensure that all development proposals be reviewed thoroughly and efficiently for compliance with the requirements of this Code, the City's Comprehensive Plan, and other applicable City codes and regulations.
  - 2. To promote efficiency, predictability and direct citizen participation.

3. To ensure compliance with approved development orders through the application of rigorous but fair enforcement actions consistent with the provisions of this Code.

**B. Signs**

1. To provide a comprehensive and balanced system of sign control that accommodates and balances the need for a well-maintained, safe, and attractive City with the needs of local business to achieve effective sign identification and advertising communication.
2. To permit signs that are:
  - a. Compatible with their surroundings;
  - b. Designed, constructed, installed, and maintained in a manner that does not endanger public safety or unduly distract motorists;
  - c. Appropriate and pertinent to the type of commercial activity identified and/or advertised;
  - d. Of sufficient size to provide adequate information about the owners or occupants of a particular commercial property, the products or services available at the advertised location, and/or the specific activities conducted at the advertised location that observes the City's sign standards; and
  - e. Reflects the identity and creativity of the operators of each individual enterprise employing a sign to identify and/or advertise themselves.
3. To promote the economic health of the entire community through enhanced business activity, tourism, and increased property values.

**C. Landscaping and Tree Protection**

1. To enhance the attractiveness of the entire community.
2. To moderate the City's climate and conserve energy by preserving the cooling and shading effect of trees and foliage.
3. To abate nuisances such as excessive noise, glare, heat, air pollution, and stormwater runoff.
4. To mitigate potential user conflicts between adjoining land uses.



5. To preserve the environmental and ecological benefits derived from existing native trees and vegetation.
6. To promote safe and efficient use of off-street parking facilities and other vehicular-use areas by:
  - a. Clearly delineating and buffering the outside boundaries of vehicular-use areas, particularly in instances where they abut public rights-of-way, in order that vehicular and pedestrian movement, noise and glare from one vehicular-use area, does not impact adversely other areas within the City;
  - b. Limiting physical-site access to established points of ingress and egress; and
  - c. Limiting the internal movement of vehicles and pedestrians within each vehicular-use area to designated traffic-configuration points.
7. To preserve the City's irreplaceable natural heritage for present and future generations.

**D. - Parking and Loading**

To ensure that all developments provide for adequate and safe storage and movement of vehicles in a manner consistent with the community's standards and incorporating sound engineering and site-design principles.

**E. Stormwater Management**

1. To protect and maintain the chemical, physical, and biological integrity of surface waters and groundwater.
2. To prevent unplanned development activities which affect adversely surface waters and groundwater.
3. To encourage and facilitate the construction of stormwater management systems that approximate natural systems both functionally and aesthetically.
4. To protect natural drainage systems.
5. To minimize pollution of surface waters and groundwater from runoff.
6. To stabilize groundwater levels.
7. To protect and maintain natural salinity levels in estuarine areas.
8. To minimize erosion, sedimentation, and damage to natural wetlands.
9. To protect, maintain, and restore the area habitat of local fish and wildlife.

**F. Floodplain Protection**

1. To protect human life and the public's health.
2. To minimize public expenditures for flood control projects.
3. To minimize the need for costly rescue and relief efforts at public expense due to flooding.
4. To minimize prolonged business interruptions and damage to public facilities and local utilities caused by flooding.
5. To maintain a stable tax base providing for appropriate and economically-productive use of flood-prone areas within the City.
6. To ensure that any potential purchasers of subdivided land in flood-prone areas are provided with proper notification of the status of the affected land.
7. To ensure that existing and any approved land uses and facilities vulnerable to flooding are designed and constructed to resist flood damage.
8. To preserve any natural floodplains, stream channels, and natural protective barriers to accommodate flood waters.
9. To limit filling grading, dredging and other development activities which may increase erosion, sedimentation or flood damage.
10. To prevent unnatural diversion of flood waters to upland areas that are normally flood-free.
11. To maintain the normal movement of surface waters, the optimum storage capacity of any existing watersheds, desirable groundwater levels, surface water quality, and the natural hydrological and ecological functions of wetlands and other flood-prone lands.
12. To avoid the need for costly and environmentally disruptive flood-management structures.
13. To make the City eligible for participation in the National Flood Insurance Program (NFIP).

**G. Protection of Environmentally-Sensitive Lands**

1. To protect environmentally-sensitive lands and their beneficial functions while also protecting the rights of property owners.
2. To protect, maintain and restore the chemical, physical, and biological integrity of surface waters and groundwater and natural habitats.
3. To prevent activities which affect adversely surface waters and groundwater, natural habitats, and native plants and animals.
4. To prohibit certain uses that are detrimental to environmentally-sensitive areas.
5. To enhance recreational opportunities for fishing, boating, nature observation, and other uses.
6. To protect the public's rights in navigable waters.

**H. Protection of Historical and Cultural Resources**

1. To identify, protect and enhance historical buildings, objects, sites, and structures that are reminders of past eras, events, and persons important in local, state, or national history; or which provide examples of significant architectural styles of the past.
2. To enhance property values, stabilize older neighborhoods, and increase economic benefits to the City arising out of its historical and cultural resources.
3. To preserve and enhance the varied architectural styles that reflect the architectural, cultural, economic, political, and social history of the City.
4. To enrich human life in respect to its cultural and educational dimensions by fostering knowledge of the City's heritage.

**1.06.00 RELATION TO COMPREHENSIVE PLAN**

*1.06.01 Generally*

The adoption of the unified Land Development Code implements the following Goals, Objectives and Policies of the City's Comprehensive Plan:

*1.06.02 Specifically*

**A. Administration and Enforcement**

The administration and enforcement provisions of this Code implement the following Goals, Objectives, and Policies of the Comprehensive Plan:

**B. Signs**

The sign regulations in this Code implement the following Goals, Objectives, and Policies of the Comprehensive Plan:

**C. Landscaping and Tree Protection**

The landscaping and tree protection regulations in this Code implement the following Goals, Objectives, and Policies of the Comprehensive Plan:

**D. Parking and Loading**

The parking and loading regulations in this Code implement the following Goals, Objectives, and Policies of the Comprehensive Plan:

**E. Stormwater Management**

The stormwater management regulations in this Code implement the following Goals, Objectives, and Policies of the Comprehensive Plan:

**F. Floodplain Protection**

The flood damage prevention provisions in this Code implement the following Goals, Objectives, and Policies of the Comprehensive Plan:

**G. Protection of Environmentally-Sensitive Lands**

The protection of environmentally-sensitive lands provisions in this Code implement the following Goals, Objectives, and Policies of the Comprehensive Plan:

**H. Protection of Historical and Cultural Resources**

The protection of historical and cultural resource provisions in this Code implements the following Goals, Objectives, and Policies of the Comprehensive Plan:

**I. Land Use**

The land use provisions implement the Goals, Objectives, and Policies of the Comprehensive Plan:

**1.07.00 INCORPORATION BY REFERENCE**

*1.07.01 Official Street Map*

The Official Street Map and any amendments thereto, adopted by the City as a part of its Comprehensive Plan, is by this reference incorporated into this Code.

*1.07.02 Stormwater Management Manual*

The Stormwater Management Manual and any revisions thereto, compiled by the City pursuant to Section 6.05.05 of this Code, is by this reference incorporated into this Code.

*1.07.03 Establishment of District*

The incorporated land and water area of the City of Everglades City is hereby divided into districts as set out in Section 2.00.00 of this Land Development Code and as shown on the Official Zoning Atlas which, together with all explanatory material shown thereon, is hereby adopted by reference and declared to be a part of this Land Development Code.

*1.07.04 Official Zoning Atlas*

**A.** The Official Zoning Atlas shall be identified by the signature of the Mayor of the City of Everglades City and attested by the City Clerk and shall bear the seal of the City of Everglades City under the following words:

“This is to certify that this is the Official Zoning Atlas referred to and adopted by reference by Ordinance No. 2020-06 of the City of Everglades City, Florida, adopted August 4, 2020.”<sup>1</sup>

**B.** The boundaries of each district shall be shown on the Official Zoning Atlas, and the district symbol or symbols as set out in this Code shall be used to designate each district.

*1.07.05 Changes In District Boundaries*

If, in accordance with the provisions of this Land Development Code and applicable provisions of Florida Law, changes are made in district boundaries or other matters portrayed on the Official Zoning Atlas, such changes shall be entered promptly on the Official Zoning Atlas after the amendment has been approved by the City Council, with an entry on the Official Zoning Atlas as follows:

“On \_\_\_\_\_ by Ordinance No. \_\_\_\_\_ of the City of Everglades City, the following changes were made in the Official Zoning Atlas: (brief description of nature of change).”

Said entry shall be attested by the City Clerk. No amendment to this Land Development Code which involves the matter portrayed in the Official Zoning Atlas shall become effective until such change and entry has been made on the Official Zoning Atlas in the manner herein set out; such change shall be made by the City Clerk within ten (10)

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<sup>1</sup> Amended in 2020 as proposed by City Council, Ordinance No. 2020-06 filed as passed with the City Clerk August 4, 2020

working days after the date of adoption of the amendment in accordance with the provisions of this Land Development Code and the City Charter.

*1.07.06 Unauthorized Changes Prohibited*

No changes of any nature shall be made in the Official Zoning Atlas or any matter shown thereon except in conformity with the procedures set out in the Land Development Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Land Development Code and punishable as provided by Article XII of this Land Development Code.

*1.07.07 Final Authority As To Zoning*

Regardless of the existence of purported copies of all or part of the Official Zoning Atlas which may from time to time be made or published, the Official Zoning Atlas, which shall be located in the office of the City Clerk, shall be the final authority as to the current zoning status of all lands and waters in the incorporated area of the City.

*1.07.08 Retention Of Earlier Zoning Maps Or Atlases*

All zoning maps or atlases, or remaining portions thereof, which have had the force and effect of official zoning maps or atlases for the City of Everglades City prior to the effective date of amendments to this Land Development Code shall be retained as a public record as a guide to the zoning status of lands and waters prior to such date. Upon the date of the amendments merging the Zoning Ordinance and the Land Development Code, the Official Zoning Atlas of that date shall be microfilmed and such filmed record retained permanently in a place separate from the original Atlas.

*1.07.09 Replacement Of Official Zoning Atlas*

If the Official Zoning Atlas becomes damaged, lost, destroyed, or difficult to interpret by reason of the nature or number of changes, the City Council may by resolution adopt a new Official Zoning Atlas which shall supersede the prior Official Zoning Atlas. The new Official Zoning Atlas may correct drafting or other errors or omissions in the prior Official Zoning Atlas, but no such correction shall have the effect of amending the original Official Atlas.

If, in the process of adopting a replacement Official Zoning Atlas, district boundaries are changed or altered, then action in regard to such change of district boundaries shall be taken only on the form of an amendment to this Land Development Code.

The Official Zoning Atlas shall be authenticated as for the original, with wording to the following effect:

“This is to certify that this Official Zoning Atlas by Resolution No. \_\_\_\_\_ dated \_\_\_\_\_ replaced the Official Zoning Atlas adopted \_\_\_\_\_ as part of Ordinance No. \_\_\_\_\_ of the City of Everglades City, Florida.”

Unless the prior Official Zoning Atlas has been lost or has been totally destroyed, the prior Atlas or any significant parts thereof remaining shall be preserved as a public record, together with any available records pertaining to its adoption or amendment.

## **1.08.00 RULES OF INTERPRETATION**

### *1.08.01 Generally*

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

### *1.08.02 Responsibility For Interpretation*

In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of this Code, the Chairman of the Everglades Local Planning Agency shall be responsible for interpretation and shall look to the City's Comprehensive Plan for guidance. Responsibility for interpretation by the Chairman shall be limited to standards, regulations and requirements of this Code, but shall not be construed to include interpretation of any technical codes adopted by reference in this Code, nor be construed as overriding the responsibilities given to any agency, council or official named in other articles, parts or sections of this Code.

### *1.08.03 Computation Of Time*

The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

### *1.08.04 Delegation Of Authority*

Whenever a provision appears requiring a City officer or employee to do some act or perform some duty, it is to be construed to authorize delegation to professional-level subordinates to perform the required act or duty unless the terms of the provision, part, or section, specify otherwise.

1.08.05 *Gender*

Words importing the masculine gender shall be construed to include the feminine and neuter.

1.08.06 *Number*

Words in the singular shall include the plural and words in the plural shall include the singular.

1.08.07 *Shall, May*

The word "shall" is mandatory; "may" is permissive.

1.08.08 *Written Or In Writing*

The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

1.08.09 *Year*

The word "year" shall mean a calendar year, unless otherwise indicated.

1.08.10 *Day*

The word "day" shall mean a working day, Monday through Friday, excepting legal holidays, unless a calendar day is indicated.

1.08.11 *Boundaries*

Interpretations regarding boundaries of land-use districts shall be made in accordance with the following:

- A. Boundaries shown as following, or approximately following, any street shall be construed as following the centerline of the street.
- B. Boundaries shown as following, or approximately following, any platted lot line or other property line shall be construed as following such line.
- C. Boundaries shown as following, or approximately following, section lines, half-section lines or quarter-section lines shall be construed as following such lines.
- D. Boundaries shown as following, or approximately following, natural features shall be construed as following such features.
- E. Boundaries shown as following or approximately following City or County limits shall be construed as following such City or County limits.
- F. Boundaries shown as following, or approximately following, mean high water lines, streams, canals, lakes or other bodies of water shall be construed as following such



mean high water lines, streams, canals, lakes or other bodies of water. In case of a change in the mean high water line, or of the course or extent of bodies of water, the boundaries shall be construed as moving with the change, except where such moving would change in the zoning status of a lot or parcel; and in such case the boundary shall be interpreted in such a manner as to avoid changing the zoning status of any lot or parcel.

- G. Cases not covered by Subsection A. through F. above or where the property or street layout existing on the ground is at variance with that shown on the Official Zoning Atlas, the Planning and Zoning Committee shall interpret the Official Zoning Atlas in accord with the intent and purpose of this Land Development Code. Appeal from the interpretation of the Planning and Zoning Committee shall be only to the City Council.

*1.08.12.1 Relationship Of Specific To General Provisions*

More specific provisions of this Code shall be followed in lieu of more general provisions that may be more lenient than, or in conflict with, the more specific provision.

*1.08.13 Continuation Of The Provisions Of This Code*

In the event any incorporated territory within the City of Everglades City shall hereafter become unincorporated, to insure that there shall be no lapse of zoning, then any and all zoning regulations which may be in effect in such territory and administered by the City shall remain in full force and effect and shall continue to be administered and enforced by the City under this Code until such time as County zoning within such territory shall be adopted and take effect.

**1.09.00 DEFINITIONS:**

- A. The word person includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- B. The present tense includes the future tense; the singular number includes the plural; and the plural number includes the singular.
- C. The word shall is mandatory; the word may is permissive.
- D. The words used or occupied include the words intended, designed, or arranged to be used or occupied.
- E. The word lot includes the words site, plot, parcel, or tract.

- F. The word structure includes the word building, as well as other things constructed or erected on the ground, attached to something having a fixed location on the ground, or requiring construction or erection on the ground.
- G. The word land includes the words water, marsh, or swamp.
- H. Terms not defined shall have the meaning customarily assigned to them.

Abutting Properties: Properties having a boundary line or a portion of a boundary line in common with no intervening street.

Accessory Use or Structure: A use or structure of a nature customarily incidental and subordinate to the principal use or structure and, unless otherwise provided, on the same premises. On the same premises with respect to accessory uses and structures shall be construed as meaning on the same lot or on a contiguous lot in the same ownership. A facility for the service of malt, vinous, or other alcoholic beverages shall be deemed an accessory use for a motel, hotel, boatel, private club or yacht club, provided all other applicable requirements of State law, County and City regulations are met.

Accessory Sign: A permanent ground or building sign that is permitted under this Code as incidental to an existing or proposed use of land.

Acre: An area containing 43,560 square feet of area. Gross acreage is the total area of a lot or parcel of land measured within the perimeter boundaries of the lot or parcel. Net acreage is the total area of a lot but with the area of dedicated rights-of-way excluded.

Addition to an Existing Building: Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter loadbearing walls is new construction.

Administrator: The Federal Insurance Administrator.

Assisted Living Facility (ALF): A type of residential care facility as defined in Chapter 400, Part III, Florida Statutes [F.S.](1995).

Adverse Effects: Any modifications and/or alterations, or effects on waters, associated wetlands, and/or shorelands including their quality, quantity, hydrology, surface areas, species composition, and/or usefulness for human or natural-function uses which are or may be potentially harmful or injurious to human health, welfare, safety, or property and/or to biological productivity, diversity, or stability, or which interfere unreasonably with the reasonable use of a subject property, including outdoor recreation. The term includes cumulative and secondary impacts as well as direct effects or impacts.

Adversely Affected Person: Any person who suffers or will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan including, but

not limited to, the following: Interests related to health and safety; Police and fire protection services; Densities and intensities of development; Transportation facilities; Recreational facilities; Educational facilities; Health care facilities, equipment or services; and Environmental or natural resources. The alleged adverse effect may be shared in common with other members of the community at large, but must exceed in degree the general interest in community good shared by all persons as provided for in §163.3215(2), F.S., 1995.

Advertising: Sign copy intended to directly or indirectly promote the sale or use of a product, service, commodity, entertainment, or real or personal property.

Agricultural Activity: Any farming and forestry operation affecting land or waters such as agricultural land site preparation, clearing, fencing, contouring, soil preparation, plowing, planting, harvesting, construction of access roads, extraction of stumps and submerged logs, and placement of bridges and culverts related to agricultural crop production. The absence of any of these activities in the City exempts mention of such operations in Article II; "rural development" is similarly exempt from mention in this Article.

Alley: A public or approved private way which affords only a secondary means of access to abutting property and which is not intended for general traffic circulation.

Alter or Alteration of Stormwater Management System: Work done on a Stormwater Management system other than that work necessary to maintain the System's original design and function.

Alteration: Any change in size, shape, occupancy, character, or use of a building or structure.

Appeal: A request for a review of the City of Everglades City's interpretation of any provision of this Code or a request for a variance.

Appurtenant Structure: A structure which is on the same parcel of property as the principal structure to be insured under the Federal Flood Insurance Program and where the use is incidental to the use of the principal structure.

Area of Shallow Flooding: A designated "AO," "AH," or "VO" Zone on the Flood Insurance Rate Map, or any other area designated on a map by the Planning and Zoning Committee, with the approval of the City Council, with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident in some measurable degree.

Area of Special Flood Hazard: The Area of Special Flood Hazard shall include all areas designated on a Flood Hazard Boundary Map as Zone "A" or a Flood Insurance Rate Map [FIRM] as Zones "A," "AO," "AH," "A1-30," "AE," "A99," and Flood Insurance Rate Maps, and any revisions thereto, are adopted by reference and declared to be a part of this Code.

Artisanal Use: Premises for the manufacture and sale of artifacts employing only handiwork and/or table-mounted electrical machinery emitting no odors or noise beyond the immediate premises.

Associated Wetland: Any wetland that is adjacent or contiguous to waters, or which has a direct hydrological connection to waters.

Attic: The habitable area within the pitch of the roof.

Automobile Service Station: An establishment whose principal business is the retail dispensing of automobile fuels and oil and where grease, batteries, tires, and automobile accessories may be supplied and dispensed.

Automobile Wrecking or Automobile Wrecking Yard: The dismantling, crushing, shredding or disassembling of used motor vehicles or trailers, or the storage, sales or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their repairs.

Automotive Use: Premises for the selling, servicing and/or repairing of motorized wheeled vehicles.

Base Flood: The flood having a one (1%) percent chance of being equaled or exceeded in any given year.

Basement: That portion of a building with its floor below ground level on all sides.

Bed and Breakfast: Overnight accommodations and a morning meal in a single dwelling unit provided to transients for compensation for less than thirty (30) days.

Beneficial Functions of a Protected Environmentally-Sensitive Area: Those functions, described in the Conservation Element of the City's Comprehensive Plan, that justify designating an area as being environmentally sensitive.

Block: The aggregate of lots and alley tracts circumscribed by a continuous set of street tracts.

Boarding House: A dwelling unit or part thereof in which lodging is provided for compensation for more than thirty (30) days. Meals are not provided; however, kitchen privileges may be provided. (See Transient Lodging.)

Boatdock: A walkway protruding into a waterway which provides access to a moored boat. A boatdock may include a boatshelter.

Boathouse, Commercial: A building where, for a fee, boats are housed, launched, hauled, repaired, serviced, maintained or stored.

Boathouse, Private: An accessory use to a residential structure adjacent to a waterway, providing space for the housing of a boat and accessories customary thereto. A private boathouse may not be used for the purpose of human habitation.

Boatshelter: A roofed structure adjacent to a waterway, open on all sides and providing covered protection to a boat.

Breakway Wall: A wall that is designed and constructed to collapse under specified lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building: Any structure, either temporary or permanent, having a roof impervious to weather, and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This definition shall include tents, chickees, awnings, cabanas, or vehicles situated on private property and serving in any way the function of a building, but does not include screened enclosures not having a roof impervious to weather.

Building Frontage: That side of a building that faces toward the principal road, street, highway, or public way serving the building. (See also Lot Frontage, Frontage Line.)

Building, Height of: The vertical distance measured from the natural grade or the crown of the road, whichever is greater, to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

Building Line: The innermost edge of any required yard or setback, as the case may be.

Building Permit: See Development Permit.

Building Sign: A sign displayed upon or attached to any part of the exterior of a building, including walls, windows, doors, marquees, and roof slopes of forty-five (45°) degrees or steeper.

Building Site: A building site is the lot or portion of a lot or lots used for a structure or structures, the total area of which is ascribed to the structure or structures for compliance with this Code.

Cafeteria: See Restaurant.

Carport: An accessory structure, consisting of a roof and supporting members, such as columns or beams, unenclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

Child Care Center: An establishment where six (6) or more children, other than members of the family occupying the premises, are cared for away from their own home by day or night. The

term includes day nurseries, day care service, day care agency, nursery school, or play school. The term does not include foster homes.

Church: A building used as a place of worship and religious education, and for customary accessory uses, by a body or organization of religious believers.

City: City of Everglades City.

Clearing: The removal of trees and brush from the land, not including the ordinary mowing of grass.

Clinic, Medical or Dental: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by one person or a group of persons practicing any form of the healing arts, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is regulated by the State of Florida. A public clinic is one operated by any governmental organization for the benefit of the general public. All other clinics are private clinics.

Club, Private: Those associations and organizations of a civic, fraternal or social character not operated or maintained for profit. The term "private club" shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.

Coastal High Hazard Area: All areas designated on a Flood Insurance Rate Map [FIRM] as "V1-30," "VE," or "V."

Cocktail Lounge, Bar or Saloon: Any establishment or part thereof devoted primarily to the retailing for on-premises consumption of malt, vinous, or other alcoholic beverages.

Code: Land Development Code.

Code Enforcement Officer: A person employed by the City to enforce the Codes adopted by City Council.

Commercial Fish House: A premises, structure or site used as a commercial establishment for the receiving, processing, packaging, storage and wholesale or retail distribution and sale of food products of the sea. Such a premise, structure or site may include facilities for the docking, loading and unloading, fueling, icing and provisioning of vessels and for the drying, maintenance and storage of nets, buoys, traps and fishing equipment, including boats used in the activity.

Commercial Vehicle: Any vehicle that has rated long capacity of more than one (1) ton and is used in conjunction with a commercial or business activity.

Commercially Developed Parcel: A parcel of property on which there is at least one (1) walled and roofed structure used, or designed to be used, for other than residential purposes.

Communications Towers: Any structure erected and so designed to receive or transmit electronic waves, such as telephone, television, radio or microwave transmission.

Completely Enclosed Building: A building separated on all sides from adjacent open space, or from other buildings or other structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

Concurrency: A condition where specified facilities and services have or will have the necessary capacity to meet the adopted level of service standard at the time of impact of the development project.

Condominium: That form of ownership of property under which units or improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in common elements.

Consistency: Florida State law mandates that this Code be "consistent with and implement" the Comprehensive Plan, according to §163.3203, F.S. (1995). This Code is designed to implement fully the City's Comprehensive Plan. At the time of its adoption, no special provisions were deemed necessary to ensure that a development plan would be consistent with this Code. If a development plan conforms to this Code, it is presumed to be consistent with the Comprehensive Plan.

Construction, Actual: The placing of construction materials in a permanent position and fastened in a permanent manner; except that where demolition, excavation or removal of an existing structure has been substantially begun preparatory to new construction, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be continuously carried on until the completion of the new construction involved. Actual construction shall include only that begun and carried on under a valid building permit.

Contiguous Property: See Abutting Property.

Convalescent Home: See Nursing Home, Rest Home or Extended Care Facility.

Copy: The linguistic or graphic content of a sign.

Council: The City Council of the City of Everglades City, Florida.

Crown: As to vegetation, the main mass of branching of a plant above the ground.

Cumulative Improvement: See Substantial Improvement.

Curb Radius: The curved edge of the street in an intersection measured at the inner edge of the parking lane.

DBH: Diameter at Breast Height [DBH]. "Breast height" is defined to be fifty-four (54) inches above the surface of the ground from the base of the plant or tree. In the case of a tree with multiple main stems, the diameter shall be the diameter of the sum of the stems.

Day Nursery: See Child Care Center.

Deck: A patio raised above the ground, with or without a roof or screens.

Density, Gross: The number of units permitted per gross acre of land and determined by dividing the number of units by the total net area of land within the boundaries of a lot or parcel not including dedicated rights-of-way and except as otherwise provided for in this Code. In the determination of the number of units to be permitted on a specific parcel of land, a fractional unit shall not entitle the applicant to an additional unit.

Depth of a Lot: See Lot Measurement, Depth.

Developer: Any person who engages in or proposes to engage in a development activity either as the owner or as the agent of an owner of property.

Development/Development Activity: Any of the following activities:

- a. Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly distributing the soil of a site;
- b. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface or water management system, and including the long-term storage of materials;
- c. Subdividing land into two (2) or more parcels;
- d. Tree removal for which authorization is required under the Code;
- e. Erection of a permanent sign, unless expressly exempted by Article VIII of this Code;
- f. Alteration of a historic property for which authorization is required under this Code;
- g. Changing the use of a site so that the need for parking is increased;
- h. Construction, elimination or alteration of a driveway onto a public street; and
- i. Any activity requiring a building permit.



Development Order: An order granting, denying, or granting with conditions an application for a development permit. A development order includes rezoning, variance plat approvals as defined by §163.3221, F.S. (1995). For purposes of this Code, the final development plan approval is the final development order. The final development order authorizes specific components of the project, e.g., building construction, parking lot installation, and landscaping.

Development Permit: For purposes of this Code, a development permit is that official City document authorizing the commencement of construction or land alteration without need for further inspection and/or approval. Development permits include: Construction permits, e.g., plumbing, electrical, foundation, mechanical, etc.; Grading and clearing permits; Septic tank permits; Tree removal permits; Sign permits; and so forth.

Development Plan: A graphic representation along with supportive information and data depicting the intended development.

Direct Hydrological Connection: A surface water connection which, under normal conditions, occurs on an average of thirty (30) or more consecutive days per year. In the absence of reliable hydrologic records, evidence of a continuum of wetlands may be used to establish a direct hydrological connection.

Drip Line: The outermost perimeter of the crown of a plant as projected vertically to the ground.

Drive-In Restaurant or Refreshment Stand: Any place or premises where provision is made on the premises for the selling, dispensing or serving of food, refreshments or beverages in automobiles and/or in other than a completely enclosed building on the premises, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages in automobiles on the premises and/or in other than a completely enclosed building on the premises. A restaurant which provides drive-in facilities of any kind in connection with regular restaurant activities shall be deemed a drive-in restaurant for the purposes of this Code. A barbecue stand or pit having the characteristics noted in this definition shall be deemed a drive-in restaurant.

Dwelling, One-Family or Single-Family: A building containing only one dwelling unit. For regulatory purposes, the term is not to be construed as including mobile homes, travel trailers, housing mounted on motor vehicles, tents, houseboats, or other forms of temporary or portable housing.

Dwelling, Multiple-Family: A building containing two (2) or more dwelling units.

Dwelling, Multiple-Dwelling Use: For purposes of determining whether a lot is in multiple-dwelling use, the following considerations shall apply:

- a. Multiple-dwelling uses may involve dwelling units intended to be rented and maintained under central ownership and management, boarding and rooming houses, or cooperative apartments, condominiums, and the like.

- b. Where an undivided lot contains more than one (1) building and the buildings are not so located that lots and yards conforming to requirements for single- or multiple-family dwellings in the district could be provided, the lot shall be considered to be in multiple-dwelling use if there are two (2) or more dwelling units on the lot, even though the individual buildings may each contain less than two (2) dwelling units.
- c. Guest houses and servants' quarters shall not be considered as dwelling units in the computation of Subsection b. above.
- d. Any multiple dwelling in which dwelling units are available for rental for periods of less than one (1) week shall be considered a tourist home, a motel, motor hotel, or hotel, as the case may be.

Dwelling Unit: A room or rooms connected together, constituting a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing provision for living, sleeping, eating, cooking, and sanitation.

Electric Sign: Any sign containing electric wiring.

Elevated Building: A non-basement built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Erect Sign: To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it shall not include any of the foregoing activities when performed as an incident to the change of message, or routine maintenance.

Erected: Includes built, constructed, reconstructed, moved upon, or any physical operation on the premises required for building. Excavation, fill, drainage, demolition of an existing structure and the like shall be considered part of erection. (See Construction, Actual.)

Essential Services: Services designed and operated to provide water, sewer, gas, telephone, electricity, cable television or communications to the general public by providers which have been approved and authorized according to laws having appropriate jurisdiction.

Existing Condition: For purposes of the stormwater management provisions of this Code, the term "existing" denotes the average stormwater condition immediately before development commences or redevelopment commences.

Facade: The wall of a building which corresponds to a lot frontage.

Family: One (1) or more persons occupying a single dwelling unit, provided that, unless all members are related by law, adoption, or marriage, no such family shall contain over four (4) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a separate or additional family or families. The term family shall not be construed to mean a fraternity, sorority, club, monastery or convent, or institutional group.

Fifty Percent (50%) Rule: See Substantial Improvements.

Final Development Order: See Development Order.

Flood or Flooding: A temporary partial or complete inundation of normally dry land from the overflow of inland or tidal waters, or from the unusual and rapid accumulation of run-off or surface waters from any source.

Floating Zone: A zone determined by a developer and approved by the City through the rezoning process. The purpose of a floating zone is to allow the developer to choose to follow a set of development standards different from the general standards in this Code.

Flood Hazard Boundary Map [FHBM]: The map issued by the Federal Emergency Management Agency showing flood-prone areas. Drawn from U.S. Geological Survey maps, it does not provide flood elevations and is intended to be used only until the Flood Insurance Rate Map [FIRM] is produced.

Flood Insurance Rate Map [FIRM]: The official map issued by the Federal Emergency Management Agency showing both the Area of Special Flood Hazard and the risk premium zones within the City.

Flood Plain: Those areas defined by the Flood Damage Prevention Ordinance.

Floodplain: Land which will be inundated by floods known to have occurred, or is reasonably characteristic of what can be expected to occur, from the overflow of inland or tidal waters and the accumulation of run-off of surface waters from rainfall.

Flood Protection Elevation: The elevation of the base flood plus one (1) foot.

Floodway: The channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood-flow of any natural stream or river.

Floor Area, Gross: Except as may be otherwise indicated in relation to particular districts and uses, "floor area" shall be construed as the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of common walls separating two (2) buildings, excluding attic areas with a headroom of less than seven (7) feet, enclosed or unenclosed stairs or fire escapes,

elevator structures, cooling towers, areas devoted to air conditioning, ventilating or heating or other building machinery and equipment, parking structures, and crawl space where the ceiling is not more than an average of forty-eight (48) inches above the general finished grade level of the adjacent portion of the lot.

Free-Standing Sign: A sign supported by one (1) or more poles, columns, uprights, or by other structural supports on the ground separated from a building. (Also referred to as Ground Sign - Section 2301.B, Southern Standard Building Code.)

Frontage of a Building: See Building Frontage.

Frontage of a Lot: See Lot Frontage.

Frontage Line: The lot line which coincides with a street tract.

Fraternal Club: See Club, Private.

Functionally Dependent Use: A use which cannot be used for its intended purpose unless the use is located or carried out in close proximity to water: e.g., docking, loading and unloading of cargo and passengers, ship building and ship repair, or processing seafood. The term does not include long-term storage or related manufacturing uses.

Garage, Parking: A building or portion thereof designed or used for temporary parking of motor vehicles, and within which gasoline and oils may be sold only to parking patrons of the garage.

Garage, Private: An accessory structure designed or used for inside parking of private passenger vehicles, recreation vehicles, or boats solely by the occupants of the principal or main building structure. A private garage attached to or a part of the main structure is to be considered part of the main building. There can be no public shop or mechanical service in connection to a private garage.

Garage, Repair: A building or portion thereof, other than a private, storage, or parking garage or automobile service station, designed or used for repairing, equipping or servicing of motor vehicles. Such garages may also be used for hiring, renting or selling of motor vehicles.

Garage, Storage: A building or portion thereof designed and used primarily for the storage of motor vehicles or boats, and within which temporary parking may also be permitted.

Gate or Entrance Sign: A sign attached to an entrance gate or entrance structure which identifies a permitted use.

Grade: See Building, Height of.

Ground Sign: A sign that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building.

Gross Density: See Density, Gross.

Gross Floor Area: See Floor Area.

Height of a Building: See Building, Height of.

Highest Adjacent Grade: The highest natural elevation of the ground surface adjacent to the proposed walls of a structure.

Historic Tree: One that has been designated by the City Council as one of notable historical interest and value to the City due to its location and association with the City's history.

Historic Structure: Any structure that is

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

Home for the Aged: (See Nursing Home.) A facility for the care of the aged with routine nursing and/or medical care and supervision provided. A home for the aged is in the nature of a nursing home, but with clientele restricted to the aged.

Home Occupation: An occupation conducted entirely in a dwelling unit in accordance with the provisions of this Ordinance.

Hospice: An institution designed to provide comfort and relief for the emotional and physical needs of the terminally ill.

Hospital: A building or group of buildings having facilities for overnight care of one or more human patients, providing services to in-patients and medical care to the sick and injured, and which may include as related facilities laboratories, out-patient services, training facilities, central service facilities and staff facilities; provided, however, that any related facility shall be incidental and subordinate to principal hospital use and operation. A hospital is an institutional use under these zoning regulations.

Hotel, Motel, Apartment Hotel and Tourist Court: See Transient Lodging.

Illuminated Sign: A sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights, back-lighting, and shall also include signs with reflectors that depend upon automobile headlights for an image.

Impervious Surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, natural lakes and ponds, and similar surfaces that cannot detain and/or retain groundwater.

Improvement: Any man-made, immovable item which becomes part of, is placed upon, or is affixed to real estate.

Infill Development: Construction on vacant lots within previously established or approved developments that have one (1) or more vacant lots available for the construction of new structures.

Junkyard: Premises or portions thereof used for the storage or sale of used and discarded materials including, but not limited to, paper, rags, metal, building materials, appliances, household furnishings, machinery, vehicles, equipment, or parts thereof. The storage for a period of six (6) or more months of two (2) or more wrecked or partly dismantled boats or motor vehicles, or the sale of parts thereof, which vessels or vehicles are not capable of nor intended to be restored to operating condition shall also constitute a junkyard. For the purposes of this Code, such uses as automobile reclaiming businesses, automotive and boat salvage businesses and recycling centers shall be considered junkyards.

Kenneling: The keeping of any dog or dogs, regardless of number, for the primary purpose of sale, breeding, boarding or treatment, except in a general veterinary or small animal hospital, or the keeping of more than three (3) dogs, six (6) months or older, on premises used for residential purposes, or the keeping of more than two (2) dogs on the property used for industrial or commercial security purposes.

Light Manufacturing Use: Buildings for repair, assembly or fabrication of artifacts emitting no atmospheric pollution, no noxious smells beyond the lot lines and related noise for a period no longer than eight (8) daytime hours.

Limited Office Use: Buildings for the transaction of business or the supply of professional services, employing no more than eight (8) persons.

Loading Space, Off-Street: A space logically and conveniently located for pick-ups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled.

Lodging Use: Buildings providing food service and rooms for short-term letting.

Lot: A designated parcel, tract or area of land established by plat or otherwise allowed by law of at least sufficient size to meet minimum requirements of the zoning district in which it is located for use, and area, and to provide such yards and other open spaces as are herein required.

Lot Area: The total area within the lot lines of a lot, excluding any rights-of-way unless platted with all or part of a right-of-way within the platted lot.

Lot Frontage: The front of an interior lot is construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets are to be considered frontage, and yards shall be as set out in this Code. (See also Building Frontage.)

Lot Line: The legal boundary line of the lot.

Lot Measurement, Depth: Depth of a lot is considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Lot Measurement, Width: Width of a lot shall be considered to be the average of the front and of the rear lot lines; provided, however, that the front lot width shall not be less than eighty (80%) percent of the required lot width.

Lot of Record: A lot of record is (1) a lot which is part of a recorded subdivision, or (2) a lot or parcel described by metes and bounds, the description of which has been so recorded on or before the effective date of this Code.

Lot Types: The following is terminology used in this Code with reference to corner lots, interior lots, reversed frontage lots, and through lots:

- a. A corner lot is defined as lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the lot meet at an interior angle of less than 135 degrees.
- b. Interior lot is defined as a lot other than a corner lot with only one frontage on a street.

- c. Through lot is defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.
- d. Reversed frontage lot is defined as lot on which the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five [135] degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

Lowest Floor: The lowest floor of a structure, not including a basement, but not including the floor of an area enclosed only with insect screening or wood lattice as permitted by the flood damage prevention regulations in this Code.

Maintenance of Stormwater Management System: That action taken to restore or preserve the original design and function of any Stormwater Management System.

Major Deviations: A major deviation is a deviation other than a Minor Deviation from a Development Plan.

Major Intersection: The intersection of a Federal, State, County or City highway with any other arterial.

Mangrove: Rooted trees and seedlings of the following species, but only when having a coastal or estuarine association:

- a. Red Mangrove [*Rhizophora mangle*],
- b. White Mangrove [*Laguncularia Racemosa Gaertn.*],
- c. Black Mangrove [*Avicennia Germinans*], and
- d. Buttonwood Mangrove [*Conocarpus Erecta*].

Mangrove Stand: An assemblage of one or more of the following species:

- a. Red Mangrove [*Rhizophora mangle*],
- b. White Mangrove [*Laguncularia Racemosa Gaertn.*],
- c. Black Mangrove [*Avicennia Germinans*], and
- d. Buttonwood Mangrove [*Conocarpus Erecta*].

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis, designed to be used with or without a permanent foundation, and connected to the required utilities. The term also includes park trailers, travel trailers,



and similar transportable structures placed in use, other than for sale, on a site for one hundred eighty (180) consecutive days or longer.

Marina: A commercial establishment with a waterfront location for the provision of: rental or covered and uncovered boat slips or dock space or enclosed dry storage space, rental and/or sale of boats and boat motors, repair and maintenance of boats and boat motors, marine fuel and lubricants, bait and fishing equipment, on-shore restaurants, and small boat hauling or launching facilities. Such premises or site shall not include boat and/or motor manufacturing as an accessory use. A boat sale lot is not a marina.

Mariculture: The development of the resources of the sea, especially with reference to food.

Marquee: A structure projecting from and supported by a building which extends beyond the building line or property line and fully or partially covers a sidewalk, public entrance or other pedestrian way.

Mean High Water Line: The intersection of the tidal plane of mean high water with the shore as established by the Florida coastal Mapping Act of 1974, Chapter 74-56, Laws of Florida.

Mean Sea Level: The average height of the sea for all stages of the tide. For purposes of this Code, the term is synonymous with the National Geodetic Vertical Datum [NGVD].

Minimum Vectoring Altitude: The lowest MSL altitude at which an IFR aircraft will be vectored by a radar controller, except when otherwise authorized for radar approaches, departures and missed approaches.

Minor Deviations: A minor deviation is a deviation from a Development Plan that falls within the following limits and that is necessary in light of technical and engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process:

- a. Alteration of the location of any road, walkway, landscaping or structure by not more than five (5) feet.
- b. Reduction of the total amount of open space by not more than five (5%) percent, or reduction of the yard area or open space associated with any single structure by not more than five (5%) percent; provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.

Minor Replat: The subdivision of a single lot or parcel of land into two (2) or more lots solely for the purpose of increasing the area of two (2) or more adjacent lots or parcels of land where no roadway, drainage or other improvements are required, and where the resultant lots comply with the standards of this Code.

Mobile Home: A detached dwelling unit with all of the following characteristics:

- a. Contains sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
- b. Designed for transportation after fabrication on streets or highways on its own wheels.
- c. Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities and the like. A recreational vehicle is not to be considered as a mobile home.

Model Home: A residential structure used for demonstration purposes or sales promotion, not occupied as a dwelling unit, and open to the public for inspection (See Section 2.03.06).

Mobile Home Park: The premises where mobile homes are parked for living or sleeping purposes and where sites or lots are set aside or offered for lease or rent for use by mobile homes for living or sleeping purposes, including any land, building, structure, or facility used by occupants or mobile homes on such premises.

Mobile Home Site: A lot or parcel of ground within a mobile home park, designated for the accommodation of not more than one (1) mobile home.

Modular Home: A dwelling unit, constructed as a total entity, or in parts of a total entity, which is constructed other than on the building site and which is then removed to and erected on the building site. A modular home must be constructed to meet the standards of all City construction codes and to the standards set by the State of Florida for such construction. A mobile home is not to be considered a modular home unless its maker's name appears on the approved listing of such construction in the State of Florida. (This listing is available in the Collier County Building Department and the City of Everglades City.)

Motel: See Transient Lodging.

Motor Home: A vehicular unit built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping or travel use.

Multiple-Occupancy Complex: A commercial use, i.e., any other use than residential, consisting of a parcel or property, or parcel of contiguous properties, existing as a unified coordinated project, with a building or buildings housing more than one (1) occupant.

Natural Systems: Systems which predominately consist of or are used by those communities of plants, animals, bacteria, and other plants and animals which occur indigenously on the land, in the soil, or in the water.

Neighborhood Proper: The built-up area of a traditional neighborhood development, including lots and parks.

Net Acreage: See Gross Acreage.

New Construction: Structures or substantial improvements to structures for which the “start of construction” occurred on or after the effective date of this Code, and any alteration, repair, reconstruction, or improvements to a structure which is in compliance with these flood damage prevention regulations. “New construction” and “start of construction” are used to designate development which must comply with the flood damage prevention provisions of this Code.

Night Club: An establishment serving liquor and in which music, dancing or entertainment is conducted.

Non-Conforming Development: A form of development that does not conform to the land-use regulations delineated in Article II of this Code, and/or the development-design-and-improvement standards delineated in Article VI of this Code.

Non-Conforming Sign: Any sign within the City on the effective date of this Code which is prohibited by or does not conform to the requirements of this Code; excepting signs within ten (10%) percent of the height and size limitations of this Code and that in all other respects conform to the requirements of this Code shall be deemed to be in conformity with this Code.

Nursery School: See Child Care Center.

Nursery Plant: Any lot, structure or premises used as an enterprise for the purpose of growing or keeping of plants for sale or resale, either retail or wholesale.

Nursing Home, Rest Home or Extended Care Facility or Assisted Living Facility: A building, residence, boarding home, home for the aged, nursing home, rest home, extended care facility, or other place, whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding twenty-four (24) hours, housing, food service, and one (1) or more personal services for four (4) or more adults, not related to the owner or administrator by blood or marriage, who require such services; or to provide extended congregate care, limited nursing services, or limited mental health services, when specifically licensed to do so pursuant to Section 400.407, unless the facility is licensed as an adult family-care home. A facility offering personal services, extended congregate care, limited nursing services, or limited mental health services for fewer than four (4) adults is within the meaning of this definition if it formally or informally advertises to or solicits the public for residents or referrals and holds itself out to the public to be an establishment which regularly provides such services, unless the facility is licensed as an adult family-care home.

Occupant: A commercial use, i.e., any other use than residential.

Off-Premise Sign: A sign not located on the same premises as the principal business, product, service or activity being identified or advertised. (See Billboard.)

On-Premise Sign: A sign containing copy relating only to the principal business, product, service, or activity conducting or sold on the same premises as that on which the sign is located.

Open Space, Usable: That portion of a lot or parcel which can be used by the inhabitants of the property for outdoor living, active or passive activity and/or recreation.

Outdoor Advertising Sign: A permanent ground sign supported by a single pole, attached to which is a sign face, is prohibited off the premise of any for-profit commercial enterprise.

Overlay Zone: A zone established by City Council based on the need for certain protective measures in the identified areas. The underlying land uses remain undisturbed by the creation of the Overlay Zone. The Overlay Zone merely imposes additional or different development standards than those in the underlying zoning.

Owner: A person or entity alone, jointly or severally with others, or in a representative capacity [including without limitation, an authorized agent, attorney, executor, personal representative or trustee] having legal or equitable title to any property in question, or a tenant, if the tenancy is changeable under his lease for the maintenance of the property.

Parcel: See Lot.

Parking Area - Off-Street: An area for the temporary storage and parking of motor vehicles including the area required for adequate maneuvering space, access aisles, or drive thereto.

Parking Space - Off-Street: A space adequate for parking an automotive vehicle with room for opening doors on both sides.

Park Model: A transportable unit which is built on a single chassis and may be connected to utilities for operation of installed fixtures and appliances and as such a park model is considered a mobile home (impact fees are required), or a transportable unit which is built on a single chassis which is not connected to utilities and as such is considered an RV.

Patio: An unroofed projection from the outside wall of a building, without any form of enclosure other than open mesh screening.

Permanent: Designed, constructed, and intended for more than short-term use.

Person: Any individual, group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Pollutant: Any substance, contaminant, noise, and/or man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which interferes unreasonably with the reasonable use of a subject property, including outdoor recreation.

Porch: A roofed-over space, with the roof impervious to weather, attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior walls of such building. Open mesh screening shall not be considered an enclosure.

Portable Sign: A temporary sign not affixed to the ground or to a structure or only affixed by means of tie-down straps and permitted only through a temporary permit.

Private Club: See Club, Private.

Protected Environmentally-Sensitive Area: An environmentally sensitive area designated for protection in the Future Land Use Element map series of the City's Comprehensive Plan.

Public Service Sign: A sign designated to render a public service such as, but not limited to, "time and temperature" signs and "flashing news" signs. Such signs may not include any advertising whatsoever on them unless such advertising complies with all of the requirements of this Ordinance.

Rate: Volume per unit of time.

Recreational Vehicle: A vehicle-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, park models not exceeding twelve (12) feet by forty (40) feet, and self-propelled motor homes.

Recreational Vehicle Park: Any lot or parcel of land upon which two (2) or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation, vacation or personal living purposes.

Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be unobstructed in order to discharge the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point. [The one-foot standard is the maximum allowed under federal flood insurance regulations.]

Restaurant: An establishment where food is ordered from a menu, prepared and served for pay primarily for consumption on the premises in a completely enclosed room, under roof of the main structure, or in an interior court. A drive-in restaurant and a fast food restaurant are not a restaurant for the purposes of this Code. A cafeteria is a restaurant for the purposes of this Code. (See also definition of Drive-In Restaurant.)

Restaurant, Fast-Food: An establishment where food is prepared and served to the customer in a ready-to-consume state for consumption either within the restaurant building, outside the building but on the same premises, or off the premises and having any combination of two (2) or more of the following characteristics:

- a. A limited menu, usually posted on a sign rather than printed on individual sheets or booklets;
- b. Self-service rather than table service by restaurant employees;
- c. Disposable containers and utensils; or
- d. A kitchen area in excess of 50% of the total floor area.

A cafeteria or delicatessen shall not be deemed a fast-food restaurant for the purposes of this Code.

Rest Home: See Nursing Home.

Retention: The collection and storage of run-off without subsequent discharge to surface waters.

Roof Line: A horizontal line intersecting the highest point or points of a roof.

Roof Sign: Any sign erected or constructed above a roof and projecting in whole or in part above the crown of the roof.

Run-Off Coefficient: Ratio of the amount of rain which runs off a surface to that which falls on it; a factor from which run-off can be calculated.

Sand Dunes: Naturally occurring accumulations of sand in ridges or mounds landward of the beach. No beach areas are within the City and no naturally occurring accumulations of sand in ridges or mounds exist in the City.

Schools: An educational facility that meets academic standards as provided by the State of Florida.

Sediment: The mineral or organic particulate material that is in suspension or has settled in surface or groundwaters.

Service Station: See Automobile Service Station.

Setback Line: A line marking the minimum distance between a right-of-way line, property line, bulkhead line, shoreline, access easement line or other defined location and the beginning point of a required yard or the buildable area, as this Ordinance may require in the particular case.

Shade Tree: A deciduous tree of wide canopy, resistant to root pressure and sodium, no less than four (4) inches caliper and eight (8) foot clear trunk at the time of planting.

Shed: For the purposes of this Code, a shed will be regarded as having the following features or characteristics:

- a. A structure customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel with the principal use;
- b. Designed and constructed for the storage of materials only and accessory to any principal living facility and/or commercial structure located on the same parcel; and
- c. Shall not include permanent provisions for living, sleeping, eating, cooking and sanitation.

Shoreline: Same as Mean High Water Line except that in non-tidal waters defined by average annual water level.

Shopping Center: A group of commercial establishments planned and developed as a unit, with common off-street parking provided on the property.

Sign: Any writing (including letter, word or numeral); pictorial representation (including illustration or decoration); emblem (including device, symbol or trademark); flag (including banner or pennant); or any other figure of similar character which is designed to advertise or give direction to any business, product, service or other related function.

Sign Face: The part of a sign that is or may be used for copy.

Sign Face Area: The area of any regular geometric shape which contains the entire surface area of a sign upon which copy may be placed.

Sign Structure: Any construction used or designed to support a sign.

Significant Adverse Effect: Any modification, alteration, or effect upon a Protected Environmentally-Sensitive Area which measurably reduces the Area's beneficial functions as delineated in the Conservation Element of the City's Comprehensive Plan.

Site: Generally, any tract, lot or parcel of land or combination of tracts, lots, or parcels of land that are in one ownership, or in diverse ownership but contiguous, and which are to be developed as a single unit or project.

Site Alteration: Any modification, change or transformation of any portion of a lot or parcel of land including, but not limited to, the removal, displacement or relocation of trees, plants and vegetation, the addition or removal of earth materials, and the creation, retention or relocation of drainage courses or water areas.

Social Clubs: See Club, Private.

Specimen Tree: One that has been officially designated by the City Council due to its value derived from its type, size, age, or other criteria deemed relevant to its designation by the City Council.

Start of Construction: The date a construction permit was issued, provided that the "actual start of construction" was within one hundred eighty (180) days of the permit date. The "actual start of construction" means the first placement of permanent elements of a structure on a site: e.g., pouring of slabs and footings, installation of piles, construction of columns, the placement of a manufactured home on a foundation, and/or any work beyond the stage of excavation. Permanent construction does not include land preparation: e.g., clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations; erection of temporary forms; or the installation of appurtenant structures. This definition does not apply to new construction or substantial improvements defined under P.L. 97-348, known as the "Coastal Barrier Resources Act."

Stormwater: The flow of water which results from, and occurs immediately following, a rainfall.

Stormwater Detention: The collection and storage of surface water for subsequent gradual discharge.

Stormwater Run-Off: That portion of the stormwater that flows from the land surface of a site either naturally, in manmade ditches, or in a closed conduit system.

Stormwater Management System: The system or combination of systems, designed to treat stormwater or collect, convey, channel, hold, inhibit, or divert the movement of stormwater on, through, and from a site.

Story: That portion of a building included between a floor which is calculated as part of the building's habitable floor area and the floor or roof next above it.

Street: A public or approved private thoroughfare which affords the principal means of access to abutting property. Streets may be called, but not limited to, lanes, ways, places, drives (not including private drives or driveways), boulevards, roads, avenues or other means of access, regardless of the descriptive term used.



Street Frontage: That portion of the lot which borders on the street; corner lots have two (2) frontages.

Street Lamps: A light standard between eight (8) feet and fourteen (14) feet in height equipped with an incandescent or metal halide light-source.

Street Tree: A deciduous tree or palm, resistant to root pressure and sodium, no less than four (4) inches caliper and eight (8) foot clear trunk at the time of planting.

Street Vista: A building site located to terminate the view down the axis of a street tract.

Strip Lighting: A continuous series of linear exterior lights designed to illuminate a sign or a structure.

Strip Stores: A continuous series of three (3) or more stores, built as a single building or with common walls, each store having a separate entrance, and generally built parallel to the right-of-way. Strip stores are a type of shopping center.

Structure: Anything constructed or erected which requires a fixed location on the ground, or in the ground, or attached to something having fixed location on or in the ground.

Substantial Improvement: Any combination of repairs, reconstruction, alteration, or improvements to a structure over time in which the cumulative cost equals or exceeds fifty (50%) percent of the market value of the structure. The market value of the structure is the appraised value prior to the start of the initial repair or improvement, or, in the case of damage, the value of the structure prior to the occurrence of the damage. For the purposes of this definition, "substantial improvement" occurs when the first alteration of any wall, ceiling, floor, or other structural part of a structure commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include any improvement of a structure to comply with existing health, sanitary, or safety codes, or alteration of a structure listed on the Local Register of Historic Places, or a State Inventory of Historic Places, unless that alteration will cause the structure to lose its historic designation.

Substantial Improvement, Cumulative: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are 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."

Supermarkets: A departmentalized self-service retail market which primarily sells food items, but also may sell household items, personal items and other merchandise.

Surface Water: Water above the surface of the ground whether or not flowing through definite channels, including the following:

- a. Any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernible shoreline; or
- b. Any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale, or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, or bank; or
- c. Any wetland.

Temporary Sign: A sign intended to advertise community or civic projects, construction projects, political candidates running for office, or other special events, or any sign on a temporary basis for a designated limited period of time.

Time Share Estate: Any interest in a dwelling unit which the exclusive right of use, ownership, possession, or occupancy of the unit circulates among the various owners of time-share estates in such unit in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by such schedule.

Trailer, Boat: A wheeled conveyance drawn by other motor power for the transportation of a single boat.

Trailer, Camping or Pop-Out: A wheeled conveyance drawn by other motive power designed for travel, recreation and vacation use and which is made up of elements which fold into a compact assembly for travel.

Trailer, Travel: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation and vacation purposes, which is identified by the manufacturer as a travel trailer and meets the state definition of recreational vehicle.

Transient Lodging: The terms hotel, motel, apartment hotel and tourist court are to be considered synonymous and to mean a building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with a daily charge, as distinguished from multiple-family dwellings (apartments) and boarding houses, where rentals are for periods of more than thirty (30) days and occupancy is generally by residents rather than transients. For the purpose of calculating residential density, each hotel, motel, etc., unit shall be considered a dwelling unit. A hotel or motel unit may have cooking or eating facilities. A hotel or motel unit shall contain bathing and sanitary facilities. A bed and breakfast is overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation for less than thirty (30) days.

Unit: That part of a multiple-occupancy complex housing one (1) occupant.

Use: The purpose of which land or water or a structure thereon is designated, arranged, or intended to be occupied or utilized or for which it is occupied or maintained. The use of land or water in the various zoning districts is governed by this Code.

Vacation Time-Sharing Plan: Any arrangement, plan, scheme, or similar device, whether by membership agreement, tenancy in common, sale, lease, deed, rental agreement, license, use agreement, security, or by any other means, whereby a purchaser in exchange for advanced consideration receives a right to use a time-share estate.

Vehicle Sign: Any sign affixed to a vehicle.

Vehicle Use Area: An area used for circulation, parking, and/or display of motorized vehicles, except junk or automobile salvage yards.

Wall Sign: A sign affixed in any manner to any exterior wall of a building or structure and which is parallel to and projects not more than eighteen (18) inches from the building or structure wall and which does not extend above the parapet wall.

Water or Waters: Includes, but is not limited to, water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, streams, rivers, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground.

Watercourse: Any natural or artificial channel, ditch, canal, stream, river, creek, waterway, or wetland through which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, banks, or other discernible boundary.

Water's Edge and Wetland's Edge: The water's or wetland's edge shall be determined by whichever of the following indices of conditions yielding the most landward extent of waters or wetlands:

- a. The boundary established by the average annual high water mark;
- b. The landward boundary of hydric soils (as to wetlands only), or
- c. The landward boundary described by wetland vegetation, based on the wetland vegetation index (as to wetlands only).

Wetland: Land that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does or would support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term includes, but is not limited to, swamp hammocks, hardwood swamps, riverine cypress, cypress ponds, bayheads and

bogs, wet prairies, freshwater marshes, tidal flats, saltmarshes, mangrove swamps, and marine meadows.

Wind Sign: Any sign or display including, but not limited to, flags, banners, balloons, streamer and rotating devices, fastened in such a manner to move upon being subjected to pressure by wind or breeze.

Yard, Generally: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward; provided, however, that fences, walls, hedges, poles, posts, children's play equipment and other customary yard accessories, ornaments, statuary and furniture may be permitted in any yard subject to height limitations and requirements limiting obstructions to visibility.

Yard, Front: A yard extending between side lot lines across the front of a lot adjoining a street.

Yard, Rear: A yard extending across the rear of the lot between inner side yard lines. (In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.)

Yard, Side: A yard extending from the interior (rear) lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street.

Yard, Special: A yard other than a yard adjacent to a public street required to perform the same functions as a side or rear yard, but adjacent to a lot line and so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies.

Yard, Waterfront: A waterfront yard is a yard required on waterfront property with depth measured from the property line, provided that no structure shall extend waterward of the shoreline or bulkhead excepting those structures customarily extending into the water; i.e., seawalls, docks, boat shelters, etc., and further excepting those structures built under Section 2.03.04, Principal Structure Waterfront yard setback. Waterfront property is hereby defined as property abutting on bays, bayous, navigable streams, and on man-created canals, lakes or impounded reservoirs. For the purposes of this Ordinance, any waterfront yard shall be treated as a rear yard.

**ARTICLE II**  
**LAND USE:**  
**TYPE, DENSITY, INTENSITY**

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**ARTICLE II**  
**LAND USE:**  
**TYPE, DENSITY, INTENSITY**

**2.01.00 LAND USE DISTRICTS**

*2.01.01 Generally*

Land use districts for the City are established in the Future Land Use Element of the Comprehensive Plan, which includes a Future Land Use Map Series. The land use district classifications delineated in the Future Land Use Map Series shall be the determinant of permissible activities on any parcel within the City's jurisdiction. Reference should be made to the Future Land Use Map Series in the Future Land Use Element of the Comprehensive Plan for definitions of each land use category. The regulations herein set out within each District shall be minimum or maximum limitations, as the case may be, and shall apply uniformly to each class or kind of structure, use, or land or water, except as hereinafter provided.

*2.01.02 Zoning Affects Use or Occupancy*

No building, structure, land or water shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, located, moved or structurally altered except in conformity with the regulations herein specified for the district in which it is located.

*2.01.03 Zoning Affects Height of Structures, Population Density, Lot Coverage, Yards and Open Spaces*

No building or structure shall hereafter be erected or altered in any manner contrary to the provisions of this Land Development Code, and especially:

- A. To exceed height.
- B. To provide a greater number of dwelling units.
- C. To provide less lot area per dwelling unit or to occupy a smaller lot.
- D. To occupy a greater percentage of lot area.
- E. To provide narrower or smaller yards, or other open spaces.
- F. To provide lesser separation between buildings or structures or portions of buildings or structures.

*2.01.04 Multiple Use of Required Open Space Prohibited*

No part of a required yard or other required open space, or required off-street parking or off-street loading space, provided in connection with one building, structure, or use shall be included as meeting the requirements for any other building, structure, or use, except where specific provision is made in this Land Development Code.

*2.01.05 Reduction of Lot Area Prohibited*

No lot existing at the effective date of this Land Development Code shall thereafter be reduced in size, dimension, or area below the minimum requirements set out herein, except by reason of a portion being acquired for public use in any manner, including dedication, condemnation, purchase and the like. Lots or yards created after the effective date of this Code shall meet at least the minimum requirements established herein.

*2.01.06 Deed Restrictions*

This Land Development Code shall not be affected by any deed restrictions or restrictive covenants recorded with any deed, plat or other legal document. No person or agency, in the capacity of enforcing and administering this Ordinance, shall be responsible for enforcing any deed restrictions.

*2.01.07 Definitions of Groupings of Districts*

- A. Where the phrases "all residential districts," "residential districts," "zoned residentially," or "residentially zoned" or phraseology of similar intent are used in this Code, the phrases shall be construed to include the following districts: SF, MF, RT, and HP (if used residentially).
- B. Where the phrases "commercial districts," "zoned commercially," "commercially zoned," "commercial zoning," or phraseology of similar intent are used in this Code, the phrases shall be construed to include the following districts: CC, VC, CF, RV/MH, and HP (if used commercially).



**2.02.00 DISTRICTS**

*2.02.01 Generally*

Districts as shown on the Official Schedule of District Regulations and as delineated on the Official Zoning Atlas are as follows, with titles and code-reference numbers and abbreviations for symbol purposes as indicated:

<i>2.02.02</i>	<i>HP</i>	<i>Historical Preservation District</i>
<i>2.02.03</i>	<i>SF</i>	<i>Residential Single-Family District</i>
<i>2.02.04</i>	<i>MF</i>	<i>Residential Two-Family &amp; Multiple Family District</i>
<i>2.02.05</i>	<i>RT</i>	<i>Residential Tourist District</i>
<i>2.02.06</i>	<i>RV/MH</i>	<i>Recreational Vehicle/Mobile Home District</i>
<i>2.02.07</i>	<i>VC</i>	<i>Village Commercial District</i>
<i>2.02.08</i>	<i>CC</i>	<i>Condensed Commercial District</i>
<i>2.02.09</i>	<i>CF</i>	<i>Commercial Fishing</i>
<i>2.02.10</i>	<i>AC</i>	<i>Aviation Commercial</i>
<i>2.02.11</i>	<i>PS</i>	<i>Public Service</i>

*2.02.02 HP - Historic Preservation District*

**A. Uses and Structures**

No building or structure or part thereof, shall be erected or altered which does not comply with the City's existing Flood Ordinance, and the adopted Fire and Building Codes, or used, or land or water used, in whole or in part, for other than the following:

1. Permitted Principal Uses and Structures:
  - a. Any use approved under *2.02.07 VC Village Commercial District*.
  - b. Bed and breakfast (See Section 7.02.02 for additional standards).
  - c. Churches.
  - d. Municipal, county, state or federal buildings.
  - e. Museums (provided they are not conducted for profit).
  - f. Parks and playgrounds.
  - g. Public libraries.
  - h. Combined uses and any commercial use or professional service which is comparable in nature with the foregoing uses and which the Planning and Zoning Committee determines to be compatible in the District.

2. Accessory Uses and Structures customarily associated with the uses permitted: (See Article VII)
3. Prohibited Uses and Structures:  
Any use or structure not specifically, or by reasonable implication, permissible herein except new and unusual uses directly related to and subordinate to the historic preservation uses. The applicant shall have the affirmative burden of establishing said intent to the Planning and Zoning Committee.

**B. Development Standards**

1. All existing buildings in this district shall be considered conforming as to yards and height.
2. All new construction shall meet the development standards under *2.02.07 VC Village Commercial District*.

**C. Signs** (See Article VIII for Standards)

**D. Minimum Off-Street Parking and Off-Street Loading Requirements:**

1. All existing buildings shall be considered conforming as to parking and loading requirements.
2. All new construction shall meet the parking and loading requirements as set forth in Section 6.03.00.

**E. Landscaping** (See Section 6.06.00 for Additional Standards)

1. All existing buildings shall be considered conforming as to minimum landscaping requirements.
2. Prior to the issuance of any development order, an applicant shall submit a landscape plan in compliance with Section 6.06.00 to the Planning and Zoning Committee.

**F. Fire Code**

All new structures shall meet the Fire Code.

**G. Destruction of Building**

No building or structure shall be demolished within this district unless said demolition is approved by the City Council.

**H. Building Permits**

1. Main Historic Structure:
  - a. Any development order issued must not alter the architectural and design elements that contribute to its historic character.
  - b. Additions to the main historic structure may only be made if an engineer's certified affidavit stating that the basic structure of the building will not be affected is attached to the application for development order, and shall be considered as new construction.

2. Detached Accessory Structures:

Applications for the construction of detached accessory structures will be considered as applications for new construction.

*2.02.03 SF - Residential, Single-Family District*

**A. Uses and Structures**

No building or structure, or part thereof, shall be erected or altered which does not comply with City's existing Flood Ordinance, and the adopted Fire and Building Codes, or used, or land or water used, in whole or in part, for other than the following:

1. Permitted Principal Uses and Structures:
  - a. Single-family dwellings.
  - b. Churches.
2. Permitted Accessory Uses and Structures: (See Article VII)
  - a. Customary accessory uses and structures, including private garages.
  - b. Docks and boat launching facilities.
  - c. Home occupations (See Section 7.02.01).

3. Prohibited Uses and Structures:

Any use or structure not specifically or by reasonable implication permitted herein.

**B. Development Standards**

1. Minimum Lot Area: 7,500 square feet
2. Minimum Lot Width: 75 feet
3. Minimum Yard Requirements:
  - a. Front Yard: 20 feet

- b. Side Yard: 10 feet <sup>1</sup>
  - c. Rear Yard: 30 feet
  - d. Accessory Structure Yard: (See Section 7.01.01 B. for Accessory Structure Yard Requirements)
4. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or BFE+28 feet.<sup>2</sup>
  5. Maximum Density: 1 dwelling unit per lot.
  6. Minimum Floor Area: 1,000 square feet.

**C. Signs** (See Article VIII for Additional Standards)

**D. Minimum Off-Street Parking**

Two (2) spaces per dwelling unit (See Section 6.03.00 for Additional Standards).

**E. Utilities**

Each single-family unit shall have a sewer tap, water tap, electrical meter and shall subscribe to garbage disposal service.

*2.02.04 MF - Residential Two-Family and Multi-Family Districts*

**A. Uses and Structures**

No building or structure, or part thereof, shall be erected or altered which does not comply with the existing Flood Ordinance, and the adopted Fire and Building Codes, or used, or land or water used, in whole or in part, for other than the following:

1. Permitted Principal Uses and Structures:

- a. Multi-family dwellings.
- b. Single-family dwellings
- c. Churches.
- d. Civic, fraternal and social clubs.

2. Permitted Accessory Uses and Structures: (See Section 7.01.01 B. for Yard Requirements)

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<sup>1</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2019-12, filed with the City Clerk October 1, 2019 adopted November 5, 2019

<sup>2</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2018-9 filed with the City Clerk September 4, 2018 adopted October 2, 2018

- a. Customary accessory uses and structures.
- b. Non-commercial docks and launching facilities.
- c. Recreational facilities, accessory to principal use.
- d. Home occupation (See Section 7.02.01).

3. Prohibited Uses and Structures:

Any use or structure not specifically, by reasonable implication, permitted herein.

**B. I. Development Standards For All Uses Other Than Single-Family Dwellings:**

- 1. Minimum Lot Area: 10,000 square feet
- 2. Minimum Lot Width: 75 feet
- 3. Minimum Yard Requirements:
  - a. Front Yard: 25 feet
  - b. Side Yard: 10 feet<sup>3</sup>
  - c. Rear Yard: 30 feet
  - d. Accessory Structure Yard: See Section 7.01.01 B.
- 4. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or BFE+28 feet.<sup>4</sup>
- 5. Maximum Density: 16 dwelling units per acre.
- 6. Distance Between Structures: 15 feet.
- 7. Minimum Floor Area:
  - a. Efficiency Apartment  
Minimum Floor Area: 450 square feet
  - b. One and two bedroom apartment  
Minimum Floor Area: 650 square feet
  - c. Three bedroom apartment  
Minimum Floor Area: 900 square feet
- 8. Open Space: A minimum of 30 percent (30%) of the lot shall be open space (See Section 6.01.02).

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<sup>3</sup>Amended in 2021 as proposed by City Council, Ordinance No. 2019-12, filed with the City Clerk October 1, 2019 adopted November 5, 2019  
<sup>4</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2018-9 filed with the City Clerk September 4, 2018 adopted October 2, 2018

9. Impervious Cover: No more than 70 percent (70%) of the lot shall be impervious cover (See Section 6.01.02).

**II. Development Standards For Single-Family Dwellings:**

1. Minimum Lot Area: 7,500 square feet
2. Minimum Lot Width: 75 feet
3. Minimum Yard Requirements:
  - a. Front Yard: 20 feet
  - b. Side Yard: 10 feet<sup>5</sup>
- c. Rear Yard: 30 feet
  - d. Accessory Structure Yard: (See Section 7.01.01 B. for Accessory Structure Yard Requirements)
4. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or BFE+28 feet.<sup>6</sup>
5. Maximum Density: 1 dwelling unit per lot.
6. Minimum Floor Area: 1,000 square feet.

**C. Signs** (See Article VIII for Additional Standards).

**D. I. Minimum Off-Street Parking For All Uses Other Than Single-Family Dwellings** (See Section 6.03.00 for Additional Standards).

Minimum off-street parking is one-and-one-half (1.5) parking spaces per unit.

**II. Minimum Off-Street Parking For Single-Family Dwellings**

Two (2) spaces per dwelling unit (See Section 6.03.00 for Additional Standards).

**E. Landscaping:** (See Section 6.06.00 for Additional Standards)

Prior to the issuance of any development order, an applicant shall submit a landscape plan in compliance with Section 6.06.00 to the Planning and Zoning Committee.

**F. Utilities**

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<sup>5</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2019-12, filed with the City Clerk October 1, 2019 adopted November 5, 2019

<sup>6</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2018-9 filed with the City Clerk September 4, 2018 adopted October 2, 2018

1. Two (2) family dwellings may have a common sewer tap, but must have individual water meters and electric meters.
2. Multi-family projects over four (4) units must have a group dumpster, except that a Condominium Association may elect whether to have individual garbage service or use group dumpsters.
3. Multi-family units to be operated as rental units under single ownership may have as few as one water tap, but each unit must have a separate water meter and electric meter.
4. Multi-family condominium units or lots may have as few as one sewer tap, but each unit or lot must have a water meter and electric meter independent of the others. Common use areas must have a water meter and electric meter independent of the living units.

2.02.05 *RT - Residential Tourist District*

**A. Uses and Structures**

No building or structure or part thereof shall be erected or altered which does not comply with the City's existing Flood Ordinance, and the adopted Fire and Building Codes, or used, or land or water used, in whole or in part, for other than the following:

1. Permitted Principal Uses and Structures:
  - a. Transient lodging.
  - b. Multi-family dwellings.
  - c. Civic, fraternal and social clubs.
  - d. Commercial and non-commercial boat docks and boat launching facilities.
  - e. Gift Shops.
  - f. Marinas, tourist attractions, party boats, tour boats.
  - g. Private clubs (subject to approval of the City Council and Section 2.03.01).
  - h. Restaurants, drive-in and gift shops.
2. Permitted Accessory Uses and Structures:
  - a. Customary accessory uses and structures.
  - b. Cocktail lounges in conjunction with a restaurant or hotel facility.
  - c. Personal service establishments, meeting rooms and auditoriums.

- d. Recreational facilities and clubs.
- 3. Prohibited Uses and Structures:  
Any use or structure not specifically or by reasonable implication permitted herein.
- 4. Cluster Homes are permitted in the District in accordance with section 2.03.07<sup>7</sup>

**B. Development Standards:**

- 1. Minimum Lot Area: 15,000 square feet
- 2. Minimum Lot Width: 150 feet
- 3. Minimum Yard Requirements:
  - a. Front Yard: 25 feet
  - b. Side Yard: 15 feet
  - c. Rear Yard: 25 feet
  - d. Exceptions: (See waterfront yards)
- 4. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or BFE+28 feet.<sup>8</sup>
- 5. Maximum Density Permitted:  
Multi-family: 16 units per acre
- 6. Distance Between Structures: 15 feet.
- 7. Floor Area Requirements:
  - a. Efficiency Apartments:  
Minimum Floor Area: 450 square feet
  - b. One and Two Bedroom Apartments:  
Minimum Floor Area: 650 square feet
  - c. Three Bedroom Apartment:  
Minimum Floor Area: 900 square feet
  - d. 200 square feet minimum for hotels and motels

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<sup>7</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2021-03 filed with the City Clerk May 4, 2021 adopted June 1, 2021

<sup>8</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2018-9 filed with the City Clerk September 4, 2018 adopted October 2, 2018



8. Open Space:  
A minimum of thirty percent (30%) of the lot shall be open space (See Section 6.01.02).

9. Impervious Surface:  
No more than seventy percent (70%) of the lot shall be impervious surface (See Section 6.01.02).

**C. Signs** (See Article VIII for Standards).

**D. Minimum Off-Street Parking and Off-Street Loading Requirements** (See Section 6.03.00 for Additional Standards).

1. Efficiency Apartments - one (1) space per dwelling unit.
2. Motel/hotel/bed & breakfast/multi-family - one-and-one-half (1.5) spaces per room or dwelling unit for the first one hundred (100) and one (1) space per unit thereafter.
3. All other uses as per Section 6.03.00.

**E. Minimum Landscaping Requirements** (See Section 6.06.00 for Additional Standards)

Prior to the issuance of any development order, an applicant shall submit a landscape plan in compliance with Section 6.06.00 to the Planning and Zoning Committee.

**F. Required Recreation Area**

Hotel/Motel/Bed & Breakfast/Multi-Family: One hundred (100) square feet per dwelling/sleeping units up to one hundred (100) units and fifty (50) square feet from one hundred one (101) to total.

**G. Utilities**

Condominium and Private Club Units shall be required to furnish a separate electric and water meter for each unit. Garbage collection shall be either by individual or group dumpster(s).

**H. Cluster Homes- Special Requirements**

[Editor's note: This section has been deleted by Amendment.]<sup>9</sup>

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<sup>9</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2021-03 filed with the City Clerk May 4, 2021 adopted June 1, 2021

2.02.06 *RV/MH - Recreational Vehicle/Mobile Home Park*

**A. Uses and Structures**

No building or structure, or part thereof, shall be erected or altered which does not comply with the City's existing Flood Ordinance, and the adopted Fire and Building Codes, or used, or land or water used, in whole or in part, for other than the following:

1. Permitted Principal Uses and Structures:
  - a. Recreational vehicles, park models (see definition to determine if considered to be a recreational vehicle or a mobile home), mobile homes and tents.
  - b. The following establishments and the parking area primarily related to their operations shall not occupy more than twenty percent (20%) of the total area of the Park:
    - (1) Boat and canoe rentals.
    - (2) Boat launching facilities.
    - (3) Docks.
    - (4) Sale of bait and fishing equipment and supplies.
    - (5) Sale of beer and wine for consumption on the premises, with or without food.
    - (6) Tour boat operations.
    - (7) Convenience establishments of a commercial nature including stores, laundry and dry cleaning agencies, beauty shops and barber shops.
2. Accessory Uses and Structures:
  - a. One (1) single-family dwelling in conjunction with the operation of the Park.
3. Prohibited Uses and Structures:

Any use or structure not specifically by or reasonable implication permitted herein.

4. Cluster Homes are permitted in the District in accordance with section 2.03.07<sup>10</sup>

**B. Development Standards**

1. Minimum Park Size: 5 acre.
2. Development standards for travel trailers, recreational vehicles and similar Vehicles excluding mobile homes:
  - a. Minimum lot area: 1,800 square feet
  - b. Minimum lot width: 30 feet
3. Development standards for campsites:
  - a. Minimum lot area: 3,200 square feet
  - b. Minimum lot width: 40 feet
4. Development standards for mobile homes:
  - a. Minimum lot area: 3,200 square feet
  - b. Minimum lot width: 40 feet
5. Minimum Yards:
  - a. Front Yard: 10 feet.
  - b. Side Yard: 10 feet.
  - c. Rear Yard: 10 feet.
  - d. From exterior boundary of park or from any required buffer area: 25 feet.
  - e. From public street: 15 feet.
  - f. From building structures: 15 feet.
6. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or BFE+28 feet.<sup>11</sup>
7. Required Recreation Area:

The following amount of land or water shall be set aside and developed for recreational purposes within the RV/MH-park site:

  - a. One hundred (100) square feet for each lot for the first one hundred (100) lots.
  - b. Fifty (50) square feet for each lot in excess of one hundred (100) lots.

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<sup>10</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2021-03 filed with the City Clerk May 4, 2021 adopted June 1, 2021

<sup>11</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2018-9 filed with the City Clerk September 4, 2018 adopted October 2, 2018

- c. One-half (½) of the water surface within the park may be credited toward the required recreation area, except that at least fifty percent (50%) of the required recreation area shall be land area.
- 8. Plan Approval Requirements:
  - a. Individual lots: Applications for development permits shall be in accordance with Section 12.10.06 and comply with “New Construction” requirements.
  - b. New parks: Any new parks shall submit for review and approval of a Development Plan in accordance with Section 12.02.00.
- 9. Required Internal Park Street System:

All lots within an RV/MH park shall have direct access from an internal street. All internal streets within the district shall provide safe and convenient access to a public street. The right-of-way widths are forty (40) feet and the paving widths are twenty-five (25) feet.
- 10. Required Facilities for RV/MH Lots:
  - a. Separate “Men” and “Women” sanitary facilities: One (1) shower and one (1) toilet per ten (10) lots which may be divided equally between the “Men” and “Women” facilities, separate facilities may be under one roof, but must be totally divided by a permanent wall so that access from one to the other is impossible; within four hundred (400) feet walking distance from every RV/MH lot as approved by the Collier County Public Health Unit. Lighting shall be provided in sanitary facilities.
  - b. Potable water supply as approved by the Collier County Public Health Unit.
  - c. A dump station as approved by the Collier County Public Health Unit.
  - d. At least one (1) garbage or trash receptacle for every two (2) RV/MH lots.

- e. Safety building open at all times wherein a portable fire extinguisher in operable condition and first aid equipment is available, and a telephone is available for public use.
  - f. One (1) picnic table per RV/MH lot.
11. Required Facilities Per Lot for Campsites for Tenting Activities:
- a. One (1) fireplace or stationery grill for cooking.
  - b. Two (2) picnic tables.
  - c. Two (2) water faucets.
  - d. Separate "Men" and "Women" sanitary facilities within four hundred (400) feet walking distance from every campsite at the rate of one (1) shower and one (1) toilet per three (3) campsites which may be equally divided between the "Men" and "Women" facilities. Separate facilities may be under one roof, but must be totally divided by a permanent wall so that access from one to the other is impossible.
  - e. Two (2) 110-volt electric outlets.
12. Open Space: A minimum of thirty percent (30%) of the Park shall be open space.
13. Impervious Surface: Not more than seventy percent (70%) of the Park shall be impervious surface.

**C. Signs** (See Article III for Standards)

**D. Off-Street Parking and Off-Street Loading**

- 1. Commercial facilities open to the public located in the Park boundaries shall conform to Section 6.03.00.
- 2. Travel trailer lots and campsites: One (1) space.

**E. Minimum Landscaping Requirements** (See Section 6.06.00)

- 1. RV/MH parks abutting highways or lands zoned other than for such parks shall be effectively separated from such highways, easements or land by a buffer strip at least five (5) feet wide, in which opaque fencing or plant material shall be placed. Such screen shall be attractively maintained at all times.
- 2. Prior to the issuance of any development order, an applicant shall submit a landscape plan in compliance with Section 6.06.00 to the Planning and Zoning

Committee. A solid fence or hedge shall be provided along property lines adjacent to residentially zoned property.

**F. Utilities**

1. Electric, Water and Sewer:

a. Rental Parks:

(1) Any lots used for park models and mobile homes shall have a water meter and an electric meter, and shall be required to pay individual sewer charges.

(2) Lots used for travel trailers, pick-up campers and motor homes, together with campsites for tenting activities, and any common use facilities, may have common water meters and sewer taps. Each lot must have a minimum thirty (30) amp receptacle and a twenty (20) amp receptacle.

b. Condominium Parks:

(1) All lots must have a water meter and an electric meter and shall be required to pay individual sewer charges.

(2) Common use areas must be metered for electric and water and pay sewer charges apart from and independent of any lot meters or usages.

2. Garbage: May be by individual cans or group dumpster(s).

2.02.07 *VC - Village Commercial District*

**A. Uses and Structures**

No building or structure, or part thereof, shall be erected, or altered, which does not comply with the City's existing Flood Ordinance, and the adopted Building Code, or used, land or water used, in whole or in part for other than the following:

1. Permitted Principal Uses and Structures:

a. Antique shops; appliance stores; art galleries and studios; art supply shops; automobile part stores; and awning shops.

b. Bakery shops; banks and financial institutions; barber and beauty shops; bath supply stores; bicycle sales and services; blue print shops; boat slips or dock space and retail sales of fuel, bait and fishing

- equipment (See Section 2.03.03 for special criteria); book binders; book stores; building supplies; and business machine services.
- c. Carpet and floor covering sales, which may include storage and installation; child care centers; civic and cultural facilities; clothing stores; cocktail lounges; commercial recreational uses, indoor; commercial schools; and confectionery; candy stores and convenience stores.
  - d. Delicatessens; department stores; drug stores; dry cleaning shops; dry goods stores; and drapery shops.
  - e. Electrical supply stores.
  - f. Florist shops; fraternal and social clubs; funeral homes; furniture stores; and food markets.
  - g. Garden supply stores; gift shops; glass and mirror sales, which may include storage and installation; and gourmet shops.
  - h. Hardware stores; health food stores; health spas and hobby supply stores.
  - i. Ice cream stores.
  - j. Jewelry stores.
  - k. Laboratories - film, research and testing; laundries; leather goods; liquor stores and locksmith.
  - l. Markets - food; massage and medical clinics; motion picture theaters; museums and music stores.
  - m. Offices; office supply stores.
  - n. Paint and wallpaper stores; pet shops; pet supply shops; photographic equipment and processing stores; post offices; pottery stores; printing; publishing and mimeographic service; private clubs; produce markets.
  - o. Radio and television sales and services; record stores; research and design labs; rest homes; restaurants, not including drive-ins.
  - p. Shoe repair; shoe stores; shopping centers and strip stores; souvenir stores; stationery stores; and supermarkets.
  - q. Tailor shops; taxidermists; theaters; tile sales, ceramic tile; tobacco shops; toy shops and tropical fish stores.
  - r. Upholstery shops.

- s. Variety stores; vehicle rental, automobile only; and video shops.
  - t. Watch and precision instrument repair shops.
  - u. Combined uses and any commercial use or professional service which is comparable in nature with the foregoing uses and which the Planning and Zoning Committee determines to be compatible in the District.
2. Permitted Accessory Uses and Structures:
    - a. Accessory uses and structures, including private garages and storage facilities.
    - b. Caretaker's residence: Any operator of any commercial facility may live on the premises in a facility designed for that purpose. The facility must meet the City's existing Flood Ordinance and the adopted Building and Fire Codes. Under no circumstances shall the living facility be used by or rented to any other person.
    - c. Boat launching facilities and multiple docking areas.
  3. Prohibited Uses and Structures: Any use or structure not specifically, by reasonable implication, permitted herein.

**B. Development Standards**

1. Minimum Lot Area: 10,000 square feet.
2. Minimum Lot Width: 75 square feet.
3. Minimum Yard Requirements:
  - a. Front Yard Setbacks - 10 feet.
  - b. Side Yard Setbacks - 10 feet.
  - c. Rear Yard Setbacks - 15 feet.
4. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or BFE+28 feet.<sup>12</sup>
5. Minimum Floor Area: Single stores 1,000 square feet; Strip store 300 square feet.

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<sup>12</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2018-9 filed with the City Clerk September 4, 2018 adopted October 2, 2018



6. Floor Area Requirements:
  - a. Efficiency Apartments:  
Minimum Floor Area: 450 square feet
  - b. One and Two Bedroom Apartments:  
Minimum Floor Area: 650 square feet
  - c. Three Bedroom Apartment:  
Minimum Floor Area: 900 square feet
  - d. 200 square feet minimum for hotels and motels
7. Open Space: A minimum of fifteen percent (15%) of the lot shall be open space.
8. Impervious Surface: Not more than eighty-five percent (85%) of the lot shall be impervious surface.

**C. Signs** (See Article VIII for Standards)

1. Maximum height: 30 feet.
2. Minimum Front Setback: 0 feet (property line).
3. Minimum Side Setback: 5 feet.

**D. Minimum Off-Street Parking and Off-Street Loading** (See Section 6.03.00)

**E. Minimum Landscaping Requirements:** (See Section 6.06.00 for Additional Standards)

1. Prior to the issuance of any development order, an applicant shall submit a landscape plan in compliance with Section 6.06.00 to the Planning and Zoning Committee. A solid fence or hedge shall be provided along property lines adjacent to residentially zoned property.

**F. Utilities**

One water meter, sewer tap, and electric meter per structure, including caretaker's residence, except for shopping centers and strip stores, in which case, each store shall have its own water and electric meter; common sewer taps are permitted.

**G. Smoke Detector**

There shall be one (1) smoke detector per seven hundred fifty (750) square feet plus one (1) smoke detector per closed stockroom.

**H. Garbage**

Any business which generates in excess of two (2) garbage cans capacity of refuse per week must use a dumpster. Group dumpsters are permitted.

**I. Storage of Merchandise**

No merchandise shall be stored on the premises except in an enclosed building, unless specifically permitted otherwise.

*2.02.08 CC - Condensed Commercial District*

**A. Uses and Structures**

No building or structure, or part thereof, shall be erected, or altered, which does not comply with the City's existing Flood Ordinance, and the adopted Building Code, or used, land or water used, in whole or in part for other than the following:

1. Any use permitted in Village Commercial is permitted herein. However, it is the intent of the separation of this district from Village Commercial to allow for light industrial uses and noisier facilities. Specific uses are:
  - a. Automotive service stations (see Section 2.03.05).
  - b. Automotive repair and sales.
  - c. Boat building, repairs and sales.
  - d. Boat yards and ways, outside storage permitted.
  - e. Builder contractor facilities which require equipment storage space.
  - f. Cabinetmaking.
  - g. Combined services or other commercial use which is comparable in nature with the foregoing uses and which the Planning and Zoning Committee determines to be compatible in the District.
  - h. Light industrial uses which do not cause pollutants to be expelled into the environment.
  - i. Millworks and lumber yards, outside storage permitted.
  - j. Tire repair and sales.
  - k. Veterinarian offices and clinics with no outside kennels unless screened.
  - l. All uses permitted in Village Commercial (VC).
2. Permitted Accessory Uses and Structures:

- a. Accessory uses and structures, including private garages and storage facilities.
  - b. Caretaker's residence: Any operator of any commercial facility may live on the premises in a facility designed for that purpose. The facility must meet the City's existing Flood Ordinance and the adopted Building and Fire Codes. Under no circumstances shall the living facility be used by or rented to any other person.
  - c. Boat launching facilities and multiple docking areas.
3. Prohibited Uses and Structures:
- a. Automobile wrecking yard.
  - b. Any use or structure not specifically, by reasonable implication, permitted herein.

**B. Reference Village Commercial for all other requirements.**

*2.02.09 CF - Commercial Fishing*

**A. Permitted Uses and Structures**

No building or structure, or part thereof, shall be erected, or altered, which does not comply with the City's existing Flood Ordinance, and the adopted Building Code, or used, land or water used, in whole or in part for other than the following:

- 1. Any use permitted in Village Commercial is permitted herein. However, it is the intent of the separation of this District from Village Commercial to allow for light industrial uses and noisier facilities. Specific uses are:
  - a. All uses in Village Commercial.
  - b. Aquacultural activities.
  - c. Automotive repair.
  - d. Boat building, repairs and sales.
  - e. Boat fueling storage tanks.
  - f. Boat yards and ways, including dry boat storage.
  - g. Commercial boat launching facilities and docks, commercial and/or pleasure.
  - h. Dwellings: Single-family and multi-family, boarding houses.
  - i. Fish canning, freezing and packaging facilities.

- j. Fish houses, wholesale and/or retail.
  - k. Repair of boating and fishing equipment.
  - l. Sale of boating and fishing equipment.
  - m. Storage area for fishing accessories such as traps and nets.
  - n. Tour and head boat operations.
  - o. Tourist attractions related to or consisting of boating or fishing.
  - p. Combined uses and any commercial use or professional service which is comparable in nature with the foregoing uses and which the Planning and Zoning Committee determines to be compatible in the District.
2. Permitted Accessory Uses and Structures:
- a. Accessory uses and structures, including private garages and storage facilities.
  - b. Caretaker's residence: Any operator of any commercial facility may live on the premises in a facility designed for that purpose. The facility must meet the City's existing Flood Ordinance and the adopted Building and Fire Codes. Under no circumstances shall the living facility be used by or rented to any other person.
3. Prohibited Uses and Structures: Any use or structure specified or by reasonable implication permitted herein.

**B. Development Standards**

Due to the nature of the activities conducted under this classification and the narrowness in depth of much of the land, yard requirements and density are difficult to impose. However, the following restrictions must apply:

- 1. No structure may be erected within twenty-five (25) feet of any above ground fuel storage tank.
- 2. No structure used for housing shall be erected within fifty (50) feet of any above ground fuel storage tank.
- 3. No closed storage structure may be erected closer than ten (10) feet from any structure used for housing.
- 4. Any unit designed for dwelling must contain a minimum of:

- a. Bathroom facilities (toilet, handbowl, and shower).
  - b. Smoke detector.
  - c. Electricity.
  - d. One hundred fifty (150) square feet of combined living and bathroom facilities.
5. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or BFE+28 feet.<sup>13</sup>
  6. Parking spaces are scarce in much of this district. Therefore, any activity specifically designed to attract tourists in large numbers at one time must provide one (1) parking space per 2.3 persons accommodated simultaneously. This parking does not have to be located in the Commercial Fishing District but should be located as close as possible, the location subject to approval by the Planning and Zoning Committee. Example: Tourist Activity Capacity:  $100/2.3 = 43.5$  or 44 spaces. The size of the parking spaces shall be a minimum of nine (9) feet by fifteen (15) feet with adequate aisles for free movement of vehicles.
  7. Special regulations for Waterfront yards. (See Section 2.03.03)
  8. Open Space: A minimum of fifteen percent (15%) shall be open space.
  9. Impervious Surface: A maximum of eighty-five percent (85%) shall be impervious surface (See Section 6.01.02).
- C. Signs** (See Article VIII for Standards)
- D. Minimum Off-Street Parking and Off-Street Loading Requirements** (See Section 6.03.00)
- E. Minimum Landscaping Requirements:** (See Section 6.06.00 for Additional Standards)
1. Prior to the issuance of any building permit, an applicant shall submit a landscape plan in compliance with Section 6.06.00 to the Planning and Zoning Committee. A solid fence or hedge shall be provided along property lines adjacent to residentially zoned property.
- F. Utilities**

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<sup>13</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2018-9 filed with the City Clerk September 4, 2018 adopted October 2, 2018

1. Each independent dwelling unit, whether single-family or multi-family, must have its own water meter, sewer tap and electrical meter.
  2. Non-dwelling structures requiring utilities shall be classified as commercial structures for purposes of utility requirements, and each business location shall have its own water meter and electric meter.
  3. Garbage collection shall be either by individual cans or dumpster, at the discretion of the user.
- G.** The portions of the narrow strips of land along the Barron River between the River and Storter Street and Riverside Drive, belonging to the City of Everglades City, shall be included in this Commercial Fishing District. Any portions not owned by the City of Everglades City shall not be included in this Commercial Fishing District.

*2.02.10 AC - Aviation Commercial*

**A. Permitted Uses and Structures**

This District is limited to the county-owned Everglades Airport property only. This Commercial Aviation District shall be limited to aviation-related uses intended to accommodate the use and operation of an airport facility, related commercial and light-industrial uses, and a limited range of convenience commercial uses only:

1. Customary Commercial-Airport-related Uses include:
  - a. Paved and lighted landing fields.
  - b. Aircraft hangers and repair facilities.
  - c. Lavatory and rest-area facilities.
  - d. Control towers.
  - e. Fuel-storage areas.
  - f. Navigation equipment-repair facilities.
  - g. Aviation schools and flight-instruction facilities.
  - h. Freight-terminal facilities.
  - i. Industrial uses dependent upon the Airport for economic support; the principal economic activity of such users must be dependent on the use of the Airport facility and not merely located on Airport

property.

2. Permitted Accessory Uses (non-airport, convenience-commercial uses that are located within the boundaries of the Airport property and intended primarily as services to the public using the Airport's facilities) including:
  - a. Auto rentals.
  - b. Newsstands and bookstores.
  - c. Gift shops.
  - d. Insurance outlets.
  - e. Advertising displays [as permitted in Article VIII of this Code].
  - f. Short-term storage lockers.
  - g. Snack bars.
  - h. Beverage- and snack-vending machines.
  - i. Aerial-photography facilities and studios.
  - j. Public or civic organization facilities or offices.
  - k. ATM Banking facilities.
3. Prohibited Uses and Structures:
  - a. Any use or structure not approved by the County Airport Authority.
  - b. Any use or structure not specifically authorized by this Section 2.02.10.
  - c. Mobile homes, travel trailers, modular units, or other structures produced by specifications which do not comply with the building and/or design codes incorporated in the Southern Building Code subsequent to the advent of Hurricane Andrew [FEMA Storm 955] on August 24, 1992.

**B. Development Standards**

1. A General Development Site Plan [GDSP] in the form of an Airport Master Plan [AMP] shall be required.
2. The purpose of the GDSP review before the adoption of the AMP is:
  - a. To encourage imagination, innovation, and variety in the design process.
  - b. To make certain that the Everglades Airport is compatible with the surrounding area.
  - c. To ensure appropriate planning for the Everglades Airport and to require necessary improvements with respect to:

- (1) Vehicular entry and exit drives;
- (2) On-site vehicular circulation;
- (3) Accessways for emergency and service vehicles;
- (4) The impact of traffic generated by the Airport on traffic patterns and volumes on nearby streets and the adequacy of such streets to accommodate such traffic;
- (5) The adequacy of buffers between the Airport and adjoining dissimilar uses; and
- (6) Off-site improvements necessitated by airport-generated traffic, wastewater-treatment and potable-water connections required by on-site users, or other aspects of the proposed Airport Master Plan.

*2.02.11 PS - Public Service District*

A. This district is intended to accommodate a variety of public and semi-public institutional, recreational, and service facilities.

1. Permitted Uses: None
2. Planning and Zoning Board review and City Council approval: No building or structure shall be erected, altered, or used, or land or water used, in whole or in part, that is not in substantial compliance with City Council approval and for other than the following:
  - a. Boat launching and docking areas.
  - b. Churches.
  - c. Civic organizations.
  - d. Cultural facilities (including libraries or museums) and/or publicly owned buildings.
  - e. Public utilities.
  - f. Recreation areas or facilities; public or private.
  - g. Schools and colleges.
3. Permitted Accessory Uses and Structures:  
Accessory uses and structures which are incidental to and customarily associated with the above permitted uses in this district.



**B. Development Standards**

1. Minimum Lot Area: 10,000 square feet exclusive of docks and boat launching facilities designated as public use.
2. Minimum Lot Width: 100 feet.
3. Minimum Yards: Each yard requirement shall be the same as the yard requirement for the most restrictive adjacent zone district but in no case shall be less than the following:
  - a. Front yard: 15 feet.
  - b. Side yard: 5 feet.
  - c. Rear yard: 15 feet.
4. Minimum Floor Area: 1,000 square feet per principal building on the first floor.
5. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or BFE+28 feet. Because of the wide diversity of uses allowed, structures in excess of this height (church spires, water towers, etc.), may be approved as a part of the Conditional Use Permit provide they do not affect public health, safety, or welfare.<sup>14</sup>
6. Maximum Lot Coverage: Seventy percent (70%) (See Section 6.03.00).

**C. Signs (See Article VIII)**

**D. Minimum Off-Street Parking and Off-Street Loading (See Section 6.03.00)**

**E. Minimum Landscaping Requirements (See Section 6.06.00 for Additional Standards)**

1. Prior to the issuance of any building permit, an applicant shall submit a landscape plan in compliance with Section 6.06.00 to the Planning and Zoning Committee. A solid fence or hedge shall be provided along property lines adjacent to residentially zoned property.

**2.03.00 SPECIAL USE STANDARDS AND RESTRICTIONS**

**2.03.01 Locational Restrictions For Use Involving Intoxicating Beverages**

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<sup>14</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2018-9 filed with the City Clerk September 4, 2018 adopted October 2, 2018

**A. Sale of Alcoholic Beverages**

The sale of alcoholic beverages for consumption on premises will not be permitted at any location until such location has been approved by the Planning and Zoning Committee. Prior to action by the Planning and Zoning Committee for recommending a location for sale of alcoholic beverages for consumption on premises at any location, the Committee shall find that the following requirements have been met:

1. No use shall be located within two hundred fifty (250) feet of any established school, church, city public park or playground. The distance of two hundred fifty (250) feet shall be measured as the shortest distance between the lot on which the school, church, public park or playground is located and the lot on which the alcoholic beverages are to be sold.
2. The erection of any school, church, city park or playground within two hundred fifty (250) feet of an establishment which offers the sale of alcoholic beverages for consumption on premises shall not cause such establishment to become non-conforming.
3. The applicant shall submit a plot plan showing the following:
  - a. Dimensions of subject premises.
  - b. Legal description.

**B. Exemptions**

The following uses shall be exempted from the distance limitations of Paragraph 2.03.01 A of this Subsection, but shall comply with all other requirements of this Subsection:

1. A restaurant, not including fast food or drive-in restaurants, deriving at least fifty-one percent (51%) of its gross revenue from the sale of food and non alcoholic beverages.
2. Any motel and/or hotel with one hundred (100) or more guest rooms.
3. Any private club, civic or fraternal club may service alcoholic beverages for consumption on premises when such service is incidental to the main use and for the exclusive use of the members, tenants and/or guests of the facility.

**C. Request for Statement of Receipts**

Any owner or operator of an establishment approved under this Subsection to sell alcoholic beverages for consumption on premises shall upon written demand of the Land Development Code, make or cause to be made under oath a statement itemizing what percentage of his gross receipts are from the sale of alcoholic beverages.

**2.03.02 Boats Or Other Floating Equipment Used As Dwelling Units**

Boats or other floating equipment being used as dwelling units or as commercial establishments may not anchor or tie up in waters under the jurisdiction of the City for longer than forty-eight (48) hours, except at facilities which meet City, County and State health standards for such use.

**2.03.03 Marinas**

**A. Special Requirements**

Prior to the issuance of any building permit, the following requirements must be met:

1. A Development Plan must be approved in accordance with Section 12.02.05 by the Planning and Zoning Committee.
2. The Development Plan submittal shall include evidence of compliance with the Marina Siting Plan for Collier County.
3. Any permits required by Collier County, the State of Florida, or the U.S. Army Corps of Engineers must be included as part of the Development Plan.

**B. Special Restrictions**

A marina shall not allow a boat or other floating equipment being used as dwelling units or as commercial establishments to dock at its facilities for longer than forty-eight (48) hours except as follows:

1. The dock facility must provide potable water, electricity and a sanitary sewer outlet which is pumped directly into the sanitary sewer system of the City or is transferred to a station which empties into the City's sanitary sewer system. Said system must conform to the Collier County Public Health Unit's Regulations.
2. The marina must enforce within the rules a policy which prohibits a vessel docked within its jurisdiction from being used as a commercial facility unless: (a) the user has occupational permits from the City and County; and (b) the user has arranged

with the marina, or on property located within six hundred (600) feet of the marina appropriate parking spaces as required by the District regulations and by the Off-Street Parking Section 6.03.00.

**C. Condominium Docking Facilities**

1. Each slip or dock, etc., must have:
  - a. An electric connecting box and a hose bib (water faucet).
  - b. A sewer outlet which either pumps directly into the sanitary system of the City or transferred to a tank system which empties into the City's sanitary sewer system. Said system must conform to the Collier County Public Health Units Regulations.
  - c. One motor vehicle parking space per slip or dock.

*2.03.04 Principal Structure Waterfront Yard Setback*

**A. Intent and Purpose**

It is the intent and purpose of this Subsection to permit the placement of principal buildings closer to the bulkhead line seawall or shoreline than the minimum setback requirements for the zoning district allows.

**B. Development Plan Approval**

Principal structures located on parcels seventy-five (75) feet or less in depth may be located a minimum of five (5) feet from the bulkhead line seawall or shoreline subject to approval of a Development Plan by the Planning and Zoning Committee as required by Section 12.02.05.

*2.03.05 Automobile Service Stations*

The following regulations apply to the location, layout, drainage, operation, fencing, landscaping, parking and permitted sales and service activities of automobile service stations:

**A. Lot Size: Minimum Eighteen Thousand (18,000) Square Feet**

1. **Minimum Frontage:** An automobile service station shall be located on a lot at least one hundred twenty (120) feet frontage on one side of a dedicated street or highway.
2. **Minimum Depth:** One hundred fifty (150) feet.

**B. Minimum Yards**

1. Front Yard Setback: 50 feet.
2. Side Yard Setback: 40 feet.
3. Rear Yard Setback: 40 feet.
4. Canopy: 10 feet beyond pump setback line.

**C. Storage Tanks**

Storage tanks must be installed in conformity with current State of Florida Regulations.

**D. Location of Structures, Pumps, etc.**

1. No main or accessory building, no sign of any type, and no gasoline pump, tank, vent, pump island or pump island canopy shall be located within twenty-five (25) feet of any residentially zoned property.
2. Gasoline pumps or pump islands may be located no closer than thirty (30) feet to the street property lines and shall be located no closer than forty (40) feet to any side or rear property line. Pump island canopies may be located no closer than fifteen (15) feet to the street property line. If such setback requirements mentioned above are closer than setback requirements for the District in which the automobile service station is located, such service station appurtenances shall be removed before the property is converted to a use other than an automobile service station. Removal of fuel tanks is required.

**E. Fence Requirements**

1. If an automobile service station abuts a residential district, a wall of solid decorative material five (5) feet in height or a wall of landscaping must be provided and properly maintained.
2. In addition, all outside trash areas for used tires, auto parts, and other items shall be enclosed on all sides by five (5) foot high decorative fence or wall which shall conform to all fence setback regulations. All walls and buildings shall be protected by a barrier to prevent vehicles from contacting the wall.

**F. Parking Areas**

Parking areas shall be adequate to accommodate six (6) cars.

2.03.06 *Temporary Use Permits*

**A. General**

Unless otherwise specified in this Land Development Code, this Section governs temporary uses.

**B. Temporary Construction and Development Permits**

1. In the case of real estate development projects in any zoning district, the developer may request a Temporary Use Permit for a period not to exceed twelve (12) months to allow promotional, storage and fabrication activities which are needed during construction and sale of the project. Such activities may include a temporary sales office, construction office, model homes and other similar temporary facilities necessary during the construction of the project. One temporary construction sign not to exceed thirty (30) square feet may be permitted.
2. Applicants for the Temporary Use Permit shall submit plans to the Chairman and the Planning and Zoning Committee indicating the area in which the Temporary Use Permit is to apply, the nature of the use and activities requested and time period requested.
3. The Planning and Zoning Committee shall review the application and make a recommendation to the City Council; the City Council may grant or deny a temporary construction and development use permit and in addition, may also stipulate any measures such as traffic safety, additional parking and the like, including faithful performance bond to guarantee compliance with the conditions of the permit, if they feel it to be appropriate
4. Upon the termination of the first one (1) year permit period, application must be filed for an extension of the permit stating the reason for extension and the time required. The Planning and Zoning Committee may extend the permit, on a year to year basis or less, for the development life of the project. Such extension may be made subject to the stipulations of the previous permit or may be amended as determined to be necessary by the Planning and Zoning Committee. If the temporary use is not

discontinued upon expiration of the permit, it shall be deemed a violation of the Land Development Code and shall be subject to the penalties therein.

**C. Special Event Activities**

Special event activities shall be defined as, but not limited to, any organized public activities held or conducted on a temporary basis which are apart from, or in addition to, activities and uses normally associated with and permitted at a specific location.

1. A special event permit must be obtained and may be granted for a temporary and specific period of time for such special event activities as:

- a. Air shows;
- b. Art Shows;
- c. Running or walking events;
- d. Carnivals;
- e. Concerts
- f. Festivals;
- g. Fireworks;
- h. Parades;
- i. Commercial photography shoots;
- j. Musical presentations;
- k. Street dances;
- l. Triathlons;
- m. Other similar event activities requiring off-site parking, street closures, sound amplification or use of City personnel or public property.

2. Application procedure:

- a. Applicants for a special event permit shall submit an application to the Chairman of the Planning and Zoning Committee sixty (60) days prior to the requested event.
- b. The Planning and Zoning Committee shall review the application and make a recommendation to the City Council; the City may grant or deny a special event permit considering whether:
  - (1) The applicant has complied with all required criteria outlined on the permit application form.

- (2) Adequate support facilities are available for the event with the support facilities including, but not being limited to, parking, refuse collection, sanitation, and lighting.
- (3) No conflict exists with the requested event and other approved and previously scheduled events.
- (4) The event will not result in the over-utilization of City facilities nor the over-utilization of one area of the City.
- (5) Amplification of sound has been justified and is established at an acceptable level.
- (6) Crowd size has been determined to be a manageable size for the proposed event.
- (7) The event is generally compatible with the character of the City and/or the locale requested.
- (8) The applicant complied with terms and conditions of any previously granted permits.

3. Special event activities; expiration/cancellation:

- a. Each special event activity permit shall be valid for a specific period of time and for a specific purpose as indicated on each permit application form. If the applicant fails to fulfill the requirement(s) as set forth in the permit, or if at any time the event does not comply with the specific terms and conditions of the permit and specifications approved by the Chairman of the Planning and Zoning Committee, including but not limited to, time and activities, the permit may be cancelled and the activity shall cease immediately.

**D. Garage Sales**

In the case of garage sales, lawn sales and similar private home sales, the Chairman of the Planning and Zoning Committee may approve the issuance of a two (2) day permit for such events during each six (6) month period. Such permit may include the use of temporary signs located on the property where the sale is Being held. If the temporary use is not discontinued upon expiration of the



permit, it shall be a violation of the Land Development Code and shall be subject to the penalties herein.

**E. Other Temporary Uses**

Other temporary uses may arise. The City Council may approve a request for a temporary use not listed above if such use will not be detrimental to the adjacent properties or neighborhood. The Committee may place any necessary conditions upon the temporary use permit as it deems appropriate.

*2.03.07 Cluster Homes<sup>15</sup>*

1. This section applies only in Districts which specifically permit Cluster Homes.
2. Uses and Structures:
  - a. Cluster Homes may be single unit or duplex units and may include units intended for recreation, vacation or personal living purposes. Duplex units are counted as two (2) units for purposes of calculating density. Permitted Accessory Uses and structures:
  - b. Accessory uses and structures customarily associated with residential uses, group residences, including patios, recreational facilities, clubhouses, service and utility buildings.
  - c. Private boat launching and docking facilities.
3. Prohibited Uses and Structures:
  - a. Cocktail lounges are strictly prohibited in replatted land designated for Cluster Homes.
  - b. Any use or structure not specifically or by reasonable implication permitted herein.
4. Replatting Requirement: All Cluster Home land development tracts must be replatted in accordance with Florida law.
5. Development Standards:
  - a. Minimum Tract Size: 0.33 acres.

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<sup>15</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2021-03 filed with the City Clerk May 4, 2021, adopted June 1, 2021

- b. Minimum Lot Area: Two thousand (2,000) square feet.
  - c. Minimum Lot Width: Thirty (30) feet
  - d. Minimum Tract Yard Requirements:
    - Front Yard: Ten (10) feet
    - Side yard: Five (5) feet
    - Rear Yard: Five (5) feet
  - e. Maximum Height of Structures: Maximum Height of any structure shall be the taller of 38 feet or the BFE+28 feet.
  - f. Maximum Density: Sixteen (16) units per acre plus accessory structures.
  - g. Impervious Structure Ratio: Paved areas cannot exceed seventy percent (70%) of the total land mass of either the total tract area or the individual lot area.
  - h. Minimum Floor Area:
    - (1) Single Units -Seven hundred fifty (750) square feet.
    - (2) Duplex Units -One thousand five hundred (1,500) square feet.
6. Required Internal Street System
- All lots within a Cluster Home development shall have access from a street. All internal streets shall be designed in accordance with Article VI, and may remain private under 6.02.04 A. 4
7. Signs:
- One (1) ground "For Sale" or "For Rent or Lease" sign not exceeding four (4) square feet per lot.
8. Utilities:
- The developer shall provide full utility access to all lots, i.e., water, sewer, electricity, telephone and cable television. Duplexes shall be provided with two (2) of each utility access.
9. Zero lot lines:
- a. Where a zero setback from a lot boundary is provided, roof overhangs over lot boundaries shall be prohibited.

10. Common Open Space:

- a. All land area not within an individual lot shall be reserved as common open space.
- b. The sale, lease, or other disposition of common open space shall be prohibited except to a nonprofit corporation, homeowners association or other similar entity established under the laws of Florida to limit administer and maintain the open space and any improvements thereon subject to a deed restriction acceptable to the City of Everglades City.
- c. Access rights to common open space to all residents within the cluster housing development shall be guaranteed.
- d. Land reserved as common open space shall be restricted to common open space in perpetuity by appropriate legal instruments satisfactory to the City of Everglades City. Such instruments shall be binding upon the owner, the developer, and their successors and assigns, and shall constitute a covenant running with the land, and be in recordable form.

11. Building and Fire Codes:

All structures shall meet applicable Fire and Building Codes.

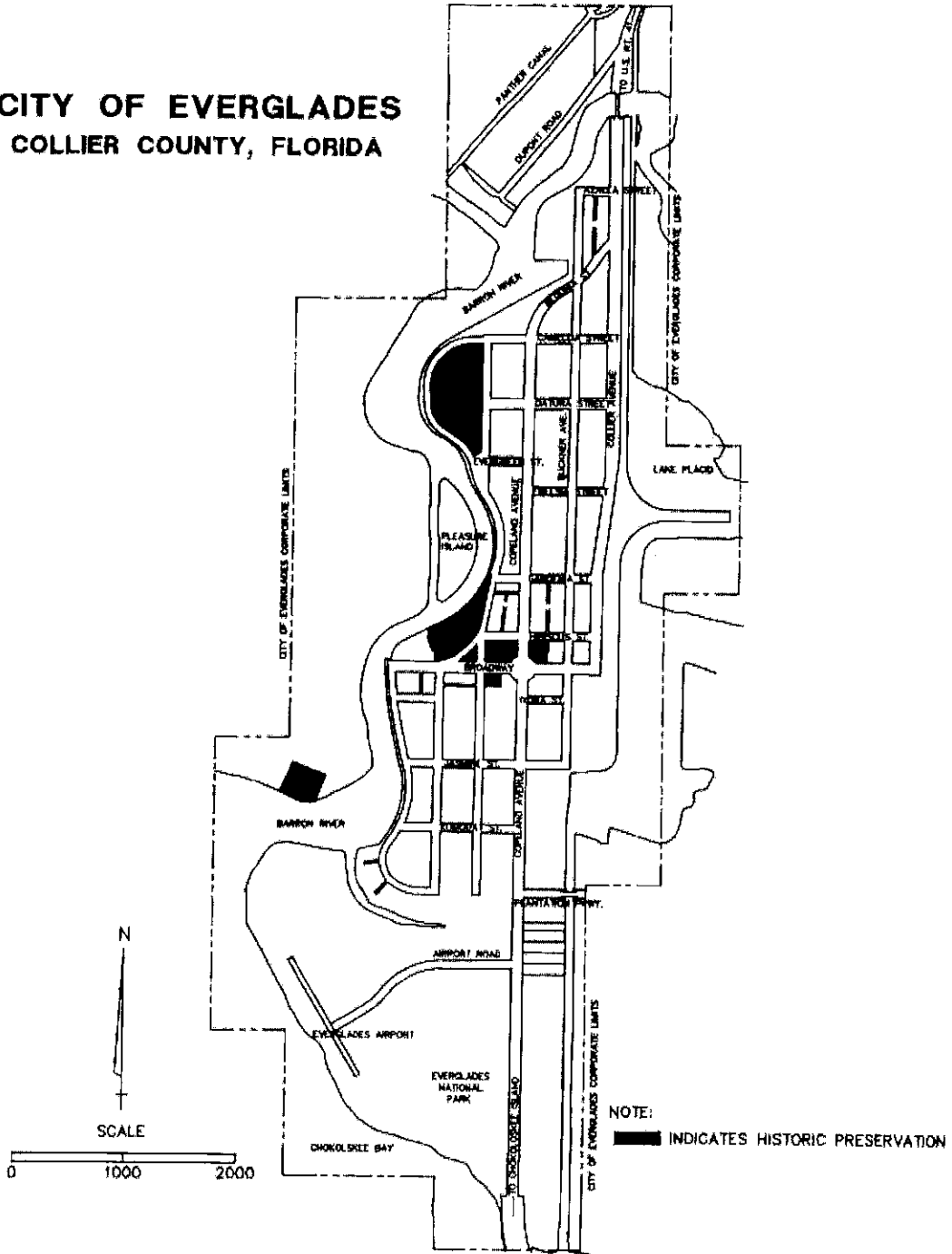
## MAPS

Map No. 1	Future Land Use – Historic Preservation	ELU1.DWG 9-14-92
Map No. 2	Future Land Use – Single Family	ELU2.DWG 9-14-92
Map No. 3	Future Land Use – Multi-Family	ELU3.DWG 9-14-92
Map No. 4	Future Land Use – Residential Tourist	ELU4.DWG 9-14-92
Map No. 4A	Future Land Use – Residential Tourist	ELU4A.DWG 9-14-92
Map No. 4B	Future Land Use – Residential Tourist	
Map No. 5	Future Land Use – Mobile Home Rental Park	ELU5.DWG 9-14-92
Map No. 6	Future Land Use – Travel Trailer Recreational Park (Now Recreational Vehicle/Mobile Home Park)	ELU6.DWG 9-16-92
Map No. 7	Future Land Use – Village Commercial	ELU7.DWG 9-14-92
Map No. 8	Future Land Use – Condensed Commercial	ELU8.DWG 9-14-92
Map No. 9	Future Land Use – Commercial Fishing	ELU9.DWG 9-14-92
Map No. 10	Future Land Use – Mandatory Preservation	ELU10.DWG 9-14-92
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Map No. 12	Coastal Management: Existing Water Dependent and Water Related Land Uses	ELU12.DWG 9-29-92
Map No. 13	Future Land Use – Everglades V.R. Park	
Map No. 14	Future Land Use – Everglades Isle	

MAP NO. 1

FUTURE LAND USE-HISTORIC PRESERVATION

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA

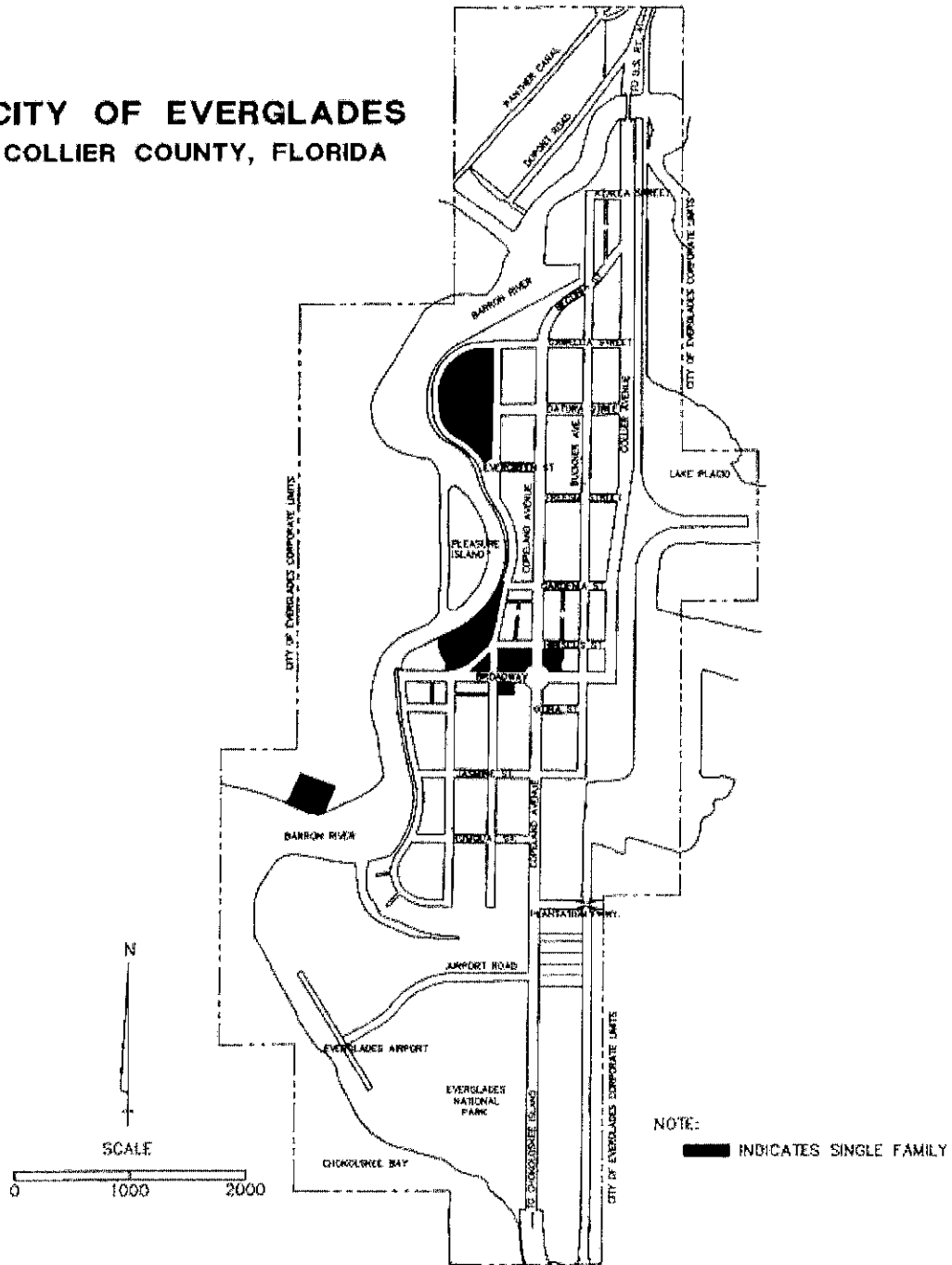


SOURCE: CITY OF EVERGLADES-CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT-9-14-92

FILE: ELU1.DWG 9-14-92

**MAP NO. 2  
FUTURE LAND USE-SINGLE FAMILY**

**CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA**

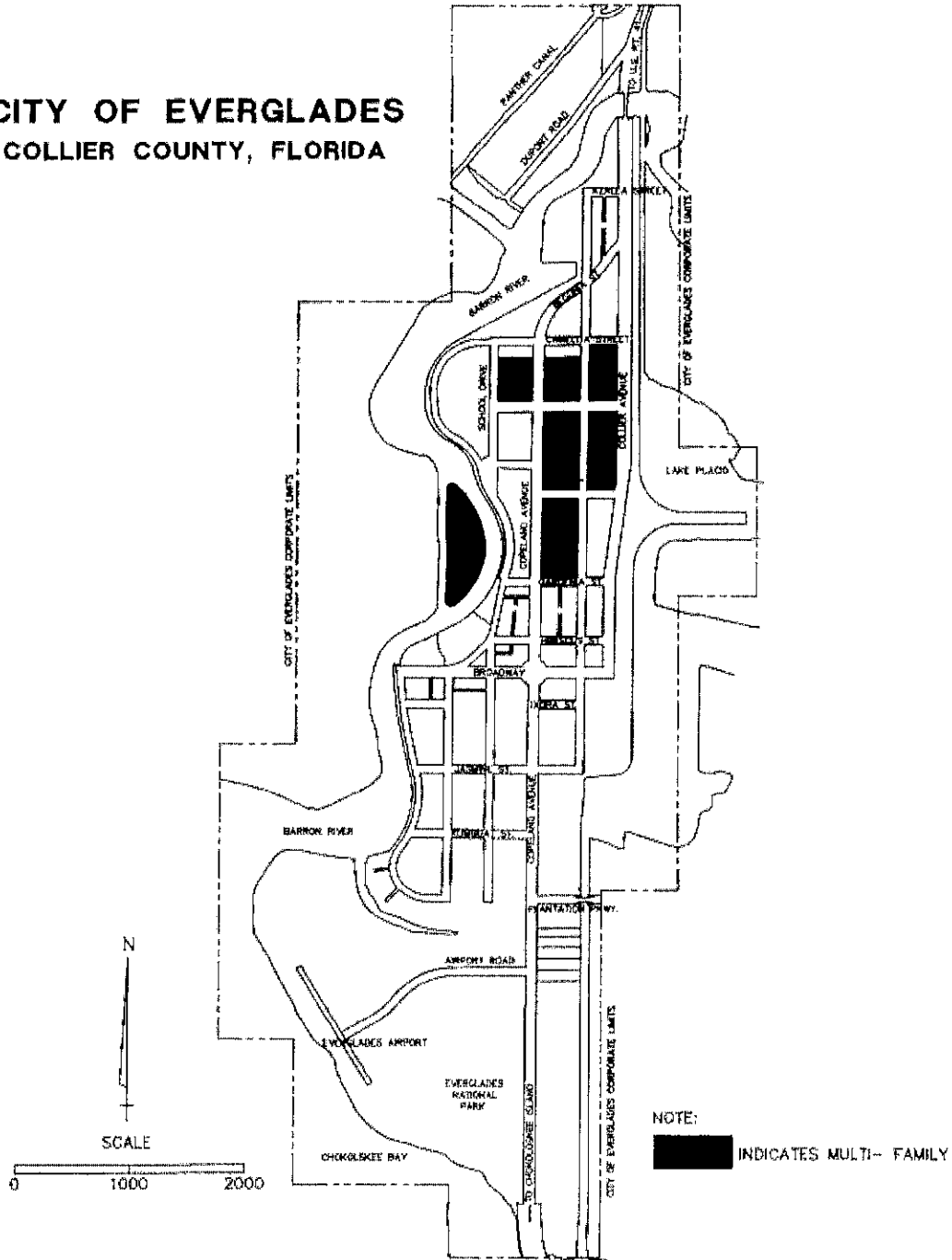


SOURCE: CITY OF EVERGLADES—CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT—9-14-92

FILE:ELV2.DWG 9-14-92

**MAP NO. 3  
FUTURE LAND USE-MULTI-FAMILY**

**CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA**



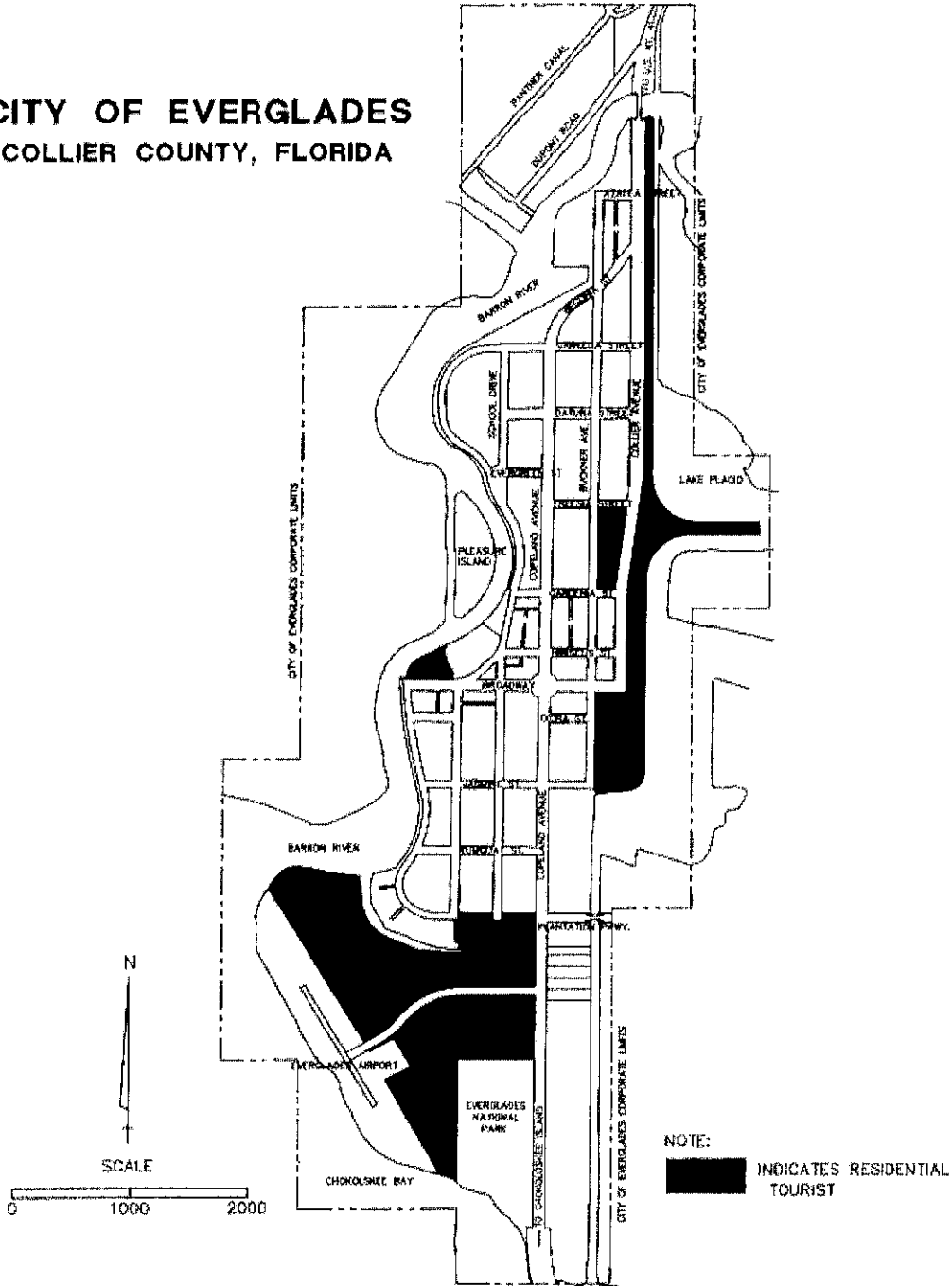
SOURCE: CITY OF EVERGLADES--CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT--9-14-92

FILE:GLU.DWG 9-14-92

MAP NO. 4

FUTURE LAND USE-RESIDENTIAL TOURIST

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA



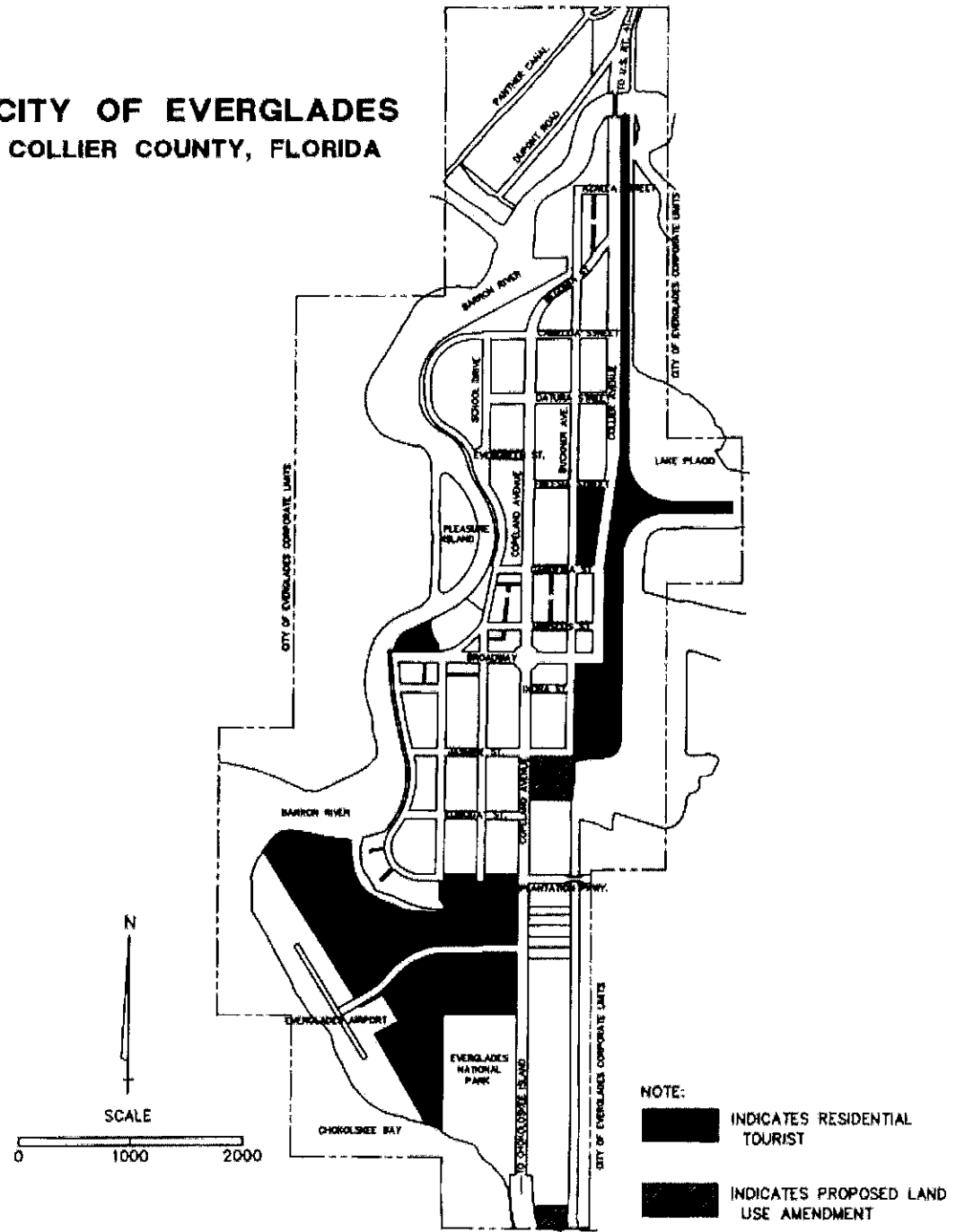
SOURCE: CITY OF EVERGLADES—CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT—9-14-92

FILE: 6114 DWG 9-14-92



**MAP NO. 4A  
FUTURE LAND USE-RESIDENTIAL TOURIST**

**CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA**

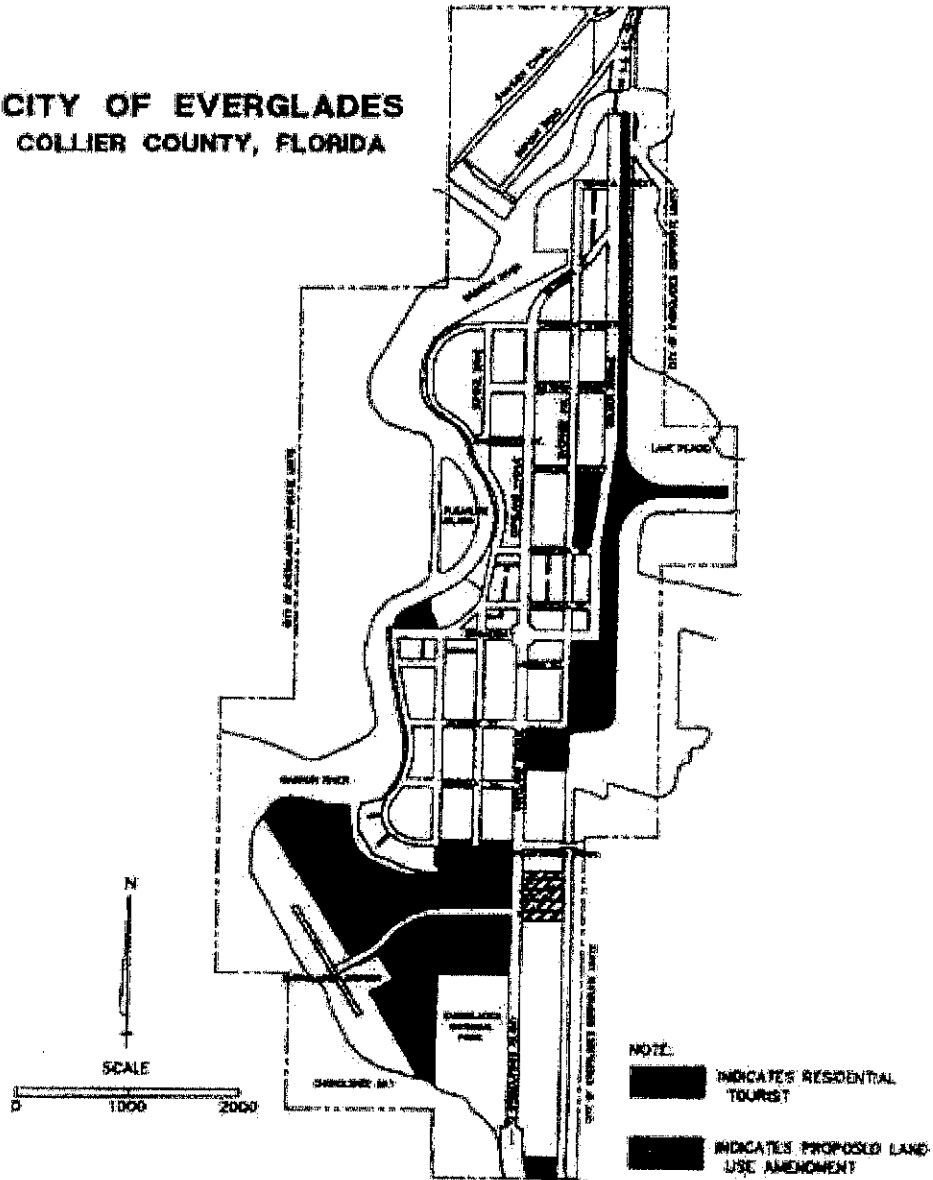


SOURCE: CITY OF EVERGLADES-CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT-9-14-92

FILE:ELI4A.DWG 9-14-92

**MAP NO. 4B  
FUTURE LAND USE - RESIDENTIAL TOURIST**

**CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA**



SOURCE: CITY OF EVERGLADES-CITY PLANNING AND ZONING COMMITTEE  
 PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT-9-14-82

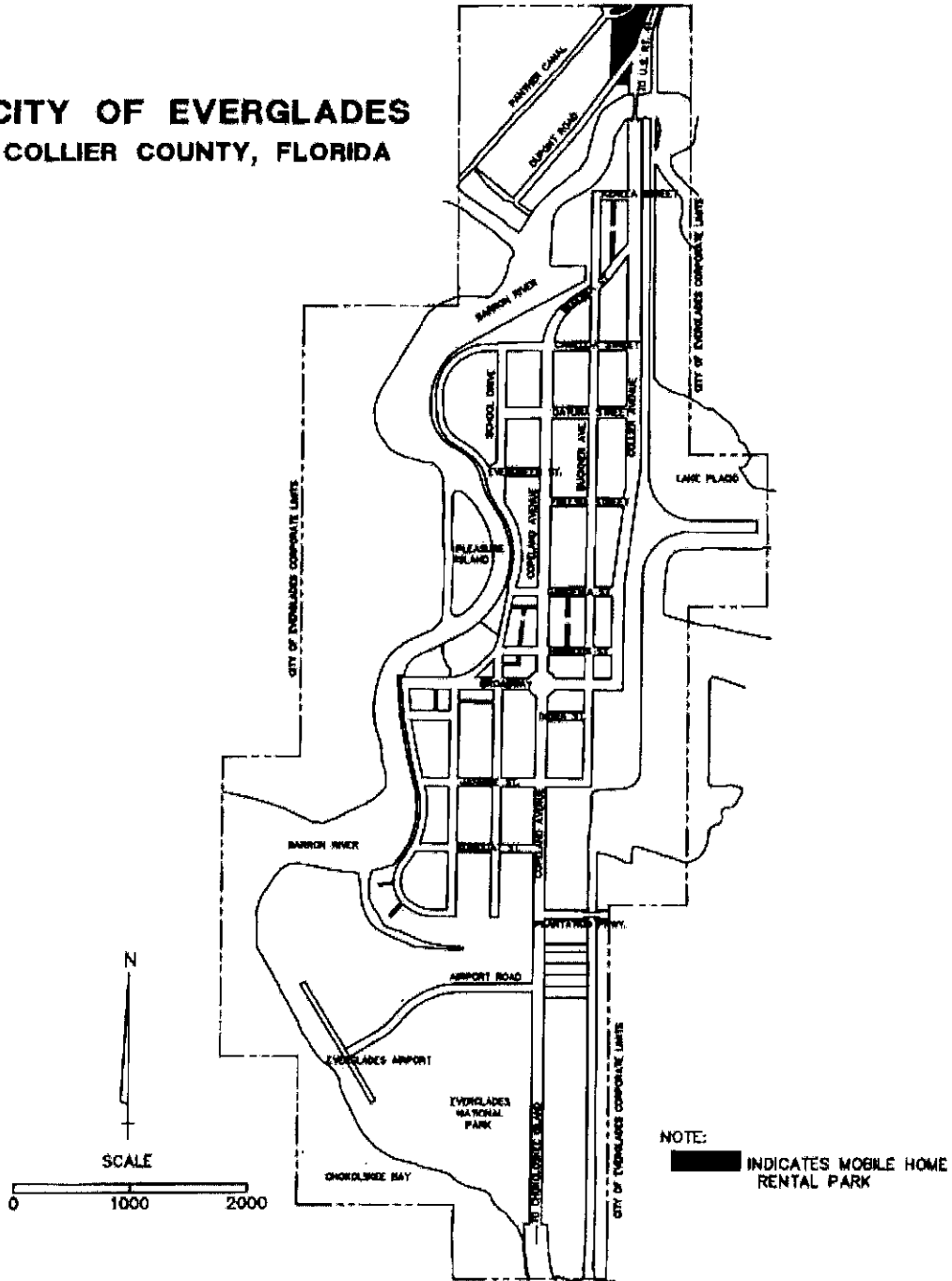
*History Amended in August 2021 as proposed by City Council, Ordinance NO. 2020-13 filed with the City Clerk January 5, 2021, adopted February 2, 2021*

Adopted January 2, 2001  
 Ordinance No. 2000-05

MAP NO. 5

FUTURE LAND USE-MOBILE HOME RENTAL PARK

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA

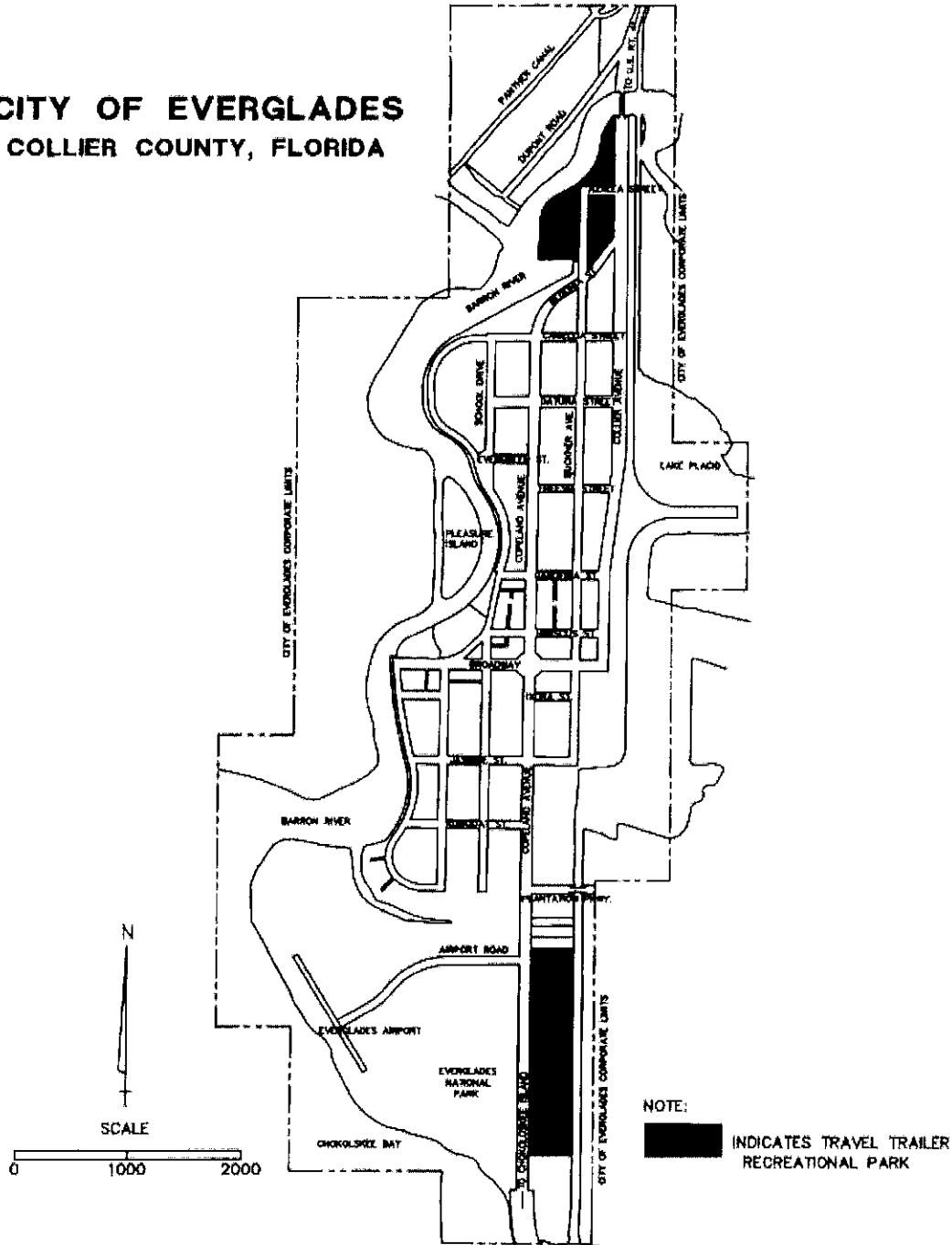


SOURCE: CITY OF EVERGLADES-CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT-9-14-92

FILE COLLIER 0-10-92

**MAP NO. 6  
FUTURE LAND USE-TRAVEL TRAILER RECREATIONAL PARK**

**CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA**



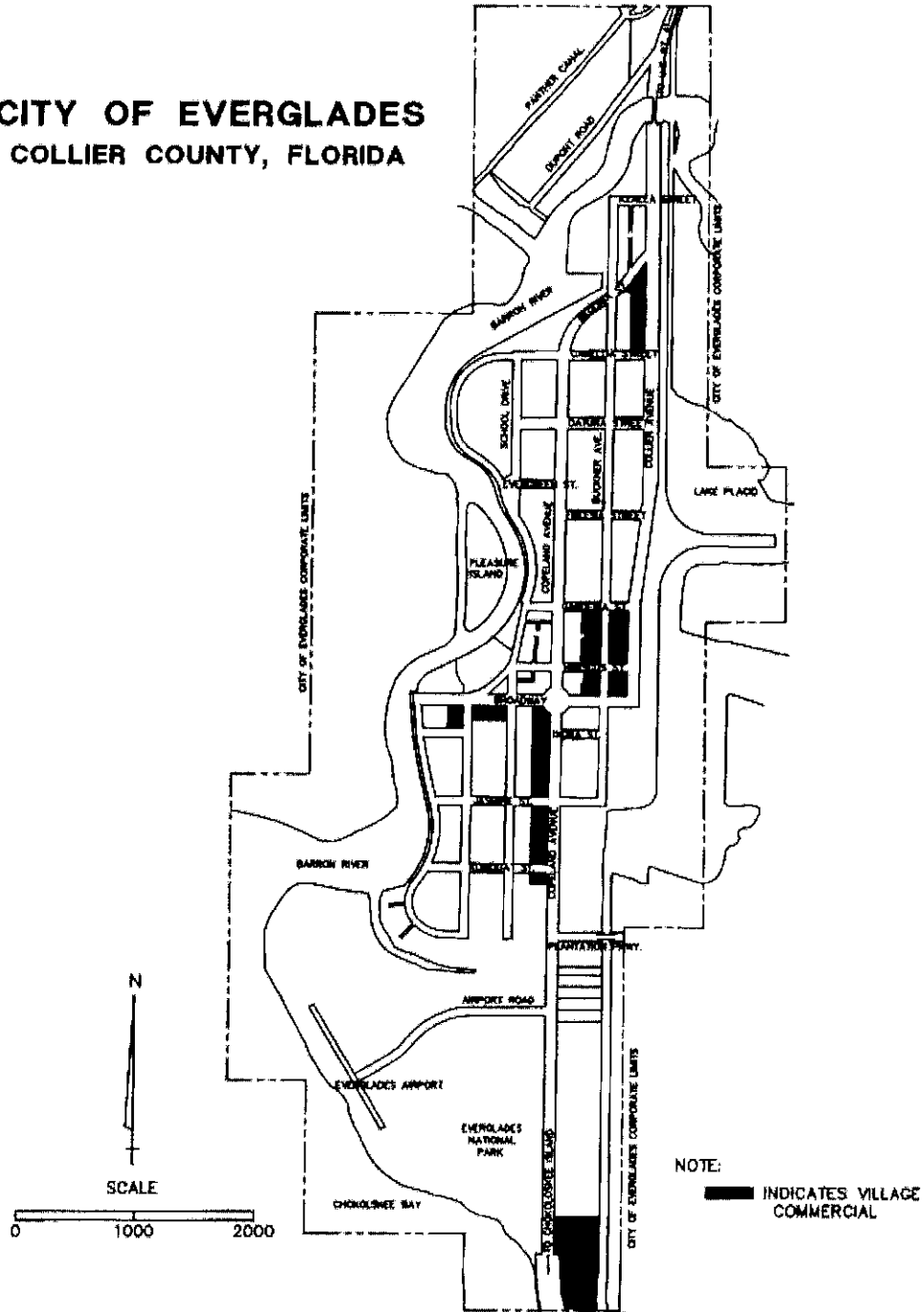
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PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT—9-14-92

FILE:ELUM.DWG 9-16-92

MAP NO. 7

FUTURE LAND USE-VILLAGE COMMERCIAL

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA



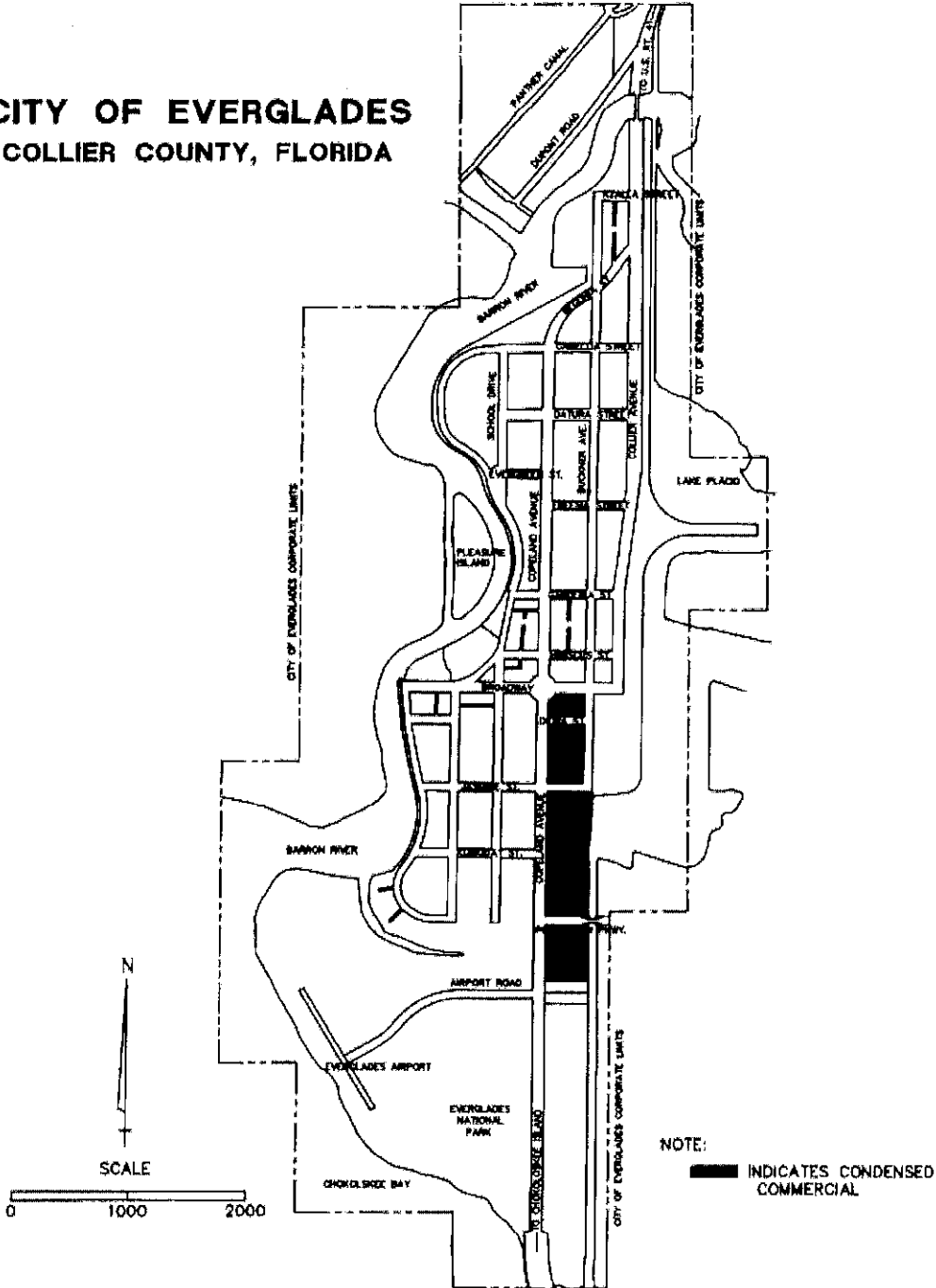
SOURCE: CITY OF EVERGLADES—CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT—9-14-92

FILE:CU7.DWG 9-14-92

MAP NO. 8

FUTURE LAND USE-CONDENSED COMMERCIAL

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA



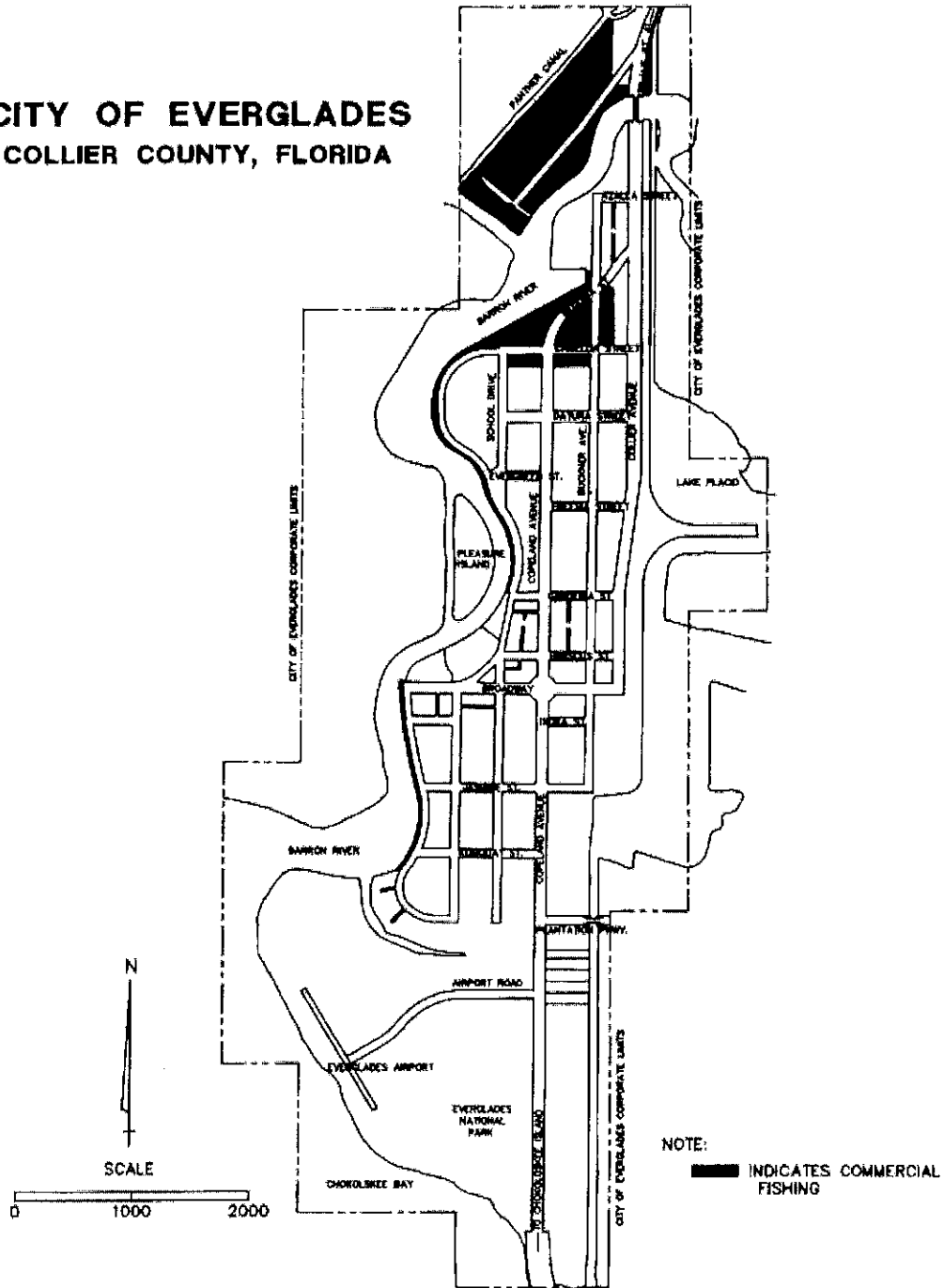
SOURCE: CITY OF EVERGLADES-CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT-9-14-92

FILE:CLUBONG 9-14-92

MAP NO. 9

FUTURE LAND USE-COMMERCIAL FISHING

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA



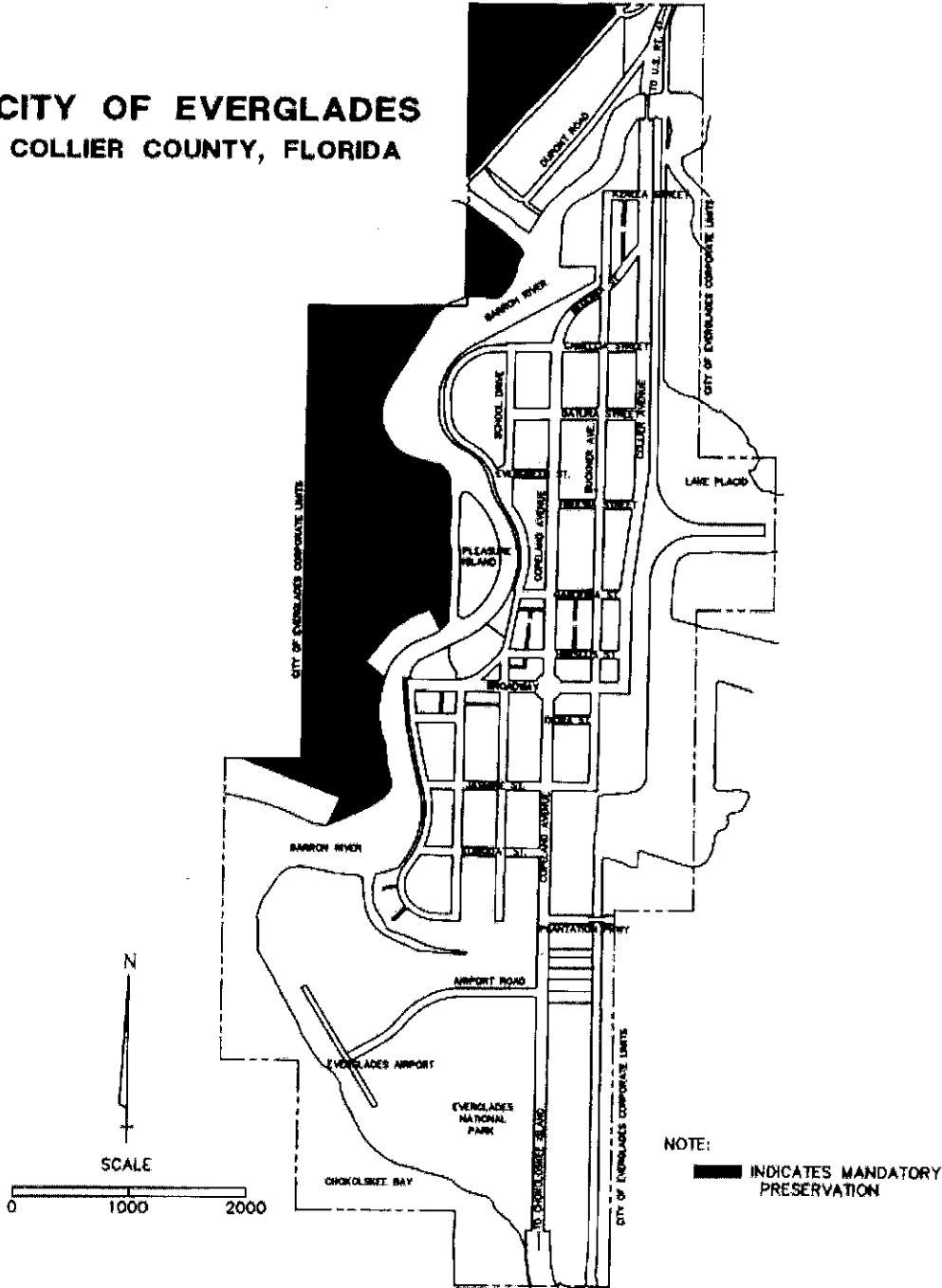
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PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT-9-14-92

FILED 01/02/01 9-14-92

MAP NO. 10

FUTURE LAND USE-MANDATORY PRESERVATION

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA



SOURCE: CITY OF EVERGLADES-CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT-9-14-92

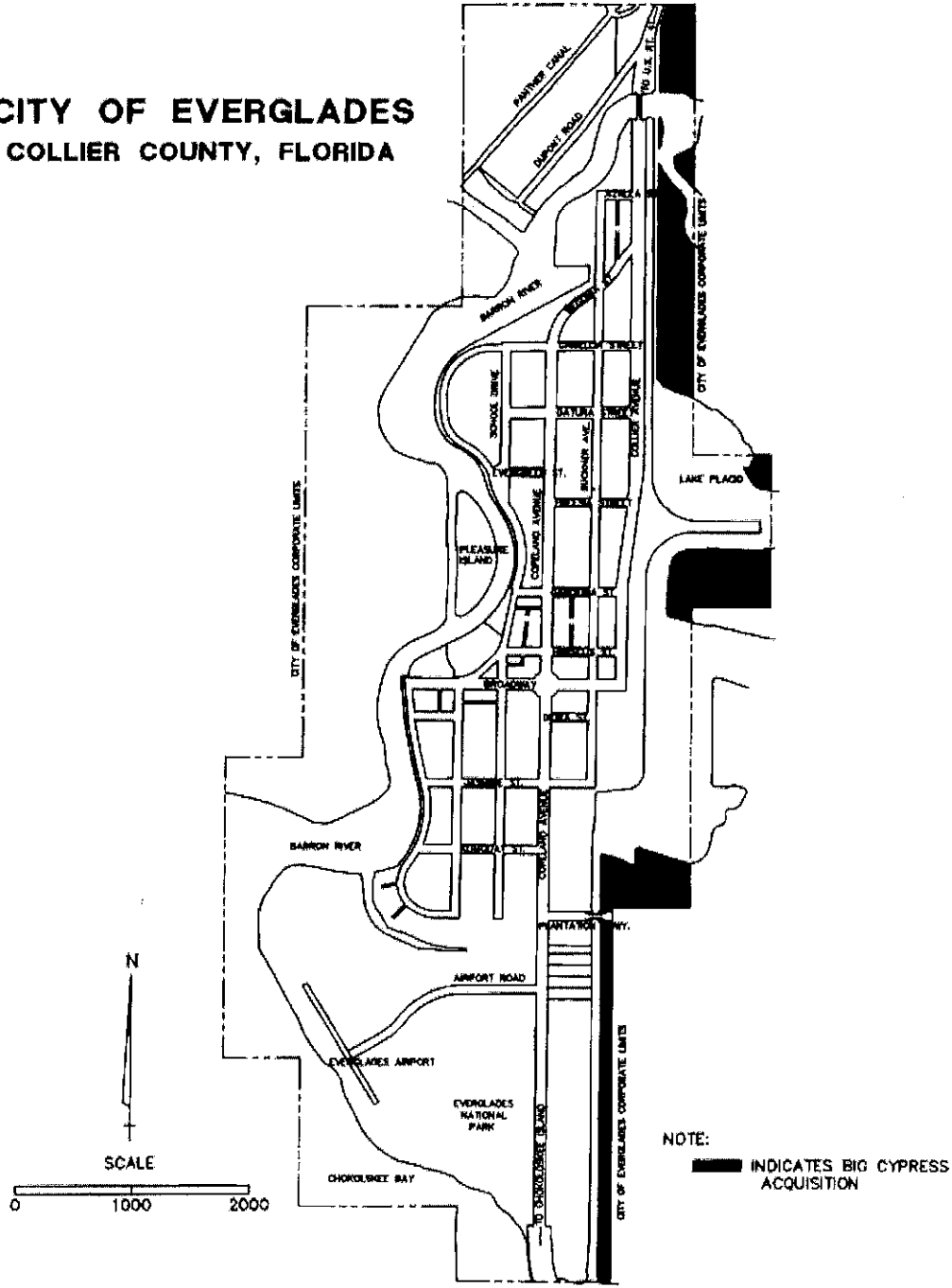
FILED: 10/06/92 9-14-92



MAP NO. 11

FUTURE LAND USE-BIG CYPRESS ACQUISITION

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA

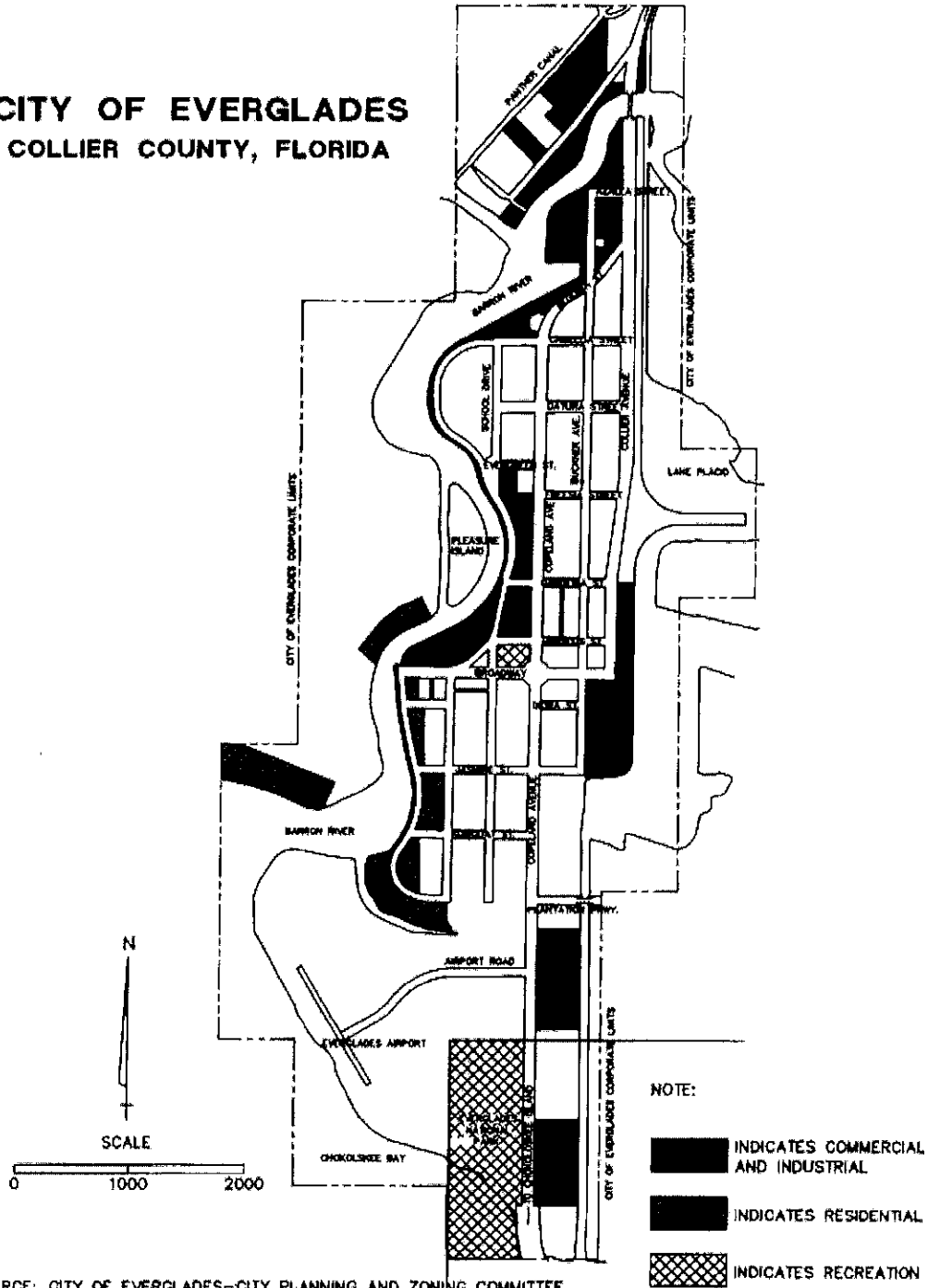


SOURCE: CITY OF EVERGLADES-CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT-9-14-92

FILE: 01/11/01 9-14-92

**MAP NO. 12  
COASTAL MANAGEMENT: EXISTING WATER DEPENDENT  
AND WATER RELATED LAND USES**

**CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA**



SOURCE: CITY OF EVERGLADES—CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT—9-14-92

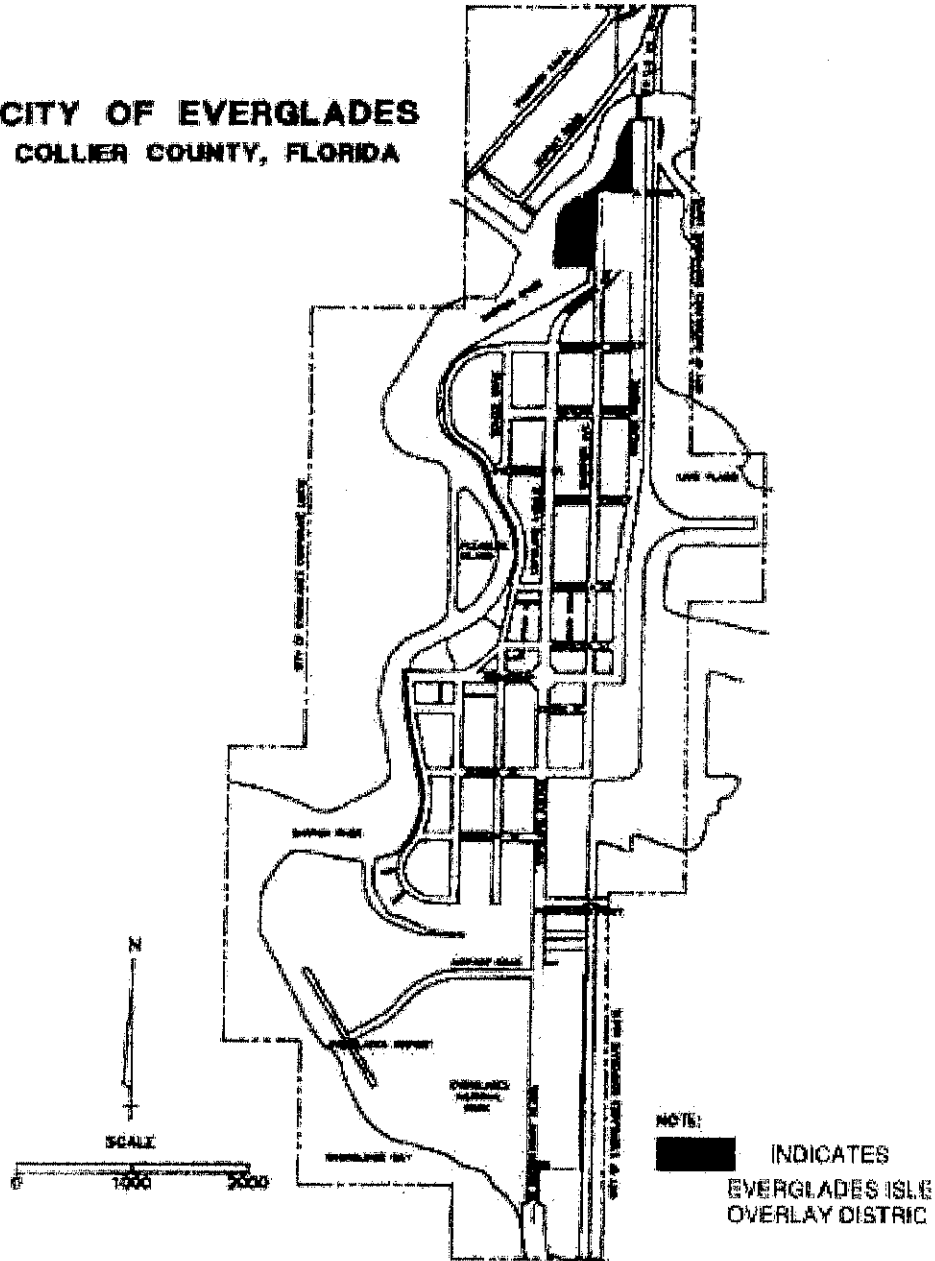
FILE: EUP12.DWG 8-28-92



MAP NO. 14

FUTURE LAND USE EVERGLADES ISLE OVERLAY DISTRICT

CITY OF EVERGLADES  
COLLIER COUNTY, FLORIDA



SOURCE: CITY OF EVERGLADES—CITY PLANNING AND ZONING COMMITTEE  
PREPARED BY COLLIER COUNTY GROWTH PLANNING DEPARTMENT—8-14-82

History Amended in August 2021 as proposed by City Council, Ordinance NO. 2020-12  
filed with the City Clerk December 3, 2020, adopted January 4, 2021

Adopted January 2, 2001  
Ordinance No. 2000-05

**ARTICLE III  
OVERLAY AND FLOATING ZONES**

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## **ARTICLE III**

### **OVERLAY AND FLOATING ZONES**

#### **3.00.00 PURPOSE**

It is the purpose of this Article to describe certain overlay and floating zones utilized to impose special development standards on specific areas identified by the Planning and Zoning Committee and the City Council. The location of overlay zones is established by the City based on the need for certain protective measures in the identified areas. In any such area, the underlying land uses, determined in Article II of this Code, remain undisturbed by the creation of the overlay zone. The overlay zone merely imposes additional or different development standards than those standards that would otherwise apply.

The location of a floating zone, by contrast, is determined by a developer. The purpose of a floating zone is to allow the developer to choose to follow a set of development standards different from the general standards in this Code. The Traditional Neighborhood Development provisions [see Section 3.02.00 below] may be used as a floating zone or, in some cases, may be imposed by the City as an overlay district to encourage new and creative development in the City.

#### **3.01.00 INFILL DEVELOPMENT**

##### *3.01.01 Generally*

##### **A. Purpose**

It is the intent of this Section 3.01.00 to provide for compatibility in the construction of new residential units in areas approved for development prior to enactment of this Code.

##### *3.01.02 Development Standards*

- A.** For a structure in a development with a final development order, an application for building and/or other necessary permits shall be filed pursuant to the development permit provisions of Article XII of this Code. However, if the request involves 2 or more lots, requires platting, replatting or any deviation from the infill standards as established below, the development shall apply for development plan review pursuant to the provisions of Article XII of this Code.

- B.** Proposed structures shall conform to those standards or regulations in force at the time of development approval for the lot and its surrounding area.
- C.** Determination of standards in effect at the time of approval shall include, but may not be limited to, the following:
1. Recorded plats, provided that the approval of the plat constitutes a final development order;
  2. Approved master plans or site plans which have received a final development order from the City Council;
  3. The City Zoning Ordinance in effect at the time of development approval may be used to specify appropriate standards; and
  4. Unrecorded plats, lawfully established pursuant to City ordinances adopted prior to the adoption of this Code.
- D.** Applicable development standards include those imposed upon the initial development, except standards for the development in a floodplain and standards for stormwater management. The following initial development standards shall be followed if contained in the original approval:
1. Minimum lot dimensions and area;
  2. Minimum building size [gross floor area and building height];
  3. Minimum yard setbacks on all sides;
  4. Accessory uses, e.g., storage buildings;
  5. Off-street parking requirements;
  6. Dwelling unit type, e.g., single-family, two-family, manufactured home, multi-family, etc.;
  7. Dedication or reservation of easements, rights-of-way [ROW] or parkland;
  8. Landscaping and sight barriers; and
  9. Other standards not relating to stormwater or floodplain management.
- E.** Where no documentation is available concerning the standards in effect at the time of initial development, the following procedures shall be used:
1. All developed lots that abut the lot proposed for development shall be considered in determining the standards for development;

2. Actual setbacks, lot dimensions, building heights, and similar considerations as described in Section 3.01.02 D. above, shall be determined for purposes of calculating an arithmetic mean average for standards to be imposed;
3. These arithmetic mean average standards shall be the minimum standards required for proposed development; and
4. In any instance of uncertainty in respect to what constitutes an applicable standard, the decision shall be in favor of the more restrictive standard.

### **3.02.00 TRADITIONAL NEIGHBORHOOD DEVELOPMENT**

#### *3.02.01 Generally*

##### **A. Intent**

This Section 3.02.00 is designed to provide an option for the development and/or the redevelopment of multi-family and commercially-zoned land in the City along the lines of traditional neighborhoods. The provisions of this Section shall not apply to any single-family residential neighborhood.

##### **B. Conventions**

Traditional neighborhoods share the following conventions:

1. Dwellings, shops, and workplaces, all limited in size, are located in close proximity to each other;
2. A variety of streets serve equitably the needs of the pedestrian and the automobile;
3. Established parks provide places for informal social activity and recreation; and
4. Well-placed civic buildings, public and private, provide places for assembly for a wide variety of social, cultural, and religious activities.

#### *3.02.02 Land Use*

##### **A. General**

The traditional neighborhood development option shall constitute an overlay district available by right in any zoning district except the Residential Single-Family District, and/or any single-family residential neighborhood area permitted in any other zoning districts.

##### **B. Shopfront/Workshop**



1. Shopfront lots contain privately-owned buildings for retail, restaurant, office, entertainment, lodging, artisanal, and residential uses; and
2. At least twenty-five percent (25%) of the building area must be maintained for residential use.

**C. House**

House lots contain privately-owned buildings for residential, limited office, and limited lodging uses.

*3.02.03 Land Allocation*

**A. Shopfront/Workshop**

A minimum of five percent (5%) and a maximum of fifty percent (50%) of the total land area of a traditional neighborhood development shall be permanently dedicated to shopfront/workshop lots.

**B. House**

1. A maximum of three (3) lots may be consolidated for the purpose of constructing a single building; and
2. Setbacks on consolidated lots shall apply as in a single lot.

*3.02.04 Lots And Buildings*

**A. General**

1. All lots shall share a frontage line no less than fifteen (15) feet long with a street or park tract;
2. All buildings shall have their main entrance opening to a street;
3. Building walls placed less than five (5) feet from a side or rear lot line shall remain windowless and the doors shall be fire-rated.

**B. Shopfront/Workshop**

1. Buildings on shopfront/workshop lots shall have the facade built directly on the frontage line along sixty (60) percent of its length;
2. Buildings on shopfront/workshop lots shall have no required setbacks from the side lot lines;
3. Buildings on shopfront/workshop lots shall cover no more than seventy percent (70%) of the lot area; and

4. Buildings on shopfront/workshop lots shall not exceed thirty-five (35) feet or three (3) stories in height.
5. Shopfront/Workshop lots contiguous with multi-family lots shall be separated from multi-family lots at the side and rear lines by a fence or a continuous masonry wall no less than six (6) feet in height.

**C. House**

1. Buildings on house lots shall be set back between fifteen (15) feet and thirty-five (35) feet from the frontage line;
2. Buildings on house lots shall be set back from the side lot lines equivalent to no less than twenty percent (20%) of the width of the lot, and the entire setback may be allocated to one side;
3. Buildings on house lots shall be set back no less than twenty (20) feet from the rear lot line;
4. Buildings on house lots shall cover no more than sixty-five percent (65%) of the lot area; and
5. Buildings on house lots shall not exceed two (2) stories plus the attic in height.

*3.02.05 Streets And Alleys*

**A. General**

1. Streets shall provide access to all private lots;
2. Utilities shall run along alley tracts wherever possible; and
3. Streetlamps shall be installed on both sides of street tracts at intervals of no more than one hundred (100) feet measured diagonally across the streets.

**B. Shopfront/Workshop**

Shopfront lots shall have their rear lot lines coinciding with an alley tract twenty-four (24) feet wide containing a vehicular pavement width of eight (8) feet.

**C. House**

House lots shall have their rear lot lines coinciding with an alley tract ten (10) feet wide containing a pedestrian pavement width of four (4) feet.

*3.02.06 Parking*

**A. General**

1. On-street parking in front of a lot shall count toward fulfilling the parking requirement for that lot;
2. Generally, parking lots shall be located at the rear or at the side of buildings;
3. Parking lots shall not be located at street intersections;
4. Adjacent parking lots shall have internal vehicular connections; and
5. Street trees or shade trees should be used whenever possible to enhance the appearance of parking areas.

**B. Shopfront/Workshop**

1. There shall be one (1) parking space per two hundred fifty (250) square feet of building available for restaurant, office, entertainment, and artisanal uses, and one (1) per room of lodging and one (1) per two (2) bedrooms of residential use; and
2. No less than seventy-five percent (75%) of the parking places shall be to the rear of the building, although access to parking may be through the frontage.

**C. House**

1. There shall be one (1) parking place per two hundred fifty (250) square feet of office, one (1) per room of lodging, and one (1) per two (2) bedrooms of residential use; and
2. All off-street parking places shall be to the side or the rear of the building, and garages or carports shall be located a minimum of twenty (20) feet behind the facade although access to parking may be through the frontage.

**3.03.00 AIRPORT OVERLAY DISTRICT**

*3.03.01 Generally*

**A. Intent**

This section is designed to provide a mixed use district which allows airport related commercial uses and applies specifically to the parcel of property zoned Residential Tourist (RT) lying south of Everglades Airpark Road and west of Copeland Avenue.

3.03.02 *Land Use*

No building or structure, or part thereof, shall be erected, or altered, which does not comply with the City's existing Flood Ordinance, and the adopted Building Code, or used, land or water used, in whole or in part, for other than the following:

- A. Auto Rental.
- B. Newsstands and Bookstores.
- C. Gift Shops.
- D. Insurance Outlets.
- E. Advertising Displays (as permitted in Article III of this Code).
- F. Short-term Storage Lockers.
- G. Snack Bars.
- H. Aerial Photography Facilities and Studios.
- I. Public or Church Organization Facilities or Offices.

3.03.03 *Development Standards*

All applicable development standards of the RT, Residential Tourist, district shall apply.

**3.04.00 FISHERMAN'S COVE OVERLAY DISTRICT**

3.04.01 *Generally*

**A. Purpose**

It is the intent of this Section 3.04.00 to establish the development standards for Fisherman's Cove which is identified on the attached supplement to the Future Land Use Map Series.

3.04.02 *Development Standards*

**A. Uses and Structures**

No building or structure, or part thereof, shall be erected or altered which does not comply with the City's existing Flood Ordinance, and the adopted Fire and Building Codes, or use, or land or water used, in whole or in part, for other than the following:

1. Same as in underlying RV/MH District as outlined in Article II of this Code.

**B. Development Standards**

1. Same as outlined in underlying RV/MH District, as outlined in Section 2.06.06 of this Code, except that minimum yards for recreational vehicles and park models shall be as indicated in Subsection 2. below.
2. Minimum Yards:
  - a. Front Yard: 5 feet
  - b. Side Yard:
    - (1) Enclosed portions of a structure (other than screened enclosure): 5 feet from the lot line or 10 feet between enclosed portions of structures on adjoining lot(s).
    - (2) Carports and screened enclosures: Not less than 5 feet from any other structure, or not less than 2.5 feet from side lot line.
  - c. Rear Yard: 5 feet between structures.
  - d. From exterior boundary or park abutting a public road: 0 feet.

**3.05.00 EVERGLADES CITY VILLAS OVERLAY DISTRICT**

*3.05.01 Generally*

**A. Purpose**

It is the intent of this Section 3.05.00 to establish the development standards for Everglades City Villas which property comprises and is identified as follows: Lots 1- 10, and Tract A (hereinafter referred to as the "Common Area"), along with the access easement known as "Sunset Strip" and the access easement known as "Tarpon Lane" as well as a 4 foot access easement known as "Tract B- 1", all as shown on the Re-Plat of Unit 1 of Everglades City Villas recorded at Plat Book 8 Page 4 of the Public Records of Collier County, Florida. Lots 1- 10 along with the Common Area and Tract B- 1 are hereinafter referred to as the "Villas Property" or the "Villas."

**B. History**

On July 22, 1964, the Everglades City Council at a specially called meeting adopted a zoning classification for the Villas Property entitled "RV (Residential vacation) Single-Family Detached Vacation Homes." There are nine current

homes constructed at the Villas on the platted lots, all of which were constructed by the original developer or have been remodeled on the same footprint as the original homes. As of the date of adoption of this Overlay District these homes are grandfathered in as to their current location. <sup>1</sup>

*3.05.02 Development Standards*

**A. Uses and Structures**

No building or structure, or part thereof, shall be erected or altered which does not comply with the City's existing Flood Ordinance, and the adopted Fire and Building Codes, or use, or land or water used, in whole or in part, for other than the following:

1. Same as in underlying SF District as outlined in Article II of this Code.

**B. Development Standards**

1. A building or structure, which is grandfathered in as of the adoption of this Overlay District, can be rebuilt, in the event of destruction by fire, hurricane, or by being torn down, provided however that the new structure is built totally within the prior footprint and to the same height. Any new structure that does not meet the above constraints must be built in accordance with the terms of this Code including this Overlay District.

2. Same as outlined in underlying SF District, as outlined in Section 2.02.03 of this Code and in Article VII on Accessory Structures and Uses, except that minimum yards for principal structures and permitted accessory uses and structures shall be as indicated in Subsection 3 and 4 below.

3. Minimum Yards:

- a. Front Yard: 20 feet to structure as measured from the front point of a lot where it abuts Sunset Strip, Tarpon Lane or Riverside Drive.

- b. Side Yard:

- (1) For a one story house (excluding the elevation required to bring the house above required flood level) 10 feet to the structure.

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<sup>1</sup> Amended in 2019 as proposed by City Council, Ordinance No. 2014-01, filed with the City Clerk passed and adopted September 3, 2014

- (2) For a two story house (excluding the elevation required to bring the house above required flood level) 15 feet to the structure.
  - (3) For any side yard that abuts the Common Area or abuts an exterior boundary of the Villas Property 0 feet to the Structure.
  - c. Rear Yard: 0 feet to any waterway or to any part of the Common Area. A rear yard that abuts another platted lot will be treated as the same as a side yard.
  - d. For the purpose of calculating a yard one half (approximately 2 feet) of the 4 foot wide access easement known as Tract B- 1 can be used by abutting platted lots.
4. Accessory Structures
- a. Non-screened stairs, open balconies, walkways, decks and patios, as well as air conditioner equipment, eaves, and fireplaces can be located 5 feet from any required side setback and 15 feet from any required front setback.
  - b. Screened enclosures of stairs, balconies, walkways, decks and patios 5 feet from any required side setback.
  - c. If the setback for an accessory structure is more restrictive then the setback for a principal structure then the setback for the principal structure will apply.

**3.06.00 EVERGLADES V.R. CORPORATION OVERLAY DISTRICT**

*3.06.01 Generally*

**A. Purpose**

It is the intent of this Section 3.06.00 to establish the development standards for Everglades V. R. Corporation which is identified on the attached supplement to the Future Land Use Map Series.<sup>2</sup>

*3.06.02 Development Standards*

**A. Uses and Structures**

No building or structure, or part thereof, shall be erected or altered which does not comply with the City's existing Flood Ordinance, and the adopted Fire and Building Codes, or use, or land or water used, in whole or in part, for other than the following:

1. Same as in underlying RV/MH District as outlined in Article II of this Code.

**B. Development Standards**

1. Same as outlined in underlying RV/MH District, as outlined in Section 2.06.06 of this Code, except that minimum yards for recreational vehicles and park models shall be as indicated in Subsection 2. below.

2. Minimum Yards:

a. Front Yard: 5 feet

b. Side Yard:

(1) Enclosed portions of a structure (other than screened enclosure): 5 feet from the lot line or 10 feet between enclosed portions of structures on adjoining lot(s).

(2) Carports and screened enclosures: Not less than 3 feet from any other structure, or not less than 1.5 feet from side lot line.

c. Rear Yard: 5 feet between structures.

d. From exterior boundary or park abutting a public road: 0 Feet

**3.07 .00 EVERGLADES ISLE OVERLAY DISTRICT**

*3.07.01 Generally*

**A. Purpose**

It is the intent of this Section 3.07.00 to create an overlay district for Everglades Isle. It is the intent of this Section 3.07.00 to establish the below development standards for Everglades Isle which is identified on the attached supplement to the Future Land Use Map Series.<sup>3</sup>

*3.07.02 Development Standards*

**A. Uses and Structures**

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<sup>2</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2020-01, filed with the City Clerk March 3, 2020, adopted April 7, 2020

<sup>3</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2020-12, filed with the City Clerk December 3, 2020, adopted January 4, 2021



No building or structure, or part thereof, shall be erected or altered which does not comply with the City's existing Flood Ordinance, and the adopted Fire and Building Codes, or use, or land or water used, in whole or in part, for other than the following:

1. Same as in underlying RV /MH District as outlined in Article II of this Code.

**B. Development Standards**

1. EI RV Lots: Each individual RV lot at Everglades Isle is hereby designated an "EI RV Lot.
2. EI RV Lot Accessory Structures: Accessory structures shall be permitted for EI RV Lots. Each such accessory structure shall be less than or equal to 300 square feet. No accessory structure may encroach into common drainage areas. All accessory structures must be setback 10 feet from any and all streets. No accessory structures shall be erected or altered on the half of the lot that has the electrical pedestal. If there is no electrical pedestal, this limitation shall not apply.
3. EI RV Lot Setbacks: For each EI RV Lot, the setbacks shall be 0 feet for the rear yard; 0 feet for the side yard opposite the electrical pedestal, if there is one, if there is not, then the setbacks established in the RV /MH District shall apply; the setbacks established in the RV /MH District shall apply the side yard where the electrical pedestal is located, if there is one, if there is not, then the setbacks established in the RV/MH District shall apply regardless; and the setbacks for the front yard shall be the setbacks established in the RV /MH District. Notwithstanding the foregoing, the setbacks from any and all streets shall be 10 feet.

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**ARTICLE IV**  
**CONSISTENCY AND CONCURRENCY**  
**DETERMINATIONS**

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**ARTICLE IV**  
**CONSISTENCY AND CONCURRENCY**  
**DETERMINATIONS**

**4.00.00        GENERALLY**

*4.00.01        Purpose*

It is the purpose of this Article to describe the requirements and procedures for determination of consistency of proposed development projects with the City's Comprehensive Plan, including meeting the concurrency requirements of the Plan.

**4.01.00        SYSTEM FOR THE MANAGEMENT OF CONCURRENCY**

*4.01.01        Generally*

The following method of ensuring concurrency shall be known as the System For The Management of Concurrency (SYMCON). The SYMCON is based upon the City's Comprehensive Plan, especially the Capital Improvements Element and the adopted level of service standards. SYMCON is designed to ensure that the issuance of a final development order will not result in a degradation of the adopted levels of service for specified public facilities and services. The SYMCON also includes a monitoring system for determination of the availability of adequate capacity of public facilities and services to meet the adopted level of service standards.

*4.01.02        Adopted Levels Of Service Shall Not Be Degraded*

**A.        General Rule:**

1.        All applications for development orders shall demonstrate that the proposed development does not degrade adopted levels of service in the City.
2.        An application for a development permit shall demonstrate that the proposed development does not degrade adopted levels of service if there exists no development order under which the permit is sought.
3.        The latest point at which concurrence is determined is the final development order.

**B. Exception:**

Notwithstanding the foregoing, the prescribed levels of service may be degraded during the actual construction of new facilities, if upon completion of the new facilities, the prescribed levels of service will be met.

*4.01.03 Determination Of Available Capacity*

**A. Adding Together:**

1. The total capacity of existing facilities operating at the required level of service; and
2. The total capacity of new facilities, if any, that will become available on or before the date of occupancy of the development. The capacity of new facilities may be counted only if one or more of the following is shown:
  - a. Construction of the new facilities is under way at the time of issuance of the final development order;
  - b. The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time of issuance of the final development order; and
  - c. The new facilities are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to §163.3220, F.S., or an agreement or development order pursuant to Chapter 380, F.S. Such facilities shall be consistent with the Capital Improvements Element of the City's Comprehensive Plan. The agreement must guarantee that the necessary facilities will be in place when the impacts of development occur.

**B. Subtracting From That Number The Sum Of:**

1. The demand for the service or facility created by existing development as documented in the City Comprehensive Plan; and
2. The demand for the service or facility created by the anticipated completion of other approved developments, redevelopment, or other development activity.

**C. Action Upon Failure To Show Available Capacity:**

Where available capacity cannot be shown, the following methods may be used to maintain adopted levels of service:

1. The project owner or developer may provide the necessary improvements to maintain level(s) of service. In such cases the application shall include appropriate plans for improvements, documentation that such improvements are designed to provide the capacity necessary to achieve or maintain the level(s) of service, and recordable instruments guaranteeing the construction, consistent with calculations of capacity as cited above.
2. The proposed development project may be altered only to the degree that the projected level of service is never less than the adopted level of service.

*4.01.04 Burden Of Showing Compliance On Developer*

The burden of showing compliance with these level of service requirements shall be upon the developer. In order to be approvable, applications for development approval shall provide sufficient information showing compliance with these standards.

*4.01.05 Initial Determination Of Concurrency*

The initial determination of concurrency occurs during the review of the preliminary development plan, and shall include compliance with the level of service standards adopted by the City.

*4.01.06 Annual Report*

**A. Contents:**

The City shall prepare an Annual Report on the SYMCON that includes:

1. A summary of actual development activity, including a summary of certificates of occupancy, indicating quantity of development represented by type and by square footage.
2. A summary of building permit activity, indicating:
  - a. Permits that expired without commencing construction;
  - b. Permits that are active at the time of report;
  - c. The quantity of development represented by the outstanding building permits;

- d. Permits that resulted from final development orders issued prior to the adoption of this Code; and
  - e. Permits that result from final development orders issued pursuant to the requirements of this Code.
3. A summary of preliminary development orders issued, indicating:
- a. Development orders that expired without subsequent final development orders;
  - b. Development orders that are valid at the time of the report; and
  - c. The phases and quantity of development represented by any outstanding preliminary development orders.
4. A summary of final development orders issued, indicating:
- a. Final development orders that expired without subsequent building permits;
  - b. Final development orders that were completed during the reporting period;
  - c. Final development orders that are valid at the time of the report, but do have associated building permits granted or construction activity undertaken during the reporting period; and
  - d. The various phases and quantity of development activity represented during the reporting period by each of the then outstanding final development orders.
5. An evaluation of each facility and provided service indicating the:
- a. Public facility capacity available for each service at the beginning and at the end of the reporting period;
  - b. Assigned portion of the public facility capacity held available for valid development orders, both in the preliminary stage and final orders granted;
  - c. Comparison of actual public facility capacity to the capacity needs calculated to result from the service needs of approved preliminary orders and final development orders;

- d. Comparison of actual public facility capacity and achieved levels of service with the adopted levels of service represented in the City's Comprehensive Plan; and
- e. Forecast of the public facility capacity for each service based upon the most recently updated schedule of improvements in the City's Capital Improvements Element.

**B. Use Of The Annual Report**

The SYMCON Annual Report shall constitute prima facia evidence of the public facility capacity and levels of service for the purpose of issuing development orders during the twelve (12) months following its completion.

**4.02.00 ADOPTED LEVELS OF SERVICE**

*4.02.01 Potable Water*

Development activity shall not be approved unless there is sufficient capacity available to sustain the following levels of service for potable water as established in the Potable Water Sub-element of the Public Facilities and Water Resources Element of the City's Comprehensive Plan:

Policy 1.1.1: The following Level of Service Standard is hereby adopted, and shall be used as the basis for determining the availability of **Potable Water** facility capacity and the demand generated by development: There shall be adequate Potable Water Facilities to accommodate a Water Consumption Rate of 135.0 gallons per capita per day. A 21.0 percent increment will be added for non-residential users connected to the potable water system.

*4.02.02 Wastewater*

Development activity shall not be approved unless there is sufficient available capacity to sustain the following levels of service for wastewater treatment as established in the Sanitary Sewer Sub-element of the Public Facilities and Water Resources Element of the City's Comprehensive Plan:

Policy 1.1.1: The following Level of Service Standard is hereby adopted, and shall be used as the basis for determining the availability of **Sanitary Sewer** facility capacity and the demand generated by development: There shall be adequate Sewerage Treatment and Disposal capacity to accommodate



100.0 gallons per capita per day. A 21.0 percent increment will be added for non-residential users connected to the sanitary sewer system.

4.02.03 *Transportation System*

Development activity shall not be approved unless there is sufficient capacity available to sustain the following levels of service for transportation systems as established in the Traffic Circulation Element of the City's Comprehensive Plan:

Policy 1.1.3: The following Level of Service Standard is hereby adopted, and shall be used as the basis for determining the availability of **Traffic Circulation** facility capacity and the demand generated by development: City streets shall be maintained at LOS "B" on the basis of the peak-season-peak-hour traffic volume. However, any section of road may operate at LOS "D" for a period not to exceed 2 fiscal years following the determination of LOS "D" in order to provide the City with time to restore LOS "B" by making appropriate improvements.

4.02.04 *Drainage System*

Development activity shall not be approved unless there is sufficient available capacity to sustain the following levels of service for the drainage system as established in the Drainage Sub-element of the Public Facilities and Water Resources Element of the City's Comprehensive Plan:

Policy 1.1.1: The following Level of Service Standard is hereby adopted, and shall be used as the basis for determining the availability of **Drainage** facility capacity and the demand generated by development: There shall be adequate Design Storm capacity to accommodate a storm of 10-year frequency and 24-hour duration; and Adequate capacity to accommodate High Tides by reducing flooding of roadways by 10 percent annually to the year 1993.

4.02.05 *Solid Waste*

Development activity shall not be approved unless there is sufficient capacity available to sustain the following levels of service for solid waste as established in the

Solid Waste Sub-element of the Public Facilities and Water Resources Element of the City's Comprehensive Plan:

Policy 1.1.1: The following Level of Service Standard is hereby adopted, and shall be used as the basis for determining the availability of **Solid Waste** facility capacity and the demand generated by development: There shall be adequate solid waste collection and disposal capacity to accommodate 1.55 tons per capita per year.

4.02.06 *Recreation*

Development activity shall not be approved unless there is sufficient capacity available to sustain the following levels of service for recreational facilities as established in the Recreation and Open Space Element of the City's Comprehensive Plan:

Policy 1.1.1: The following Level of Service Standard is hereby adopted, and shall be used as the basis for determining the availability of **Recreation and Open Space** facility capacity and the demand generated by development: Level of Service Standards adopted for municipal parks, community and neighborhood parks, and recreation facilities for the City of Everglades are:

Community: 2.0 acres per 1,000 population;

Neighborhood: 1.0 acres per 1,000 population;

Recreation Facilities:

[Based on permanent plus peak-seasonal population]

Community Park	1.25 acres
Neighborhood park	0
Basketball court	2
Baseball field	1
Beach Access point	0
Boat ramp	0
Bike trail	1
Community Center	1
Football field	1

Horseshoe pit	0
Meeting room	City Hall
Pavilion	1
Picnic area	1
Play area	1
Racquetball court	0
Shuffleboard court	0
Swimming pool	0
Tennis Court	2
Volleyball court	0

**ARTICLE V**  
**RESOURCE PROTECTION STANDARDS**

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## **ARTICLE V**

### **RESOURCE PROTECTION STANDARDS**

#### **5.00.00 PURPOSE**

The purpose of this Article is to establish those resources or areas of a redevelopment site that must be protected from the harmful effects of development. A developer should apply the provisions of this Article to a proposed development site before any other development design work is done. Applications of the provisions of this Article will segment a proposed development site into areas that may be developed and areas that, generally, must be left free of development activity. The proposed development should then be divided to fit within the areas that may be developed and designed accordingly.

#### **5.01.00 TREES**

##### *5.01.01 Exemptions*

#### **A. Single-Family Homes**

Lots or parcels of land on which a single-family home is used as a residence shall be exempt from all provisions of these tree protection regulations, except that historic or specimen trees on such parcels shall be protected according to these regulations. This shall not be construed to exempt any residential developments that require the approval of the Planning and Zoning Committee and the approval of the City Council.

#### **B. Nuisance Trees**

The following types of trees shall be exempt from the tree protection requirements of this Code:

1. Paper Mulberry,
2. Australian Pine,
3. Ear Tree,
4. Malaleuca or Punk Tree,
5. Chinaberry Tree,
6. Brazilian Pepper Tree/Florida Holly, and
7. Jamaican Tall Palm.

#### **C. Utility Operations**

Tree removal by duly constituted communication, water, sewer, electrical, or other utility companies; or federal, state, or county agencies; or engineers or surveyors, working under contract with such utility companies; shall be exempt, provided the removal is limited to those areas necessary for maintenance of existing lines or facilities in furtherance of providing utility service to its customers. Further, tree removal by such duly constituted entities shall be conducted in a manner so as to avoid any unnecessary removal and, in the case of aerial electrical utility lines, is not greater than that specified by the National Electrical Safety Codes as is necessary to achieve safe electrical clearances. Written notice of the removal shall be provided to the City at least 5 days prior to the removal, except when the removal is needed to restore interrupted service under emergency conditions, no prior approval is required.

**D. Surveyors**

A Florida Licensed Land Surveyor in the performance of his duties is exempt from the provisions of this part, provided such alteration is limited to a swath of 3 feet or less in width.

**E. Commercial Growers**

All commercial nurseries, botanical gardens, tree farms, and grove operations shall be exempt from the provisions of this part, but only in respect to those trees which were planted for silvicultural purposes or for sale, or intended sale, in the ordinary course of the commercial grower's business.

**F. Emergencies**

During emergencies caused by a hurricane or other disaster, the City Manager may suspend these tree protection regulations.

*5.01.02 Removal Of Trees*

**A. Conditions For Authorization To Remove Protected Trees**

1. It is the intent of this part to minimize the removal of protected trees, and no authorization shall be granted to remove a tree if the developer has failed to take reasonable measures to design and locate proposed improvements in a manner to minimize the removal of protected trees, e.g., designs must attempt to preserve specimen and historic trees.

2. No authorization for the removal of a protected tree shall be granted unless the developer demonstrates that one or more of the following conditions, exist:
  - a. A permissible use of the proposed site cannot be reasonably undertaken unless specific trees are removed or relocated;
  - b. The tree is located in such proximity to an existing or proposed structure that its safety, utility, or structural integrity will be materially impaired;
  - c. The tree interferes materially with the location, servicing, or functioning of existing utility lines and/or services;
  - d. The tree creates a substantial hazard to motor, bicycle, or pedestrian traffic by virtue of physical proximity to traffic or impairment of vision;
  - e. The tree is diseased or weakened by age, abuse, storm, or fire, and is likely to cause injury to people or damage to buildings or other improvements; and
  - f. A law or regulation requires the tree's removal.

**B. Replacement Of Removed Trees**

1. Trees removed pursuant to Paragraph A. above shall be replanted or replaced by the developer at his expense.
2. A replacement tree may be a tree moved from one location on the development site to another on the site, or moved off the site pursuant to Paragraph 3 below.
3. Replacement trees shall, if practicable, be planted on the development site. If not practicable, replacement trees may be donated, or a fee in-lieu-of may be paid, to the City for purposes of planting trees on public property or rights-of-way. The fee in-lieu-of shall be based upon the cost of purchasing the requisite size, measured in terms of inches of Diameter at Breast Height [DBH], and the number of trees to be replaced.

**C. Historic And Specimen Trees**

1. A historic tree is one that has been designated by the City Council as one of notable historical interest and value to the City due to its location and association with the City's history.
2. A specimen tree is one that has been officially designated by the City Council due to its value derived from its type, size, age, or other criteria deemed relevant to its designation by the City Council.
3. No historic or specimen tree shall be removed without a finding by the Planning and Zoning Committee, with the approval of the City Council, that the tree is a hazard, or that development of a parcel is not economically feasible or practical without its removal.

*5.01.03 Protection Of Trees During Development Activities*

**A. Generally**

1. To ensure the health and survival of protected trees that are not to be removed, the developer shall avoid the following kinds of tree injuries during all development activities:
  - a. Mechanical injuries to roots, trunk, and branches;
  - b. By chemical poisoning;
  - c. By grade changes;
  - d. By excavations; and
  - e. By paving a surface.
2. Minimally, the protective measures described below in parts B. through F. below shall be taken when and where appropriate during the course of development activity. These measures shall be planned and undertaken in consultation with appropriate City staff members and shall not be construed as limiting the authority of the Planning and Zoning Committee, with the approval of the City Council, to impose additional, reasonable requirements as may be necessary to preserve the health of protected trees in particular circumstances.



**B. Avoiding Mechanical Injuries**

1. Prior to any land preparation or other development activities, a protective barrier easily visible to equipment operators shall be placed around all protected trees so as to encompass the entire Tree Protection Zone.
2. No attachment, wire (other than supportive wires), signs, or permits may be fastened to any protected tree.
3. No equipment, construction materials, or debris or any kind may be placed within the protective barrier surrounding a tree.
4. Landscaping activities within the bounds of a tree's protective barrier, before the barrier is installed and after it is removed, shall be accomplished with light machinery or manual labor only; grubbing and similar activities are specifically prohibited.
5. In lieu of constructing the barriers mandated in B.1. above, the developer may designate large areas containing protected trees where no land preparation or other development activities of any kind will occur. Physical designation shall take the form of placing stakes at a maximum of 25 feet apart and tying plastic tape, rope, or other durable ribbon from stake-to-stake along the outside perimeter of the area containing protected trees; this perimeter line shall be beyond the Tree Protection Zone of any protected trees growing within the area.
6. Required protective barriers and perimeter lines shall remain in place until all construction activity, except landscaping within the protected area, is terminated.

**C. Avoiding Injuries Due To Chemical Poisoning**

1. No fuel, paint, solvent, oil, thinner, asphalt, cement, grout, or any other construction material or tools of any kind shall be stored, or allowed to enter in any manner, within the boundaries of a required protective barrier or perimeter line.
2. No equipment shall be cleaned in any manner within the boundaries of a required protective barrier or perimeter line.

**D. Avoiding Injuries Due To Grade Changes**

Grade changes shall not be made within the Tree Protection Zone unless the following protective measures are taken:

1. When raising the grade, the following measures shall be taken:
  - a. Within the Tree Protection Zone, existing sod, vegetation, and leaf litter shall be removed and the soil loosened without injuring the roots;
  - b. The area within the Tree Protection Zone shall be properly fertilized to improve the vigor and growth of the roots;
  - c. Porous, 4-inch agricultural drain tiles shall be laid over the soil to drain liquids away from the trunk of the protected tree. A drop of at least 1/8th-inch-per-foot shall be provided. The drain field around the protected tree(s) shall be designed to provide adequate drainage for the existing configuration around the trees;
  - d. The number of drains shall depend upon soil material; lighter sandy soils and porous gravelly material require fewer drains than heavy non-porous soils;
  - e. Aeration shall be provided by installing vertical tiles along the system. The vertical tiles shall be filled with gravel and capped with a heavy-duty mesh to keep out trash and debris;
  - f. Dry wells shall be large enough to allow for maximum growth of the tree trunk;
  - g. To prevent washing of material into the well, the dry well casing walls shall be high enough to bring the coping just above the level of the proposed fill;
  - h. Dry well walls shall be constructed of materials that permit passage of air and water. Concrete blocks backed with galvanized screening may be used for the sides of the well;
  - i. Gratings or barriers shall be used around openings that are large enough to present a hazard to pedestrians;
  - j. Open wells shall be cleaned regularly to remove sediment, leaves, and debris that might interfere with the free passage of air;

- k. Large stones shall be placed over the drainage tiles and a layer of smaller stones shall be placed over the remainder of the ground within the drip line;
  - 1. A layer of gravel shall be placed over the stones; and
  - m. The fill shall be completed with a layer of porous soil.
- 2. When lowering the grade in the Tree Protection Zone, the following measures shall be taken:
  - a. Tree roots shall be cut cleanly and re-trimmed after excavation;
  - b. Tree canopies shall be pruned to aid in maintaining tree vigor;
  - c. When lowering the grade of the soil surrounding a protected tree, the maximum number of tree roots within the Tree Protection Zone shall be preserved by using any of the following methods:
    - (1) Terracing: The area within the Tree Protection Zone is left at the original grade by terracing;
    - (2) Retaining Wall: The area within the Tree Protection Zone is left at the original grade by constructing a dry retaining wall; the retaining wall shall be porous to allow for aeration; and
    - (3) Terracing and Retaining Wall: The area within the Tree Protection Zone is left at the original grade by the combined use of terracing and dry retaining wall.
- 3. Minor Changes In Grade
 

When the change in grade is minor, as determined by the Planning and Zoning Committee, with the approval of the City Council, lesser protective measures than those described above may be taken. The City Manager shall approve the use of these methods where their use will not endanger the health of the protected tree.

**E. Avoiding Injuries Due To Excavations**

- 1. Water, sewer, and other utility lines should be routed around Tree Protection Zones.
- 2. If a utility line cannot be routed reasonably around a Tree Protection Zone the line Tree Protection Zone the line shall be tunneled beneath the area within the zone

by offsetting the line to one side of the trunk to prevent damage to the main tap roots.

**F. Avoiding Injury By Paving Within The Drip Line**

Porous paving may be placed within a Tree Protection Zone so long as no damage is inflicted to a protected tree by grade change, soil compaction, or any other cause.

**G. Modification Of Adopted Tree Protection Measures**

The protective measures promulgated in this Code are adapted from the "Tree Protection Manual For Builders And Developers," published by the Florida Division of Forestry, Forest Education Bureau, Collins Building, Tallahassee, FL 32201; as appropriate, changes in urban forestry practice published by the Forest Education Bureau may be evaluated periodically to determine if improvements in tree protection measures should be incorporated in this Code during the yearly Comprehensive Plan amendment process.

*5.01.04 Special Provisions For Mangrove Protection*

**A. Generally**

In addition to the foregoing tree protection requirements, the following special provisions shall apply to the removal or alteration of mangroves: Black mangrove, *Avicennia Germinans*; White mangrove, *Laguncularia Racemosa*; and Red mangrove, *Rhizophora mangle*.

**B. Replacement**

Mangroves may not be removed unless the developer replaces or relocates on the same development site a sufficient quantity of mangroves necessary to re-vegetate a land area equal to or greater than the land area from which the mangroves were removed. The developer shall provide a plan subject to approval by the Planning and Zoning Committee and the approval of the City Council, to ensure the survival of the replaced or relocated mangroves and to stabilize the shoreline from which the mangroves were removed. The plan approved by the City Council is an express condition of any permit granted. A failure to carry out any provision of the approved plan shall be considered a violation of this Code.

**C. Other Protective Measures**

The following protective measures shall apply to all mangroves:

1. A permit shall first be obtained from the Department of Environmental Regulation (hereinafter “DER”) for any alteration of mangroves in jurisdictional waters, unless or until DER grants permitting authority to the City pursuant to Rule 17.27.0800, F.A.C.; and
2. Standards for alteration of mangroves shall be those contained in Rule 17.27, F.A.C., *Mangrove Protection*.

*5.01.05 Preservation Of Protected Trees As Grounds For Variance From Other Requirements Of This Code*

The preservation of any protected tree may be considered as a factor in rendering a decision upon an application for a variance from the literal application of other of the requirements of this Code (See Part 10.02.00 of this Code for variance provisions].

**5.02.00 ENVIRONMENTALLY-SENSITIVE LANDS**

*5.02.01 General Provisions*

**A. Relationship To Other Requirements Relating To The Protection Of Environmentally-Sensitive Lands**

In addition to meeting the following requirements for the protection of environmentally-sensitive lands, development plans shall comply with applicable federal, state, and water management district regulations relating to the protection of environmentally-sensitive lands. In every such case, the most restrictive of an applicable standards shall apply.

**B. Future Land Use Element Map Series Incorporated By Reference**

The Future Land Use Element map series of the City’s Comprehensive Plan, as from time-to-time amended, is hereby incorporated by reference into this Code for the purpose of determining the location, perimeter areas, and/or boundaries of the City’s environmentally-sensitive lands.

*5.02.02 Creation Of Protected Environmentally-Sensitive Zones*

**A. Wetlands Protection Zone**

1. There is hereby created a “Wetlands Protection Zone” within which special restrictions on development apply.
2. The boundaries of the Wetlands Protection Zone shall be the most landward extent of the following:

- a. Areas within the dredge and fill jurisdiction of the Department of Environmental Regulation [DER] as authorized by §403, F.S.
- b. Areas within the jurisdiction of the U.S. Army Corps of Engineers, as authorized by §404, Clean Water Act, or §10, Rivers and Harbors Act.
- c. Areas within the jurisdiction of the South Florida Water Management District, pursuant to Rule F.A.C.

**B. Shoreline Protection Zone**

1. There is hereby created the “Shoreline Protection Zone” within which special restrictions on development apply.
2. The Shoreline Protection Zone extends from that point in waters where no emergent aquatic vegetation can grow landward to a point 50 feet landward of the water’s edge.

**C. Request For Determination Of Boundaries**

A developer may obtain a determination of the boundaries of a Protected Environmentally-Sensitive Zone by submitting to the Planning and zoning Committee a Request For Determination Of Boundaries, conveyed by certified mail or receipted hand delivery. The request must, at a minimum, set forth an adequate description of the land the developer wishes to develop, the nature of the developer’s right to ownership or control of the land, and other information needed to make the determination. The Planning and Zoning Committee, with the approval of the City Council, shall make the determination within 30 working days of receiving the required information from the developer.

*5.02.03 Development Activities Within Protected Environmentally-Sensitive Zones*

**A. Generally**

Except as expressly provided herein, no development activity shall be undertaken in a Protected Environmentally-Sensitive Zone.

**B. Activities Presumed To Have An Insignificant Adverse Effect On Protected Environmentally-Sensitive Zones**

1. Certain activities are presumed to have an insignificant adverse effect on the beneficial functions of Protected Environmentally-Sensitive Zones. Notwithstanding the prohibition in Section 5.02.04 A. of this Part, these activities may be

undertaken, unless it can be shown by competent and substantial evidence that the specific activity would have a significant adverse effect on the Protected Environmentally-Sensitive Zone.

2. The following uses and activities are presumed to have an insignificant adverse effect on wetlands protection zones:
  - a. Scenic, historic, wildlife, or scientific preserves;
  - b. minor maintenance or emergency repair to existing structures;
  - c. Cleared walking trails having no structural components;
  - d. Timber catwalks and docks 4 feet or less in width;
  - e. Commercial or recreational fishing;
  - f. Cultivating agricultural or horticultural products that occur naturally on the site;
  - g. Constructing fences where no fill activity is required and where navigational access will not be impaired by construction of the fence;
  - h. Developing an area that no longer functions as a wetland, except a former wetland that has been filled or altered in violation of any rule, regulation, statute, or this Code; developers must demonstrate that the water regime has been permanently altered, either artificially or naturally, in a manner that precludes the area from maintaining surface water or hydroperiodicity necessary to sustain wetland structure and function; if the water regime of a wetland has been artificially altered, but wetland species remain the dominant vegetation of the area, the Planning and Zoning Committee, with the approval of the City Council, shall determine the feasibility of restoring the altered hydrology; if the wetland may be restored at a cost that is reasonable in relation to the benefits to be derived from the restored wetland, the developer shall, as a condition of development, restore the wetland and comply with the requirements of this Code; and
  - i. Developing a “Wetlands Stormwater Drainage Facility” or “Treatment Wetland” in accordance with state permits received under Chapter 17-6 and Chapter 17-25, F.A.C.

3. The following uses and activities are presumed to have an insignificant adverse effect on shoreline protection zones:
  - a. Scenic, historic, wildlife, or scientific preserves;
  - b. Minor maintenance or emergency repair to existing structures;
  - c. Clearing of shoreline vegetation waterward of the water's edge, so as to provide a corridor not to exceed 15 feet in width, of sufficient length from the shore to allow access for a boat or a swimmer to reach open water, and landward of the water's edge so as to provide an open area not to exceed 25 feet in width (One such additional corridor may be cleared for every full 100 feet of frontage along the water's edge above and beyond the first 100 feet);
  - d. Clearing of shoreline vegetation to create walking trails, having no structural components, not to exceed 4 feet in width;
  - e. Timber catwalks, docks, and trail bridges that are less than or equal to 4 feet or less in width, providing that no filling, flooding, dredging, draining, ditching, tiling, or excavating is done except limited filling and excavating necessary for the installation of piling;
  - f. Commercial or recreational fishing;
  - g. Constructing fences where no fill activity is required and where navigational access will not be impaired by construction of the fence;
  - h. Developing a "Wetlands Stormwater Drainage Facility" or "Treatment Wetland" in accordance with state permits received under Chapter 17-6 and Chapter 17-25, F.A.C.

**C. Special Uses**

No special uses are permitted within the boundaries of any Environmentally-Protected Zone.



5.02.04 *Prohibited Ongoing Activities*

Certain ongoing, post-development activities within any Restricted Development Zone or Protected Environmentally-Sensitive Zone are prohibited and subject to the standards listed below:

**A. Point-Source And Non-Point-Source Discharges**

Absent of an amendment to a development order, point-source and non-point-source discharges shall always meet the applicable standards governing the original development.

**B. Clearing**

Absent of an amendment to a development order, no developer shall clear more vegetation than the clearing permitted for the original development.

**C. Handling And Storage Of Fuel, Hazardous And Toxic Substances, And Wastes Generally**

1. Developments where fuel or toxic substances will be stored, transferred, or sold shall employ acceptable facilities and procedures for the prevention, containment, recovery, and mitigation of the spillage of fuel and toxic substances. Facilities and procedures shall be designed to prevent substances from entering the water and soil, and employ means for prompt and effective clean-up of spills that do occur.
2. No toxic or hazardous wastes or substances shall be stored in outdoor containers.
3. Storage or disposal of all types of wastes and the long-term storage of equipment and materials is prohibited on shorelines.

**D. Fertilizers, Herbicides, Or Pesticides**

1. Fertilizers, herbicides, or pesticides shall not be applied in a Protected Environmentally-Sensitive Zone except for government-authorized mosquito control programs and projects conducted under the authority of §373.451-373.4594, F.S., known as the "Surface Water Improvement and Management Act."
2. Fertilizers, herbicides, or pesticides used in Restricted Development Zones shall be applied at rates and time intervals deemed appropriate by the City Council to meet local needs and conditions.

**E. Spray Vehicles**

Vehicles used for mixing or spraying chemicals are prohibited from withdrawing water directly from local waters.

**F. Pump-Out, Holding, And Treatment Facilities For Wastes From Mobile Sources**

Sewerage, solid waste, and petroleum waste generated by vessels or vehicles on the site shall be properly collected and disposed of consistent with the provisions of Section 5.02.05, B., 4., k. above.

**G. Enforcement Of Post-Development Standards**

Post-development standards shall be enforced through the existing Code enforcement process.

**5.03.00 GROUNDWATER AND WELLHEADS**

*5.03.01 Purpose And Intent*

The City is supplied with raw water from a wellfield located in unincorporated Collier County, adjacent to the Harmon Bros. rockpit portion of Copeland, 8.0 miles north of the City's limits on Janes Scenic Drive. Raw water is extracted from the shallow surficial aquifer system by 3 wells regulated by standards implemented by the South Florida Water Management District. The purpose of groundwater protection standards is to safeguard the health, safety, and welfare of the City's residents. This is best accomplished through ensuring the protection of the City's only source of water for domestic, commercial, and industrial uses through a competent and timely enforcement of the provisions of the Collier County Groundwater Protection Ordinance by County authorities.

*5.03.02 Restrictions On Development*

Due to local conditions, there are no restrictions on development activities within the City that are related to groundwater and wellheads.

**5.04.00 HABITAT OF ENDANGERED OR THREATENED SPECIES**

*5.04.01 Generally*

**A. Purpose And Intent**

It is the purpose of this Part to provide standards necessary to protect the habitats of species, both plants and animals, in the City from designation as rare and endangered, threatened, or a status of special concern. It is the intent of this Part to require that the

habitats, if any, of rare, endangered, or special concern plant and animal species located in the City be protected.

**B. Applicability**

Areas subject to the standards of this Part shall be those identified in the Conservation Element of the City's Comprehensive Plan as habitats for rare and endangered species, threatened species, or a species of special concern.

*5.04.02 Habitat Management Plan*

**A. When Required**

A Habitat Management Plan shall be prepared as a prerequisite for the approval of any development proposed on a site containing areas subject to this Part of the Code.

**B. Contents**

The Habitat Management Plan shall be prepared by an ecologist, biologist, or other qualified professional person and approved by the City Council. The Plan shall document the presence of affected species, the land needs of the species that may be met on the proposed development site, and shall recommend appropriate habitat management plans and other measures to protect the subject wildlife.

**C. Conformity Of Final Development Plan**

When a Habitat Management Plan is required, the final development plan approved for a development shall conform substantially to the recommendations in the Habitat Management Plan.

**D. Preservation of Land**

In instances where a Habitat Management Plan requires that a proposed development site be preserved as a habitat of rare and endangered species, threatened species, or species of special concern, such land is normally adjacent to an existing and viable habitat, a significant wetland system, a floodplain, or a wildlife corridor; if such habitat lands are not adjacent to a proposed development site, lands set aside for habitat preservation shall be determined to be of sufficient quality and dimensions as to promote and provide a viable habitat as determined by the Habitat Management Plan.

**E. Fee In Lieu Of Land**

As an alternative to the preservation of land as a habitat of rare and endangered species, threatened species, or species of special concern, the City may establish a fee-in-lieu-of-

land program whereby a fee may be exacted from the developer that will permit the City to purchase land for a significant habitat for the subject species.

**5.05.00 FLOODPLAINS**

*5.05.01 General Provisions*

**A. Abrogation And Greater Reductions**

These flood damage prevention regulations do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

**B. Warning And Disclaimer Of Liability**

Although the degree of flood protection required by these flood damage prevention regulations is reasonable and appropriate for regulatory purposes and based upon scientific and engineering considerations, more severe floods are likely to occur and flood heights may be increased by man-made and/or natural causes. Consequently, these flood damage prevention regulations do not imply that land outside of the areas of Special Flood Hazard or uses permitted within those areas will be free from flooding or flood damage. These regulations shall not create a liability on the part of the City or any of its officers or employees for any flood damages resulting from reliance on these flood damage prevention regulations or any administrative decision made lawfully thereunder.

**C. Declarations Of Public Nuisance**

All development located or maintained within any Area of Special Flood Hazard after January 1, 1991 in violation of these flood damage prevention regulations is hereby declared a public nuisance per se.

*5.05.02 Standards For Reducing Flood Hazards In The Area Of Special Flood Hazard*

**A. Generally**

The standards in this Part of the Code apply to all development within the Area of Special Flood Hazard as shown on a Flood Hazard Boundary Map [FHBM] or a Flood Insurance Rate Map [FIRM].

**B. Anchoring**

All new construction and substantial improvements of existing construction shall be anchored to prevent flotation, collapse or lateral movement of the structure during a base flood.

**C. Construction Materials And Methods**

All new construction and any substantial improvements in existing construction shall be constructed with materials and utility equipment resistant to flood damage, and using methods and practices that will minimize flood damage and prevent the pollution of surface waters during a base flood.

**D. Service Facilities And Utilities**

1. Electrical heating, ventilation, plumbing, air conditioning, and other service facilities shall be designed or located to prevent water from entering or accumulating within the service components during a base flood.
2. All new and replacement water supply and sanitary sewerage systems shall be designed to minimize or eliminate both infiltration of flood waters into the systems and discharges from the system into flood waters.
3. Any on-site sanitary sewerage systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and shall not be installed, wholly or partially, in a Regulatory Floodway.

**E. Storage Of Materials And Equipment**

1. Storing or processing materials that would, in a flood, be buoyant, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
2. Materials or equipment immune to substantial damage by flooding may be stored if firmly anchored to prevent flotation, or if readily removable from the area upon receipt of a flood warning.

*5.05.03 Additional Standards For Reducing Flood Hazards In Areas For Which Flood Insurance Rate Maps [FIRM] Have Been Prepared*

**A. Generally**

The following standards must be complied with in all Areas of Special Flood Hazard for which a Base been established by a Flood Insurance otherwise.

**B. Residential Structure**

1. All new construction and substantial improvements of existing construction of residential structures shall be constructed with the lowest floor elevated to or above the Flood Protection Elevation.
2. For all new construction and substantial improvements to existing construction, enclosed areas below the lowest floor that are subject to flooding shall be

designed to equalize hydrostatic flood forces on exterior walls by allowing for automatic entry and exit of floodwater. Designs for meeting this requirement must either be certified as meeting this requirement by a registered professional engineer or architect, or meet or exceed the following minimum standards:

- a. Provide a minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding;
  - b. Place the bottom of all openings no higher than one foot above grade;
  - c. Equip openings with devices: e.g. screens, louvers, or valves that permit the automatic entry and exit of floodwater; access to the enclosed area shall be the minimum necessary to allow for parking of vehicles, storing equipment used to maintain the premises, or entering the living area; the interior shall not be partitioned or finished into separate rooms; and
3. Electrical, plumbing, and other residential utility connections shall not be placed below the Flood Protection Elevation.

**C. Nonresidential Structures**

New construction and substantial improvements of existing construction of nonresidential structures shall either comply with Section 5.05.03B of this Part, or be constructed, including attendant utility and sanitary facilities, to meet the following standards:

1. Walls below the Flood Protection Elevation shall be substantially impermeable to the passage of water;
2. Structural components shall resist hydrostatic and hydrodynamic loads and the effects of buoyancy; and
3. Possess certification by registered a professional engineer and/or architect as meeting the standards of this Part.

**D. Development Orders**

1. All development plans shall identify the location of the Area of Special Flood Hazard and the elevation of the Base Flood for the proposed site; and
2. All final development orders shall identify the elevation of proposed structures and pads; if the site is filled above the Base Flood line, the final pad elevation shall be certified by a registered professional engineer or surveyor.

**E. Flood Hazard Warning**

All agreements for deed, purchase agreements, leases, or other contracts for sale or exchange of lots within an Area of Special Flood Hazard, and all instruments conveying title to lots within an Area of Special Flood Hazard must publish prominently the following flood hazard warning in the subject document:

**Flood Hazard Warning**

This property may be subject to flooding. You should contact local building and zoning officials and obtain the latest information about flood elevations and restrictions before making plans for the use of this property.

*5.05.04 Standards For Reducing Flood Hazards In Certain Zones Within The Area Of Special Flood Hazard*

**A. Regulatory Floodways**

The following standards apply to Regulatory Floodways located within the Area of Special Flood Hazard:

1. Encroachments, including fill, new construction, substantial improvements and other development, are prohibited unless a registered professional engineer certifies and demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not result in any increase in flood levels during a base flood; and
2. All new construction and substantial improvements of existing construction shall comply with all applicable flood damage prevention provisions of Section 5.05.03 and Section 5.05.04 of this Part.

**B. Coastal High-Hazard Areas**

In all areas designated as Coastal High-Hazard Areas the following standards must be met:

1. All new construction and substantial improvements of existing construction shall be located [Subject to review of FEMA standards] feet landward of the reach of the mean high tide;
2. Elevation:

- a. All new construction shall be elevated so that the bottom of the lowest supporting horizontal member of the lowest floor, excluding pilings or columns, is located no lower than [Subject to review of FEMA standards] feet above the base flood elevation, with all construction below the lowest supporting member open so as not to impede the flow of water;
- b. No fill shall be used as structural support; non-compacted fill may be used around the perimeter of a structure for landscaping or esthetic purposes provided the fill will wash-out from storm surge, rendering the structure free of obstruction, prior to generating excessive loading forces, ramping effects, or wave deflection; the Planning and Zoning Committee, with the added approval of the City Council, shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist demonstrating that the foregoing criteria have been satisfied based upon the following considerations:
  - (1) The particle composition of the fill material does not have a tendency for excessive natural compaction;
  - (2) The volume and distribution of the fill will not cause wave deflection to adjacent properties;
  - (3) The slope of the fill will not cause wave run-up or ramping.
- c. The construction below the lowest floor shall be free of obstructions but may be enclosed with breakaway walls, open wood lattice, or insect screening designed to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the structure or supporting foundation system; for the purposes of this Part, a breakaway wall shall have a design-safe-loading resistance of no less than 10 and no more than 20 pounds-per-square-foot, either by design or when so required by local and or state codes, and may be permitted only if a registered engineer or architect certifies that the proposed design meets the following criteria:



- (1) The breakaway wall will collapse under a water load less than the load imposed by the base flood; and
  - (2) The elevated portion of the structure and supporting foundation system will not collapse, be displaced, or suffer structural damage from wind and water loads acting simultaneously on all building components, structural and non-structural; wind and water loading values to be used in this determination shall not be less than those with a 1 percent chance of being equaled or exceeded in any given year in a 100-year mean recurrence interval; and
- d. The space below the lowest floor shall be used only for parking of vehicles, building access, or storage of equipment used to maintain the premises.
3. Anchoring
  - a. All structures shall be securely anchored on pilings or columns; and
  - b. All pilings and columns and the attached structures shall be anchored to resist flotation, collapse, and lateral movement caused by wind and water loads acting simultaneously on all components of the structure; wind and water loading values to be used in designing the anchor and support system shall not be less than those that have a 1 percent chance of being equaled or exceeded in any given year in a 100-year mean recurrence interval.
4. Site Alteration

Mangrove stands and sand dunes shall not be altered in a way that increases the potential for flood damage.
5. Certification

A registered professional engineer or architect shall certify that the design, specifications, and plans for construction comply with the requirements of this Part.

**C. Standards For Areas Of Shallow Flooding**

The following standards apply to Areas of Shallow Flooding located within the Area of Special Flood Hazard:

1. Residential Structures

The lowest floor of all new construction of and substantial improvements to residential structures shall be elevated above the highest adjacent grade, at least as high as the “depth number” specified in feet on the FIRM, and at least 2 feet if no FIRM depth number is specified.

2. Non-residential Structures

The lowest floor of all new construction of and substantial improvements to non-residential structures shall be:

- a. Elevated as prescribed in Section 5.05.05 C. 1.
- b. Constructed, together with attendant utility and sanitary facilities, so that any walls below the level prescribed in Section 5.05.05 C.1. above shall be substantially impermeable to the passage of water and structural components below that level shall be capable of resisting hydrostatic and hydrodynamic load and the effects of buoyancy.

*5.05.05 Administration And Enforcement*

**A. Generally**

In addition to the administrative and enforcement provisions in Article XII of this Code, the following provisions apply:

**B. Designation And Duties of Local Administrator**

The City Manager shall administer and implement the provisions of these flood damage prevention regulations. In addition to duties assigned elsewhere, the City Manager shall:

1. Review all development plans to ensure that the requirements of these regulations have been met;
2. Review all certificates submitted to satisfy the requirements of these regulations;
3. Notify adjacent communities, the South Florida Water Management District, and the State of Florida Department of Community Affairs, prior to permitting or approving any alteration or relocation of a watercourse, and provide evidence of such notification to the Federal Emergency Management Agency (FEMA);
4. Verify and record the actual elevation, in relation to mean sea level, of the lowest floor, or of the floodproofing, of all new or substantially-improved structures regulated by these flood-damage-prevention regulations;

5. Interpret the boundaries of the Area of Special Flood Hazard and the various zones, including the Regulatory Floodways and the Coastal High-Hazard Areas; and
6. Maintain all records pertaining to the implementation of these flood-damage-prevention regulations.

**C. Certification Of As-Built Elevations**

1. For development activity which includes structures, and in areas where base flood elevations are available, the developer shall submit to the City Manager a certification prepared by a registered land surveyor or licensed professional engineer of the as-built elevation in relation to mean sea of the lowest floor, flood-proofed elevation, or horizontal structural members of the lowest floor as applicable; this certification shall be provided before additional construction may occur;
2. The City Manager shall review submitted floor elevation survey data and inform the applicant of deficiencies within 10 working days, and no work shall be permitted to proceed until the deficiency is removed as determined by the City Manager; failure to submit the certification or to make required corrections shall be cause to issue a stop-work order for the development project;
3. Upon submittal of certified elevations and/or a determination by the City Manager that the development meets all of the applicable requirements of these flood-damage-prevention regulations, the City Manager shall issue a Certificate of Compliance; and
4. All work performed before the issuance of the Certificate of Compliance shall be at the risk of the developer.

**D. Enforcement**

1. Any violation of these flood-damage-prevention regulations is a public nuisance and may be restrained by injunction or otherwise abated in a manner provided by law;
2. In addition to any remedy or penalty provided herein or by law, any person who violates the provisions of these flood-damage-prevention regulations shall be punished by a fine of not less than \$100.00 nor more than \$500.00, or by

imprisonment in the County Jail for a period not to exceed 60 days, or by both such fine and imprisonment, and each day during which the violation occurs shall constitute a separate offense; and

3. Any violator may be required to restore land to its undisturbed condition; in the event that restoration is not undertaken within a reasonable time after notice is given, the City may take corrective action, the cost of which shall become a lien upon the property until paid.

**ARTICLE VI**  
**DEVELOPMENT DESIGN AND**  
**IMPROVEMENT STANDARDS**

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**ARTICLE VI**  
**DEVELOPMENT DESIGN AND**  
**IMPROVEMENT STANDARDS**

**6.00.00 GENERAL PROVISIONS**

*6.00.01 Purpose*

The purpose of this Article is to provide development design and improvement standards applicable to all new development activity within the City.

*6.00.02 Responsibility For Improvements*

All improvement required by this Article shall be designed, installed, and paid for by the developer.

*6.00.03 Principles Of Development Design*

The provisions of this Article are intended to ensure functional and attractive development. Initially, development design shall take into account the protection of natural resources as prescribed in Article V of this Code. All development shall be designed to avoid unnecessary impervious surface cover; to provide adequate access to lots and sites; and to avoid adverse effects of shadow, glare, noise, odor, traffic, drainage, and utilities on surrounding properties.

**6.01.00 LOT AREA, LOT COVERAGE AND SETBACKS**

*6.01.01 Minimum Lot Area Requirements*

**A. Requirements For All Developments**

All developments shall have a total land area sufficient to meet all development design standards in this Code including, but not limited to, land required to provide setbacks from abutting rights-of-way, buffers, stormwater management, off-street parking and traffic circulation, protection of environmentally-sensitive lands, and any other provisions which may require land area to be set aside.

**B. Specific Requirements For Residential Development**

There is no minimum lot area for individual uses within a residential development that will be served by public access and both a central water and central sewer system, provided that all of the following requirements are met:

1. The land area for the total project is sufficient to meet the general standards of this Code as stated in Section 6.01.01 A.;
2. Gross density of the area shall not exceed that specified in Section 2.02.04 of this Code;
3. Common-ownership land, exclusive of individual lots conveyed in fee-simple ownership, shall be controlled and maintained through a condominium association, property owners' association, or other similar provision, or may be conveyed to governmental entities or not-for-profit organizations; and
4. Recordable instruments providing for the common-ownership lands cited in Section 6.01.01 B. 3. above shall be submitted for review with the application for development plan review.

**C. Specific Requirements For Areas Without Central Utilities**

All proposed development in areas that will not be served by central sewer and water shall have the following minimum lot areas:

Type Of Development	Sewer/Water System	Lot Area
Residential	Septic tanks Individual wells	1 acre per unit
Residential	Aerobic septic Individual wells	1 acre per unit

*6.01.02 Impervious Surface Coverage*

**A. Generally**

Impervious surface on a development site shall not exceed the ratios provided in the "Table Of Impervious Surface Ratios" demonstrated in Section 6.01.02 E. of this Code. "Impervious Surface Coverage" is that portion of developed land which is covered by buildings, pavements, or other cover through which water cannot penetrate. The establishment of an impervious surface ratio provides a control of the intensity of the



development of land by controlling the amount of the land which may be covered by any type of impervious surface. Due to the minimum land area within the City available for development, impervious surface ratios will not, generally, be employed as a technique, in and of itself, to control the intensity of land development. Due to the absence of any natural water bodies within the City, water bodies are not included, as such, in any impervious surface ratio calculations.

**B. Ratio Calculation**

The impervious surface ratio is calculated by dividing the total impervious surface by the gross site area. Although water bodies are normally treated as impervious for the purpose of calculating an impervious-surface ratio, they are not included in such calculations due to local conditions.

**C. Treatment Of Cluster Development**

Because the impervious surface ratio is calculated for the gross site, cluster development or other site design alternatives may result in individual lots within a development project exceeding the impervious surface ratio, while other lots may be devoted entirely to open space. The Planning and Zoning Committee, with the approval of the City Council, may require, as a condition of approval, deed restrictions or covenants that guarantee maintenance of such open space in perpetuity.

**D. Alternative Paving Materials**

If porous paving materials are used, then the area covered with porous paving materials shall not be counted as an impervious surface.

**E. Table Of Impervious Surface Ratios**

<b>Land Use District</b>	<b>Maximum Impervious Surface Ratio</b>
Established/Future Residential	0.70
Public Service	0.75
Commercial/Mixed Use	0.85
Industrial	0.85
Urban Development	0.85

**A. Minimum Setbacks On Side And Rear Yards**

Minimum setbacks on side and rear yards are required as provided for in Part 2.02.00 of this Code.

**B. Minimum Setbacks Between Buildings**

Minimum setbacks between buildings are required as provided for in Part 2.02.00 of this Code.

**6.02.00 TRANSPORTATION SYSTEMS**

*6.02.01 General Provisions*

This Section establishes minimum requirements applicable to the City's transportation system, i.e. public streets, bikeways, pedestrian ways, parking and loading areas, and access control to and from public streets. The standards in this Section are intended to minimize the traffic impacts of development and ensure that all development provides for adequate and safe movement and storage of vehicles consistent with good engineering and development-design practices.

*6.02.02 Streets*

**A. Street Classification System Established**

1. City streets are classified and mapped according to function served in order to allow for regulation of access, road and right-of-way [ROW] widths, traffic circulation patterns, design speed, and roadway construction standards.
2. The following street's hierarchy was established when the City was originally platted in the 1920's: Residential, Collector, and Arterial. The present street grid system is deemed adequate to meet the future development needs of the City. With the exception of "Special Purpose Streets" defined under paragraph 6.02.02 B. below, it is not contemplated that any additional residential, collector, or arterial streets need to be added to the existing City transportation system to accommodate development.

**B. Special-Purpose Streets**

Under special circumstances, a new local street may be classified and designed as one of the following:

1. **Alley:**

An alley is a special type of street which provides a secondary means of access to individual lots. An alley will normally be on the same level in the street hierarchy as a residential access street, although different design standards will apply.

2. **Marginal-Access Street:**

A marginal-access street is a street parallel and adjacent to a collector or a higher level street providing access to abutting properties and separation from through traffic. It may be designed at the level of a residential sub-collector as anticipated traffic volumes will dictate.

3. **Divided Street:**

For the purpose of protecting environmental features, avoiding excessive grading, or for other considerations, the City may require that an existing street be divided by the developer to accommodate to conditions created by development. In such a case, acceptable design standards shall be applied to the aggregate dimensions of the two streets segments so created.

**C. Official Street Map**

The Official Street Map and any amendments thereto, adopted by the City as a part of the Comprehensive Plan, is hereby made a part of this Code. All existing roadways within the jurisdiction of the City shall be designated on the Official Street Map as Special-Purpose [alley, marginal-access, and divided], Residential, Collector, and Arterial streets. Any street abutting or affecting the design of a land development which is not already classified on the Official Street Map shall be classified according to its function, design, and use by the City when requested to do so by a developer applicant during the plan review process. The Official Street Map shall be the basis for all decisions regarding required road improvements, reservation or dedication of rights-of-way [ROW] for required road improvements, or access of proposed uses to existing or proposed roadways.

6.02.03 *Rights-Of-Way*

**A. Right-Of-Way [ROW] Widths**

Right-of-way [ROW] requirements for road construction shall be specified as follows: Residential, 50 feet ROW; Collector, 60 feet ROW; and Arterial, 80 feet ROW. The ROW shall be measured from lot-line to lot-line.

**B. Protection And Use Of Rights-Of-Way [ROW]**

1. No encroachment shall be permitted into existing ROW, except for temporary use authorized by the City.
2. Use of the ROW for public and or private utilities, including, but not limited to, sanitary sewer, potable water, telephone cables, cable television cables, LP gas lines, or electric transmission lines, shall be allowed subject to applicable City regulations.
3. Sidewalks and bicycle-ways shall be placed within the ROW.

**C. Vacations Of Rights-Of-Way [ROW]**

Applications to vacate a ROW shall be approved upon a finding that all of the following requirements are met:

1. The vacation being requested is consistent with the adopted Traffic Circulation Element of the City's Comprehensive Plan;
2. The ROW does not provide the sole access to any property, and that any remaining access shall not be by an easement;
3. The vacation would not jeopardize the current or future location of any utility; and
4. The proposed vacation is not detrimental to the public interest, and provides a positive public benefit to the City.

6.02.04 *Street Design Standards*

**A. General Design Standards**

1. All street alterations shall be designed and constructed pursuant to applicable City regulations, and new street development shall be dedicated to the City upon completion, inspection, and acceptance by the City.
2. Street alterations due to development shall, to the extent practicable, conform to the natural topography of the development site, preserve existing hydrological and

vegetative patterns, and minimize potential for erosion, run-off, and future site alteration, with particular effort directed at securing the flattest possible grade near intersections.

3. Street alterations on sites proposed for development shall avoid altering environmentally-sensitive areas.
4. Private streets may be allowed within developments that will remain under common ownership provided they are designed to conform with recognized safety standards, and constructed pursuant to applicable City regulations.
5. Street layouts associated with all new development shall be coordinated with and interconnected to the existing street system of the surrounding area.
6. Private residential streets shall be arranged to discourage through traffic.
7. Special-purpose and private streets shall intersect as nearly as possible at right angles [90 degrees], and in no case shall be less than 75 degrees.
8. New intersections along one side of an existing public street shall, where and when possible, coincide with existing intersections; where an offset, or jog, is necessary at an intersection, the distance between centerlines of the intersecting streets shall be no less than 150 feet.
9. No two streets may intersect with any other public street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street.

**B. Paving Widths**

Paving widths for each street classification shall be pursuant to applicable City regulations.

**C. Curbing Requirement**

1. Curbing shall be required for purposes of drainage, safety, and the delineation and protection of pavement along streets only in the following cases:
  - a. Along designated parking lanes,
  - b. Where surface water drainage plans require curbing to channel stormwater, and
  - c. Where narrow lots, averaging 40 feet in width, take direct access from a street on which no on-street parking is permitted.

2. All curbing shall be constructed pursuant to applicable City regulations.

**D. Shoulders**

1. Shoulders and/or drainage swales are required only as follows:
  - a. Where necessary for stormwater management or road stabilization due to new development, and
  - b. Where shoulders are required by the Florida Department of Transportation (FDOT).
2. Shoulders, where required, shall measure 4 feet in width and shall be located within the ROW. They shall consist of stabilized turf or other permeable materials only.

**E. Acceleration, Deceleration And Turning Lanes**

1. Deceleration or turning lanes may be required by the City along existing streets in instances where the Planning and Zoning Committee, with the approval of the City Council, finds that there is a justified need for such lanes.
2. Deceleration lanes shall be designed to the following standards:
  - a. The lane-width shall be the same as the required width of the roadway moving lanes;
  - b. The lane shall provide the full required lane-width for its full length, and shall not be tapered; and
  - c. The minimum deceleration lane-length shall be 165 feet.
3. Acceleration lanes are required by mandate of the Florida Department of Transportation [FDOT] only.

**F. Cul-De-Sac Turnarounds**

An unobstructed 12-foot wide moving lane with a minimum outside turning radius of 38 feet shall be provided at the terminus of every permanent cul-de-sac.

**G. Clear Visibility Triangle**

In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear visibility formed by 2 intersecting streets or the intersection of a driveway and a street. The following standards shall be met:

1. Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2 feet and 10 feet above the grade, measured at the centerline of the intersection.
2. The clear visibility triangle shall be formed by connecting a point 100 feet from each street center line, to be located 100 feet from the distance from the intersection of the street center line, and a third line connecting the two points [See Figure 6.02.04-A.].

**H. Signage And Signalization**

The developer shall deposit with the City sufficient funds to provide all necessary roadway signs and traffic signalization as may be required by the City based upon City, Collier County, and State of Florida standards. At least two street name signs shall be placed at each 4-way street intersection, and one at each "IT" intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be consistent, and of a uniform style, size, and color approved by the City.

**I. Street Trees**

No development shall be approved without reserving an easement affording the City an opportunity to plant shade trees within 5 feet of the required ROW boundary. No street shall be accepted for dedication until the easement required by this sub-section has been provided.

**J. Blocks**

The lengths, widths, and shapes of blocks shall be consistent with adjacent areas. Where a tract of land is bounded by streets forming a block, it shall have sufficient width to provide for 2 tiers of lots of appropriate depths.

6.02.05 *Sidewalks And Bikeways*

**A. Requirement For Sidewalks And Bikeways**

1. Projects abutting collector or arterial facilities shall provide sidewalks adjacent to the collector or arterial roadways. Location of sidewalks shall be consistent with planned roadway improvements.
2. Where a proposed development includes improvements to collector or arterial roadways, facility designs shall include provision for sidewalks and bikeways within the ROW.
3. Residential projects adjacent to or in the immediate vicinity of mixed-use urban centers composed of commercial, office, service, and/or recreation activities will, when feasible, provide pedestrian and bicycle access from the development site to the mixed-use urban center.

**B. Design And Construction Standards**

Design and construction of sidewalks, bikeways, or other footpaths shall include provisions for access by physically handicapped persons.

6.02.06 *Access*

**A. Access Points**

1. All development projects shall have access to a public right-of-way [ROW].
2. Non-residential developments and multi-family residential development on a corner lot may be allowed two points of access; however, no more than one point shall access an arterial.
3. Adjacent uses may share a common driveway provided that appropriate access easements are granted between or among the respective property owners.

**B. Alternative Designs**

Where natural features or the spacing of existing driveways and roadways cause normal access points to be physically unfeasible, alternate designs may be offered for approval by the Planning and Zoning Committee and the City Council.



6.02.07 *Standards For Drive-Up Facilities*

**A. Generally**

All facilities providing drive-up or drive-through service shall provide on-site stacking lanes in accordance with the standards listed under Section 6.02.07 B. below.

**B. Standards**

1. The drive-up facilities and stacking lanes shall be located and designed to minimize turning movements in relation to the driveway access to streets and intersections.
2. The facilities and stacking lanes shall be located and designed to minimize conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks, or other pedestrian access points.
3. A by-pass lane shall be provided.
4. The minimum stacking-lane distance shall be 120 feet, measured from the service window to the property line bordering the furthest street providing access to the facility.
5. Alleys or driveways, or driveways in abutting areas developed for residential use, shall not be used for circulation of traffic for drive-up facilities.
6. Where turns are required in the exit lane, the minimum distance from any drive-up station to the beginning point of the curve shall be 34 feet, and the minimum inside turning radius shall be 25 feet.

**6.03.00 OFF-STREET PARKING AND LOADING**

6.03.01 *Generally*

**A. Applicability**

Off-street parking facilities shall be provided for all development within the City pursuant to the requirements of this Code. The off-street parking facilities shall be maintained as long as the use that the facilities were designed to serve exists.

**B. Computation**

1. When a determination is made of the number of off-street parking spaces on a development site that are required by this Code results in a fractional space, the fraction of one-half [ $\frac{1}{2}$ ] or less may be disregarded, and a fraction in excess of one-half [ $\frac{1}{2}$ ] shall be counted as 1 parking space.
2. In stadiums, areas, churches, and other places of assembly where attendees occupy benches, pews, or other similar undifferentiated seating facilities, and/or contains an open assembly area, occupancy calculations made for parking-space purposes shall be based upon the maximum occupancy rating given the structure by the Fire Marshall.
3. Gross floor area shall be the sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls.

*6.03.02 Number Of Parking Spaces Required*

**A. Requirements**

The required minimum number of off-street vehicle and bicycle parking spaces, the percentage of spaces that must be allotted for recreational and larger vehicles shall be determined by the Planning and Zoning Committee, with the approval of the City Council, after consideration of appropriate traffic engineering and planning data for residential, commercial, educational, health service, industrial, entertainment and recreation, and other uses based upon the principles of this Code.

**B. Special Parking Spaces**

1. Any parking area to be used by the general public shall provide suitable, marked parking spaces for handicapped persons. The number, design and location of these spaces shall be consistent with the requirements of §316.1955 and §316.1956, F.S., or succeeding provisions. No parking space required for the handicapped shall be counted as a parking space in determining compliance with this Code, but optional spaces for the handicapped shall be counted. All spaces for the handicapped shall be paved.

2. A portion of the parking spaces required may be designated for motorcycle parking exclusively if the following conditions are met:
  - a. The Planning and Zoning Committee, with the approval of the City Council, finds that the spaces be so designated, based upon projected demand for motorcycle parking and lessened demand for automobile parking spaces, and approves such motorcycle parking spaces shown specifically on a final development plan;
  - b. The designated motorcycle parking spaces are suitably marked and striped;
  - c. The designation does not reduce the overall area devoted to parking so that if the motorcycle spaces are converted to automobile spaces, the minimum requirements for automotive spaces will be met; and
  - d. The approval of the Planning and Zoning Committee and the City Council may be later withdrawn, and the motorcycle parking spaces converted to automobile spaces, if the Committee finds that the purposes of this Code would be better served thereby, based upon an analysis of actual demand for motorcycle and automobile parking.
3. Bicycle parking standards apply as follows:
  - a. The Planning and Zoning Committee, with the approval of the City Council, shall maintain a list of approved bicycle parking facilities.
  - b. Other bicycle parking devices or racks may be used in the city if the following standards are met. The device, rack or other facility shall be:
    - (1) Designed to permit each bicycle to be supported by its frame;
    - (2) Designed to avoid damage from vandalism and secure the frame and wheels of parked bicycles against theft;
    - (3) Anchored to resist removal and constructed in such a manner as to resist rust and corrosion;
    - (4) Flexible in order to accommodate a range of bicycle shapes and sizes and to facilitate easy security locking without interfering with adjacent bicycles;

- (5) Well located to avoid damage to parked bicycles by parked automobiles;
- (6) Incorporated, whenever possible, into the design and color of surrounding building designs and street furniture;
- (7) Conveniently located in highly-visible, active, and well-lighted areas of the City;
- (8) Compatible with surrounding pedestrian walkways;
- (9) At or near the principal entrance of the building or structure served by the bicycle parking facility; and
- (10) Accessible to the nearest right-of-way [ROW] and bicycle lane while providing safe haven from surrounding traffic for the bicyclist.

**6.03.03**      *Off-Street Loading*

**A. Generally**

Space to accommodate off-street loading or business vehicles shall be provided for certain institutional uses, mid-rise residential uses, public assembly structures, free-standing office buildings, certain retail commercial and service uses, and industrial uses as specified under Section 6.03.03 B. below.

**B. Spaces Required**

1. Schools, hospitals, clinics, nursing homes, and other similar institutional uses, and mid-rise and high-rise residential uses shall provide one (1) loading space for the first 100,000 square feet of gross floor area or fraction thereof, and 1 space for each additional 100,000 square feet or fraction thereof.
2. Auditoriums, gymnasiums, stadiums, theaters, convention centers, and other buildings for public assembly shall provide 1 loading space for the first 20,000 square feet of gross floor area or fraction thereof, and 1 additional space for each 100,000 square feet.
3. Free-standing office buildings shall provide 1 space for the first 75,000 square feet of gross floor area or fraction thereof, and 1 space for each additional 25,000 square feet.

4. Retail commercial, service, road service, and commercial entertainment uses shall provide 1 space for the first 10,000 square feet of gross floor area, and 1 space for each additional 20,000 square feet.
5. Industrial uses shall provide 1 space for every 10,000 square feet of gross floor area.

**C. Adjustments To Requirements**

The City Council may, upon the recommendation of the City Manager, require that an evaluation be made to determine the actual number of loading spaces needed for a proposed use when it appears that the characteristics of the proposed use require a greater or lesser number of loading spaces than that required by this Code or that proposed by a developer.

*6.03.04 Alteration Of Conforming Development*

**A. Decreased Demand For Parking Or Loading**

The number of off-street parking and loading areas may be reduced if the Planning and Zoning Committee, with the approval of the City Council, finds that a diminution in floor area, seating capacity, or other factor controlling the number of parking or loading spaces would permit the site to remain in conformity with this Code after the reduction.

**B. Increased Demand For Parking Or Loading**

The number of off-street parking or loading spaces must be increased to meet the requirements of this Code if the City Council finds that an increase in floor area, seating capacity, or other factors controlling the number of required spaces causes the site not to conform with this Code.

*6.03.05 Design Standards For Off-Street Parking And Loading Areas*

**A. Location**

1. All required off-street parking spaces and the uses they are intended to serve shall be located on the same parcel of land.
2. All parking spaces required by this Code for residential uses should be located a reasonable distance from a dwelling unit's entry-way [ground-level door, elevator, or stairway] to the parking space. For purposes of measuring these distances, each required parking space shall be assigned to a specific unit of the development plan whether or not the developer will actually assign spaces for the

exclusive use of a specific unit. Required spaces should be located no further than the following distances from the units they serve:

- a. Resident parking: 200 feet; and
  - b. Visitor parking: 250 feet.
3. All parking spaces for the handicapped shall be located as specified by §316.1955, F.S.

**B. Size**

1. Standard and compact parking spaces shall be sized according to Figure 6.03.05 A.
2. Parallel parking spaces shall be a minimum of 8 feet wide and 22 feet long. If a parallel space abuts no more than 1 other parallel space, and adequate access room is available, then the length may be reduced to 20 feet.
3. Motorcycle parking spaces shall be 4¼ feet wide and 9¼ feet long.
4. Spaces for handicapped parking shall be the size specified in §316.1955, F.S.
5. The standard off-street loading space shall provide vertical clearance of 15 feet, and provide adequate area for maneuvering, ingress, and egress. The length of one or more of the loading spaces may be increased up to 55 feet if full-length tractor-trailers must be accommodated. Although developers may install spaces that are larger than the standard, the number of spaces required may not be reduced on that account only.

**“STANDARD CARS”**

A	B	C	D	E	F	G
0°	9.0'	9.0'	12.0'	23.0'	30.0'	--
	9.5'	9.5'	12.0'	23.0'	31.0'	--
	10.0'	10.0'	12.0'	23.0'	32.0'	--
20°	9.0'	15.3'	12.0'	26.3'	42.6'	34.2'
	9.5'	15.7'	12.0'	27.8'	43.4'	34.4'
	10.0'	16.2'	12.0'	29.2'	44.4'	35.0'
30°	9.0'	17.8'	12.0'	18.0'	46.7'	39.8'
	9.5'	18.2'	12.0'	19.0'	48.4'	40.2'
	10.0'	18.7'	12.0'	20.0'	49.4'	40.8'
40°	9.0'	19.7'	12.0'	14.0'	51.4'	44.6'
	9.5'	20.1'	12.0'	14.8'	52.2'	45.0'
	10.0'	20.5'	12.0'	15.6'	53.0'	45.4'
45°	9.0'	20.5'	12.0'	12.7'	53.0'	46.6'
	9.5'	20.8'	12.0'	13.4'	53.6'	46.8'
	10.0'	21.2'	12.0'	14.1'	54.4'	47.4'
50°	9.0'	21.1'	16.0'	11.7'	58.2'	52.4'
	9.5'	21.4'	16.0'	12.4'	58.8'	52.6'
	10.0'	21.7'	16.0'	13.1'	59.4'	53.0'
60°	9.0'	21.8'	18.0'	10.4'	61.6'	57.0'
	9.5'	22.1'	18.0'	11.0'	62.2'	57.4'
	10.0'	22.3'	18.0'	11.5'	62.6'	57.6'
70°	9.0'	21.9'	20.0'	9.6'	63.8'	60.8'
	9.5'	22.0'	20.0'	10.1'	64.0'	60.8'
	10.0'	22.2'	20.0'	10.6'	64.4'	61.0'
80°	9.0'	21.3'	24.0'	9.1'	66.6'	65.0'
	9.5'	21.3'	24.0'	9.6'	66.6'	65.0'
	10.0'	21.4'	24.0'	10.2'	66.8'	65.0'
90°	9.0'	20.0'	24.0'	9.0'	64.0'	--
	9.5'	20.0'	24.0'	9.5'	64.0'	--
	10.0'	20.0'	24.0'	10.0'	64.0'	--

A	=	Parking Angle
B	=	Stall Width
C	=	Stall to Curb
D	=	Aisle Width
E	=	Curb length per car
F	=	Minimum overall double row with aisle between
G	=	Stall center (does not include overhang)

**Figure 6.03.05-A. Parking Space Dimensions**

- The Planning and Zoning Committee, with the approval of the City Council, may modify these requirements where necessary to promote a substantial public interest relating to environmental protection, heritage conservation, aesthetics, tree protection, or drainage if the Committee and/or Council submits a written statement of the public interest served by allowing the modification.

**C. Layout**

1. Pedestrian circulation facilities, roadways, driveways, and off-street parking and loading areas shall be designed to be safe and convenient. All traffic circulation serving off-street parking and loading areas shall be accommodated on-site.
2. Parking and loading areas, aisles, pedestrian walks, landscaping, and open space shall be designed as integral parts of an overall development plan and shall be properly related to existing and proposed buildings.
3. Buildings, parking and loading areas, landscaping and open spaces shall be designed so that pedestrians moving from parking areas to buildings are not unreasonably exposed to vehicular traffic.
4. Landscaped, paved, and gradually inclined or flat pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings. Pedestrian walks should be designed to discourage intrusions into landscaped areas except at designated crossings.
5. Each off-street parking space shall open directly onto an aisle or driveway that, except for single-family residences, is not a public street.
6. Aisles and driveways shall not be used for parking vehicles, except that the driveway of a single-family residence shall be counted as a parking space for the dwelling unit.
7. The design shall be based on a definite and logical system of drive lanes to serve the parking and loading spaces.
8. Parking spaces for all uses, except single-family residences, shall be designed to permit entry and exit without moving any other motor vehicle.
9. No parking space shall be located so as to block access by emergency vehicles.
10. Compact car spaces should be located no more and no less conveniently than full size car spaces, and shall be grouped in identifiable clusters.



**6.04.00 UTILITIES**

*6.04.01 Requirements For All Developments*

**A. Generally**

The following basic utilities are required for all developments subject to the criteria listed herein.

**B. Electricity**

Every principal use and every developed lot shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use within a development.

**C. Telephone**

Every principal use and every lot within a development shall have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such development.

**D. Water And Sewer**

Every principal use and every lot within a development shall have central potable water and wastewater hookup whenever required by the City's Comprehensive Plan, and where local topography permits the connection to a City water or sewer line by running a connecting line no more than 200 feet from the developed lot to such a line.

**E. Illumination**

All streets, driveways, sidewalks, bikeways, parking lots, and other common areas and facilities in developments shall provide illumination pursuant to applicable City standards.

**F. Fire Hydrants**

All developments served by a central water system shall include a system of fire hydrants pursuant to applicable City standards and Collier County fire codes and ordinances.

*6.04.02 Design Standards*

- A.** All electric, telephone, cable television, and other communication lines [exclusive of transformers or enclosures containing electrical equipment including, but not limited to, switches, meters, or capacitors which may be pad-mounted], and LP gas distribution lines shall be placed underground within easements or dedicated public rights-of-way [ROW], installed pursuant to applicable City standards.

- B. Lots abutting existing easements or dedicated public ROW where overhead electric, telephone, or cable television distribution supply lines and service connections have been previously installed, may be supplied with such services from the respective utilities' overhead facilities provided the service connection to the site or lot is placed underground.
- C. Screening of any utility apparatus placed above ground shall be required.

*6.04.03 Utility Easements*

When a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities that is owned, operated, and/or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

**6.05.00 STORMWATER MANAGEMENT**

*6.05.01 Relationship To Other Stormwater Management Requirements*

In addition to meeting the requirements of this Code, the design and performance of all stormwater management systems shall comply with applicable Florida State regulations, including Chapter 17-25, F.A.C., and/or the rules of the South Florida Water Management District. Land development regulations adopted pursuant to §163.3202, F.S., and Rule 9J-24.033, F.A.C., must address both the water quantity and quality aspects of stormwater management. In all cases the most restrictive of the applicable standards shall apply.

*6.05.02 Exemptions*

The following development activities are exempt from these stormwater management requirements, except that steps to control erosion and sedimentation must be taken for all development.

- A. Construction of a single-family or duplex residential dwelling unit and accessory structures on a single parcel of land.
- B. Any development conducted in accordance with the stormwater management provisions submitted with the final development order.

- C. Maintenance activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site of the maintenance activity of stormwater run-off from that site.
- D. Action taken under emergency conditions to prevent imminent harm or danger to persons or the protection of property from imminent fire, violent storms, hurricanes, or other hazards. A report of the emergency actions taken in respect to such conditions shall be made to the City Council as soon as practicable.

6.05.03 *Stormwater Management Requirements*

**A. Performance Standards**

All development must be designed, constructed, and maintained to meet the following performance standards:

1. Following commencement of development activity and after its completion, the characteristics of stormwater run-off on the site of development shall approximate the rate, volume, quality, and timing of stormwater run-off that occurred under the site's natural, unimproved, or existing state, except that the first 50 percent of stormwater run-off shall be treated in an off-line retention system or according to other best-management practices described in the "Stormwater Management Manual" adopted pursuant to this Code.
2. The proposed development and any development activity shall not violate the water quality standards as set forth in Chapter 17-3, F.A.C.

**B. Design Standards**

To comply with the foregoing performance standards, the proposed stormwater management system shall conform to the following design standards:

1. Detention and retention systems shall be designed to comply with the "Stormwater Management Manual" adopted pursuant to this Code;
2. To the maximum extent practicable, natural systems shall be used to accommodate stormwater;
3. The proposed stormwater management system shall be designed to accommodate the stormwater that originates within the development and stormwater that flows onto or across the development from adjacent lands;

4. The proposed stormwater management system shall be designed to function properly for a minimum 20-year life-span;
5. The design of the proposed stormwater management system shall be certified as meeting the requirements of this Code by a professional engineer registered in the State of Florida;
6. No surface water may be channeled to or directed into a sanitary sewer;
7. The proposed stormwater management system shall be compatible with the stormwater management facilities on surrounding properties or streets, taking into account the possibility that existing substandard systems may be improved in the future;
8. The banks of detention and retention areas should be sloped to accommodate appropriate vegetation which should be planted as soon as practicable;
9. Dredging, clearing of vegetation, deepening, widening, straightening, stabilizing, or otherwise altering natural surface water locations and outlets shall be minimized;
10. Natural surface waters shall not be used as sediment traps during or after development;
11. For aesthetic reasons, and to increase shoreline habitat the shorelines of detention or retention areas shall be sinuous rather than straight;
12. Water reuse and conservation shall, to the maximum extent practicable, be achieved by incorporating the stormwater management system into irrigation systems serving the development;
13. Vegetated buffers of sufficient width to prevent erosion shall be retained or created along the shores, banks, or edges of all natural or man-made surface waters;
14. In phased developments, the stormwater management system for each integrated stage of completion shall be capable of functioning independently as required by this Code; and

15. All detention and retention basins, except natural water bodies used for this purpose, shall be accessible from streets or public rights-of-way in order to facilitate maintenance.

*6.05.04 Stormwater Management Manual*

**A. Responsibility For Completing And Updating**

The City shall compile a “Stormwater Management Manual” for guidance of persons seeking approval of a Stormwater Management System under this Code. The Manual shall be updated periodically to reflect the most current and effective practices; it shall be readily available to the public.

**B. Contents Of The Stormwater Management Manual**

The Manual shall include:

1. Guidance and specifications for the design of stormwater management systems consistent with Section 6.05.04A. “Performance Standards” and Section 6.05.04B. “Design Standards” of this Code; acceptable techniques for obtaining, calculating, presenting, and reporting the information required by this Code shall be described;
2. Guidance in selecting environmentally sound practices for the management of stormwater, the control of erosion and sediment, and specific techniques and practices shall be described in detail, with particular attention given to the use of natural systems; and
3. Minimum construction specifications for stormwater management facilities in accordance with good engineering practices.

**C. Approval By The City Council**

The Planning and Zoning Committee, with the approval of the City Council, shall undertake the development of the Stormwater Management Manual and submit it and any subsequent revisions to the City Council for its review and approval. In developing the Manual, the Planning and Zoning Committee and the City Council shall be guided by existing manuals of stormwater management practices including, but not limited to, *The Florida Development Manual: A Guide To Sound Land And Water Management*, published by the Florida Department of Environmental Regulation [DER].

*6.05.05 Cash In Lieu Of On-Site Treatment Of Stormwater*

**A. Generally**

Payment in lieu of providing on-site treatment of stormwater may be accepted by the City pursuant to the provisions of this Code, if the following conditions are adhered to.

**B. Condition For Accepting Cash In Lieu Of On-Site Treatment Of Stormwater**

1. The development site is located within an area covered by a functioning stormwater management facility permitted by DER or the South Florida Water Management District; and
2. The City Council determines that the functioning stormwater management system is of sufficient size and capacity to accept the projected additional stormwater run-off without impairing the facility's capacity to perform its current and projected function for other sub-areas within its general boundaries.

**C. Determination And Payment Of Cash In Lieu**

The amount of the cash-in-lieu-of payment shall be set, and the payment shall be made, in accordance with the following provisions:

1. The developer shall supply calculations, certified by a registered professional engineer, of the anticipated additional stormwater run-off;
2. A drainage payment shall be paid by the developer to the City upon final approval of the development plan with the amount of the drainage payment to be determined according to professional accounting and engineering standards; and
3. The amount of the payment shall be held in trust by the City and shall be used only for land acquisition, engineering, design, and/or improvements for stormwater management purposes only.

*6.05.06 Dedication Or Maintenance Of Stormwater Management Systems*

**A. Dedication**

If a stormwater management system approved under this Code will function as an integral part of the City-maintained system, the facilities should be dedicated to the City.

**B. Maintenance By An Acceptable Entity**

1. All stormwater management systems that are not dedicated to the City shall be operated and maintained by one or the other of the following entities:
  - a. The City of Everglades City;
  - b. A government unit including a Municipal Service Taxing Unit [MSTU], a special district, or other local government entity;
  - c. An active water control district created pursuant to Chapter 298, F.S., or drainage district created by special act, or Community Development District created pursuant to Chapter 190, F.S., or Special Assessment District created pursuant to Chapter 170, F.S.;
  - d. A State or Federal agency;
  - e. An officially franchised, licensed, or approved communication, water, sewer, electrical, or other public utility;
  - f. A property owner or developer in accordance with:
    - (1) Written proof submitted in the appropriate form, by either a letter or resolution, that a government entity or other acceptable entity as set forth in Paragraphs la.-le. above, will accept the operation and maintenance of the stormwater management and discharge facility at a future time certain; or
    - (2) A bond or other assurance of continued financial capacity to operate and maintain the stormwater management and discharge facility is properly submitted to the City Council;
  - g. For-profit or not-for-profit corporate bodies including homeowners associations, property-owners associations, condominium-owners associations, or master associations in accordance with:
    - (1) The owner or developer submits documents constituting legal capacity and a binding legal obligation between the entity and the City affirming responsibility for the operation and maintenance of the stormwater management facility;
    - (2) The Association has sufficient powers reflected in its organizational or operational documents to:

- (a) Operate and maintain the stormwater management facility as permitted by the City,
  - (b) Establish rules and regulations,
  - (c) Assess members,
  - (d) Contract for services, and
  - (e) Exist perpetually with Articles of Incorporation providing that in the event of dissolution the stormwater management facility will be maintained by an acceptable entity as set forth in Paragraphs 1. a. to 1. e. above.
2. If a project is to be constructed in phases, and subsequent phases will use the stormwater management facilities as the initial phase or phases, the operational-maintenance entity shall have the ability to accept responsibility for the operation of the stormwater management facilities or systems of the future phases of the project.
3. Phased developments that have an integrated stormwater management facility or system, but employ independent operational-maintenance entities, either separately or collectively, shall have the responsibility and authority to operate and maintain the stormwater management facility or system for the entire project. That authority shall include cross easements for stormwater management and the authority and ability of each entity to enter and maintain all facilities, should any entity fail to maintain a portion of the general stormwater management system within the overall development project.
4. The applicant shall be an acceptable entity as provided for under B. 1. above, and shall be responsible for the operation and maintenance of the stormwater management facility or system from the time construction commences until the facility or system is dedicated to and accepted by another acceptable entity provided for under B. 1. above.
5. The City shall be guided by the provisions of DER's "Stormwater Rule," §17-25.027, F.A.C., in developing its stormwater management program(s)



and any dedication to the City of any private stormwater management facilities or systems.

**6.06.00 LANDSCAPING**

*6.06.01 Exemption*

Lots or parcels of land on which a single-family home is used as a residence shall be exempt from all provisions of these landscaping regulations. This shall not be construed to exempt any residential developments to be approved by the Planning and Zoning Committee and the City Council.

*6.06.02 Required Landscaping*

Landscaping within each land use zoning district shall be required as provided for in Article II of this Code.

**ARTICLE VII**  
**ACCESSORY STRUCTURES AND USES**

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## **ARTICLE VII**

### **ACCESSORY STRUCTURES AND USES**

#### **7.00.00 PURPOSE**

It is the purpose of this Article to regulate the installation, configuration, and use of accessory structures, and the conduct of accessory uses, in order to ensure that these uses are not harmful either aesthetically or physically to local residents and surrounding areas.

#### **7.01.00 ACCESSORY STRUCTURES**

##### *7.01.01 General Standards And Requirements*

**A.** Any number of different accessory structures may be located on a parcel, provided that the following requirements are met:

1. There shall be a permitted principal development on the parcel, so located in full compliance with all standards and requirements of this Code.
2. All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this Code.
3. Accessory structures shall not be located in a required buffer, landscaped area, or minimum building setback area.
4. Accessory structures shall be included in all calculations of impervious surface area and stormwater run-off.
5. Accessory structures shall be shown on any concept development plan with full supporting documentation as required in Article XII of this Code.

**B. Location of Accessory Structures**

Accessory structures must be constructed simultaneously with or following the construction of the principal structure and shall conform with the following setbacks and building separations:

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ACCESSORY STRUCTURES

	<u>FRONT</u>	<u>REAR</u>	<u>SIDE</u>	<u>STRUCTURE TO STRUCTURE</u>
1. Parking Garage or Carport (Single-Family)	SPS	10'	SPS	10'
2. Swimming Pool and/or Screen Enclosure (Single-Family)	SPS	10'	SPS	10'
3. Swimming Pool and/or Screen Enclosure (Multiple-Family and Commercial)	SPS	20'	15'	10'
4. Tennis Courts (Private) (One)	SPS	15'	SPS	10'
5. Tennis Courts (Multiple-Family and Commercial)	SPS	20'	15'	20'
6. Utility Buildings	SPS	10'	SPS	10'
7. Chickee, Barbecue Areas	SPS	10'	SPS	10'
8. Porches, Patios & Decks	SPS	10'	SPS	SPS
9. Boat Houses (Private)/Davits	SPS	N/A	7.5'	10'
10. Satellite Dishes*	SPS	10'	SPS	SPS
11. Fences (See Section 8.14)	0'	0'	0'	0'
12. Unlisted Accessory	SPS	SPS	SPS	10'

N/A = Not Applicable

SPS = Calculated same as principal structure

\* = Satellite dishes are only permitted  
in the rear yard

NOTE: See Section 3.04.00 as to Fisherman's Cove

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7.01.02 *Satellite Dish Antenna*

**A. Standards**

1. All satellite dish antenna installations, beginning with the enactment of this Code, shall meet the following requirements:
  - a. The satellite dish antenna shall be considered a structure requiring a building permit to be issued prior to installation. Subsequent to installation, the antenna shall be maintained in compliance with all applicable City building and electrical codes.
  - b. The satellite dish antenna installation, and any part thereof, shall maintain vertical and horizontal clearances from any electric lines and shall conform to the National Electric Safety Code.
  - c. The satellite dish antenna installation shall meet all FCC and manufacturer specifications, rules, and requirements.
  - d. The satellite dish antenna shall be of a non-reflective surface material and shall be made, to the maximum extent possible, to conform and blend with the surrounding area and nearby structures, taking into consideration locational factors and the color of nearby structures.
  - e. The satellite dish antenna shall contain no advertising or signage of any type.
  - f. The installer of any satellite dish antenna, prior to installation, shall submit detailed blueprints/ drawings, certified by the manufacturer or a professional engineer, of the proposed satellite dish antenna installation and foundation.
  - g. The satellite dish antenna installation shall be permitted to be placed in side and rear areas of the main dwelling or commercial structure only.
  - h. The satellite dish antenna shall, to the maximum extent possible, be screened from view from adjacent public rights-of-way [ROW].

2. The following are standards for satellite dish antenna installations in developments:
  - a. A satellite dish antenna shall be considered an accessory structure to the main dwelling structure, and shall not constitute the principal use of the property.
  - b. The satellite dish antenna installed pursuant to this Section 7.01.02 shall not be used for any commercial purpose; it shall provide service to the main dwelling structure only.
  - c. Satellite dish antenna installations shall be limited to one installation per residential lot.
  - d. The maximum size of the satellite dish antenna, whether ground or pole-mounted, shall be limited to 12 feet in diameter.
  - e. The maximum height of a ground-mounted satellite dish antenna installation shall be 15 feet.
  - f. The maximum height of a pole-mounted satellite dish antenna installation shall be 13½ feet above the eaves of the roof.
  - g. A satellite dish antenna shall not be permitted to be installed on the roof of any main dwelling structure.
  - h. The satellite dish antenna installation, whether ground or pole-mounted, shall be mounted at a fixed point and shall not be portable.

**B. Non-Conforming Antenna**

Any satellite dish antenna lawfully installed prior to the enactment of this Code shall be allowed to remain, until such time as it is replaced or moved. At the time of replacement or relocation, the provisions of this Code shall be met.

**7.01.03 Storage Buildings, Sheds, Utility Buildings, Greenhouses**

- A. No accessory buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials shall be located nearer than 25 feet from any dwelling unit or 10 feet from any other storage building.

- B. Storage buildings, sheds, greenhouses, and the like shall be permitted only when in compliance with standards for distance between buildings and setbacks, if any, from property lines.
- C. Storage buildings, sheds and other structures regulated by this Section 7.01.03 shall be permitted in side and rear yards only, and shall not encroach into any required building setback from an abutting right-of-way [ROW].
- D. Storage buildings, sheds and other structures regulated by this Section 7.01.03 shall be included in all calculations of impervious surface area, stormwater run-off, or any other site design requirements applying to the principal use of the lot.
- E. Vehicles, manufactured housing and mobile homes, shall not be used as permanent storage buildings, utility buildings or other such uses.
- F. All storage buildings, sheds, utility buildings and greenhouse installations, beginning with the enactment of this Code amendment, shall meet the following requirements:
  - 1. The storage building, shed, utility building or greenhouse shall be considered an accessory structure to the main dwelling or commercial structure only.
  - 2. The storage building, shed, utility building or greenhouse shall not constitute the principal use of the property on which it is installed.
  - 3. The storage building, shed, utility building or greenhouse shall be considered a structure requiring a building permit to be issued prior to its installation. Subsequent to installation, the subject storage building, shed, utility building or greenhouse shall be maintained in compliance with all applicable City building, electrical, fire, mechanical and plumbing codes.
  - 4. The subject storage building, shed, utility building or greenhouse, and any part thereof, shall maintain vertical and horizontal clearances from any electric lines and shall conform to the National Electric Safety Code.
  - 5. The storage building, shed, utility building or greenhouse shall be constructed to conform and blend with the surrounding area and nearby structures, taking into consideration locational factors and the color of nearby structures.
  - 6. The storage building, shed, utility building or greenhouse shall contain no advertising or signage of any type.

7. The storage building, shed, utility building or greenhouse shall be permitted to be placed in side and rear areas of the main dwelling or commercial structure only.
- G. All non-conforming storage buildings, sheds, utility buildings and greenhouses lawfully installed prior to the enactment of this Code amendment shall be allowed to remain, until such time as they are replaced, moved, destroyed or abandoned. At the time of replacement or relocation, the provisions of the amended Code shall be met.

*7.01.04 Swimming Pools, Hot Tubs, And Similar Structures*

- A. Swimming pools shall be permitted in side and rear yards only, and shall not encroach into any required building setback.
- B. Enclosures for pools shall be considered a part of the principal structure and shall comply with standards for minimum distance between buildings, yard requirements, and other building location requirements of this Code.
- C. All pools shall be completely enclosed with an approved wall, fence or other substantial structure not less than 5 feet in height. The enclosure shall completely surround the pool and shall be of sufficient density to prohibit unrestrained admittance to the enclosed area through the use of self-closing and self-latching doors.
- D. No overhead electric power lines shall pass over any pool unless enclosed in conduit and rigidly supported, nor shall any power line be nearer than 10 feet horizontally or vertically from the pool's water edge.
- E. Excavations for pools to be installed for existing dwellings shall not exceed a 2:1 slope from the foundation of the house, unless a trench wall is provided.

*7.01.05 Fences*

- A. All fences to be built shall comply with the Standard Building Code. The posts of each fence must be resistant to decay, corrosion, and termite infestation. The fence posts must also be pressure-treated for strength and endurance.
- B. Fences or hedges may be located in all front, side, and rear yard setback areas. No fences or hedges shall exceed 2 feet in height.



- C. In areas where the property faces 2 roadways or is located in any other area construed to be a corner lot, no fence or hedge shall be located in the vision-triangle, restricting visibility at the intersection.
- D. Any fence located adjacent to a public ROW or private road shall be placed with the finished side facing that ROW.
- E. A fence required for safety and protection from hazards by another public agency than the City, may not be subject to the height limitations cited in Section 7.01.05 A.-D.
- F. No fence or hedge shall be constructed or installed in such a manner as to interfere with drainage on the site.
- G. **Fences Residential**
  - 1. In any residential district, no closed wall or fence shall obstruct the corner of visibility.
  - 2. Fences or walls outside of the building line shall be limited to a maximum height of six (6) feet from finished grade.
  - 3. No barbed wire, spire tips, sharp objects, or similar objects, or electrically charged fences shall be erected in any residential area or District.
  - 4. Fences shall be treated as a structure for building permit purposes, and a permit shall be obtained prior to erection.
- H. **Fences in Non-Residential Districts**
  - 1. Fences in commercial districts are limited to eight (8) feet in height.
  - 2. No fence or wall shall obstruct the corner of visibility.
  - 3. Security fences may have barbed wire upon approval of the Planning and Zoning Committee.
  - 4. Fences shall be treated as a structure for building permit purposes, and a permit shall be obtained prior to erection.

7.01.06 *Garbage Dumpsters*

Garbage dumpsters shall be permitted in all districts except single-family subject to the following condition: Dumpsters may be permitted within the building setback area, except the front yard setback, provided there is no obstruction of vision of adjacent streets (See Section 6.02.04 G). If the only place to locate a dumpster is in the front yard as determined by the solid waste

collection agency, then the dumpster shall be screened with a solid fence approved by the City Council.

**7.01.07**      *Integral Caretaker's Residence In Commercial Districts*

The residence shall be constructed above flood plain as an integral part of the principal structure. Exits required to comply with fire code shall be permitted.

**7.01.08**      *Private Boat Houses And Docks*

- A.**    1. Individual or multiple private boat houses and docks, including mooring pilings to serve the residents of development, with or without boat hoists, on canal or waterway lots shall not extend more than twenty-five percent (25%) the width of the canal or waterway.
- 2. In no case shall the individual or multiple private boat houses and docks, including mooring pilings to serve the residents of development, with or without boat hoists, on canal or waterway lots extend into any navigable channel.
- 3. No side yard setback is required for private boat houses and docks, including mooring piles.
- B.**    All docks or mooring pilings, whichever protrudes the greater into the water, regardless of length, shall have reflectors four (4) inches minimum size installed at the outermost end, on both sides.

**7.02.00**    **ACCESSORY USES**

**7.02.01**    *Home Occupations*

A home occupation shall be allowed in a bona fide dwelling unit subject to the provisions of Article II and Article IX of this Code subject to the following additional requirements:

- A.**    No more than 2 persons other than members of the family residing on premises shall be engaged in such occupation.
- B.**    The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
- C.**    There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conducting of such home occupation, other than 1 non-illuminated sign, not exceeding 2 square feet in area, mounted first against

the wall of the principal building at a position not more than 2 feet from the main entrance of the residence.

- D.** No home occupation shall occupy more than 49 percent of the functional first floor of the residence.
- E.** No equipment, tools or process shall be used in such a home occupation which creates interference to neighboring properties due to noise, vibration, glare, fumes, odors or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, telephone, or television receivers off the premises of the home office which causes fluctuations in line voltage off that premises.
- F.** Fabrication of articles commonly classified under the terms arts and handicrafts may be deemed a home occupation, thereby subject to the other terms and conditions of this definition, providing that no retail sales are made at the home.
- G.** Outdoor storage of materials, except plants, shall not be permitted; however, potted plants may not be kept in the front yard.
- H.** A home occupation shall be subject to all applicable City occupational licensing requirements, fees, and other business taxes.

# ARTICLE VIII

## SIGNS

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# ARTICLE VIII

## SIGNS

### 8.00.00 GENERAL PROVISIONS

#### 8.00.01 *Generally*

The purpose of this Article is to provide for the regulation of types, sizes, locations, and character of signs in the City, on and off the premises, notifying the general public as to the various uses and activities conducted on the advertising premises. Section 10.01.02 B. 3., Special Provisions for Specific Non-Conformities, states as follows:

#### 3. Non-Conforming Signs:

##### a. Amortization:

- (1) All non-conforming signs with a replacement cost of less than \$50.00, all signs for which no permit was issued by the City of Everglades City, and all signs prohibited by Section 8.02.00 [Prohibited Signs] of this Code shall be removed or made to conform within 60 days of the enactment of this Code.
- (2) All other non-conforming signs shall be removed or altered to be conforming within 3 years of the effective date of this Code, unless an earlier removal is required by Section 10.01.02 A. above.

##### b. Continuation Of Non-Conforming Signs:

Subject to the limitation imposed by the amortization schedule above and further subject to the restrictions of Sections 10.01.02 A. and 10.01.02 B. 3. above, a non-conforming sign may be continued and shall be maintained in good condition as required by this Code, but it shall not be:

- (1) Structurally changed to another non-conforming sign, except pictorial content may be changed;
- (2) Altered or expanded in any manner that increases the degree of non-conformity;

- (3) Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty (50%) percent of the appraised replacement cost as determined by the Code Enforcement Officer;
- (4) Continued in use where a conforming sign or sign structure shall be erected on the same parcel or unit;
- (5) Continued in use where the structure housing the occupancy is demolished or requires renovations at a cost exceeding fifty (50%) percent of the assessed value of the structure; and
- (6) Continued in use after the structure housing the occupancy has been vacant for 6 months or longer.”

*8.00.02 Relationship To Building And Electrical Codes*

The sign regulations of Article VIII are intended to complement the requirements of the Southern Standard Building Code and electrical codes adopted by the City. Any inconsistency between these sign regulations the City’s building and electrical codes, the more restrictive regulation shall apply.

*8.00.03 No Defense To Nuisance Action*

Compliance with the requirements of these regulations shall not constitute a defense to an action brought to abate a nuisance under the common law.

*8.00.04 Maintenance*

All signs, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas shall be maintained in accordance with the Southern Standard Building Code and electrical codes adopted by the City, and shall present a neat and clean appearance. The vegetation around, in front of, behind, and underneath the base of ground signs for a distance of 10 feet shall be neatly trimmed and free of unsightly weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

**8.01.00 EXEMPT SIGNS**

The following signs are exempt from the operation of these sign regulations, and from the requirements of this Code that a permit be obtained for the erection of permanent signs, provided they are not placed or constructed so as to create a hazard of any kind:

- A.** Signs that are not designated or located so as to be visible from any street or adjoining property.
- B.** Signs of 2 square feet or less and signs that include no letters, symbols, logos or designs in excess of 2 inches in vertical or horizontal dimension, provided that such sign, or combination of such sign is not prohibited by Section 8.02.02 of this Code.
- C.** Signs necessary to promote health, safety, and welfare and other regulatory, statutory, traffic-control or directional signs erected on public property with permission, as appropriate, from the Federal government, the State of Florida, the County of Collier, or the City of Everglades City.
- D.** Legal notices and official instruments.
- E.** Decorative flags and bunting for a celebration or a commemoration of significance to the community when authorized by the City Council for a prescribed period of time.
- F.** Holiday lights and decorations.
- G.** Merchandise displays behind storefront windows so long as no part of the display moves or contains flashing lights.
- H.** Memorial signs or tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials and attached to the surface of the building.
- I.** Signs incorporated into machinery or equipment by a manufacturer or distributor which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily affixed to vending machines, newspaper racks, telephone booths, and gasoline pumps.
- J.** Advertising and identifying signs located on taxicabs, buses, trailers, trunks or vehicle bumpers.
- K.** Public warning signs which depict the dangers of trespassing, swimming, animals or similar hazards.
- L.** Works of art that do not constitute advertising.
- M.** Signs carried by 1 person.

- N. Religious displays.
- O. A temporary sign placed in advance of occupancy of a building or structure indicating the name of the building or structure, the architects, the contractors and other information regarding the building or structure.

**8.02.00 PROHIBITED SIGNS**

*8.02.01 Generally*

It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained, any sign not expressly authorized by, or exempted from, this Code.

*8.02.02 Specifically*

The following signs are expressly prohibited unless exempted by Section 8.01.00:

- A. Signs that are in violation of the Southern Standard Building Code or electrical codes adopted by the City. Signs affixed to bicycle racks and school bus shelters and similar structures that are located in a street right-of-way or located on a City easement are expressly prohibited.
- B. Any sign that, in the opinion of the City Manager, does or will constitute a safety hazard.
- C. Blank temporary signs.
- D. Signs with visible moving revolving or rotating parts or visible mechanical movement of any description, or other apparent visible movement achieved by electrical, electronic or mechanical means.
- E. Signs with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or the changing of copy.
- F. Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker or vary in intensity or color, except for time-temperature-date signs.
- G. Strings of light bulbs used on commercially-developed parcels for commercial purposes, other than traditional- holiday decorations.
- H. Signs, commonly referred to as wind signs, consisting of one (1) or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or materials fastened in such a manner as to move upon being subjected to pressure by wind.



- I. Signs that incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals.
- J. Signs that emit audible sound, odor or visible matter such as smoke or steam.
- K. Signs or sign structures that interfere in any way with free use of any fire escape, emergency exit or standpipe, or that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any other ordinance of the City or other provision of this Code.
- L. Signs that resemble any official sign or marker erected by any government agency, or by reason of shape, position or color, would conflict with the proper functioning of any traffic sign or signal, or to be of a size location, movement, content, color or illumination that may be reasonably confused with or construed as, or conceal, a traffic-control device.
- M. Signs that obstruct the vision of pedestrians, cyclists or motorists traveling on or entering public streets.
- N. Non-government signs that use the words "stop," "look," "danger," or any similar word, phrase or symbol, unless specifically approved by the City Council.
- O. Signs that contain amber, red or green lights that might be confused with traffic-control lights.
- P. Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist or pedestrian using or entering a public way, or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics.
- Q. Signs that contain any lighting or control mechanisms that cause unreasonable interference with radio, television or other communications signals.
- R. Searchlights used to advertise or promote a business or to attract customers to a property.
- S. Signs that are pasted or printed on any curbstone, flagstone, pavement or any portion of any sidewalk or street, except house numbers and traffic-control signs.
- T. Signs placed upon benches, street shelters, or waste receptacles, except as may be authorized in writing by the City Manager pursuant to §337.407, F.S.
- U. Signs erected on public property, or on private property such as utility poles, located on public property other than signs erected by a public authority for public purposes, except signs authorized in writing by the City Manager pursuant to §337.407, F.S.

- V. Signs erected over or across any public street, except government signs erected by a competent public authority.
- W. Vehicle signs with a total sign area on any vehicle in excess of 10 square feet, when the vehicle is:
  1. Parked for more than 120 consecutive minutes within 100 feet of any street ROW;
  2. Visible from the street ROW that the vehicle is within 100 feet of; and
  3. Not regularly used in the conduct of the business advertised on the vehicle. A vehicle used primarily for advertising, or for the purpose of providing transportation for owners or employees of the occupancy advertised on the vehicle, shall not be considered a vehicle used in the conduct of the business.
- X. Portable signs.
- Y. Roof signs.
- Z. Any sign that is contemptible, vile, obscene, degrading or detracting from the surrounding neighborhoods as determined by community standards.
- AA. Signs affixed to bicycle racks or school bus shelters and similar structures in the right-of-way.
- BB. A sign for which a business advertised on that sign is no longer licensed, or no longer has a Certificate of Occupancy, or is no longer doing business at that location.

**8.03.00 PERMITTED SIGNS**

*8.03.01 General Provisions*

- A. No sign shall be placed in any zoning district, except as provided for in this Land Development Code.
- B. All signs shall adhere to the required setbacks provided for signs, except gate and entrance signs which may be located at property lines.
- C. Entrance and exit signs may be placed at appropriate places, but not in the right-of-way. All signs must be approved by the City Manager.

- D. All signs shall be maintained so as to present a neat, clean appearance. Painted areas shall be kept in good condition and illumination, if provided, shall be maintained in safe and good working order.
- E. If the City shall find that any sign regulated under this Land Development Code is unsafe or insecure, or is abandoned, or is a menace to the public, or is not maintained in accordance with this Section, he shall give written notice to the owner thereof. If the owner fails to remove, alter or repair the sign within thirty (30) days after such notice so as to comply with the standards set forth, the City Manager may remove or alter said non-complying sign at the expense of the permittee or person having the right to use and possession of the property upon which the sign is located.
- F. **Exceptions to District Regulations:**

Any request for the permitting of a sign not specified in this Code shall be submitted to the Planning and Zoning Committee by means of a scale drawing and a \$25.00 review fee. The Planning and Zoning Committee shall review the application and make its recommendation to the City Council who shall make the decision.

8.03.02 *Single-Family*

- A. One (1) ground or wall "For Sale" or "For Rent" sign, not exceeding four (4) square feet per lot.
  - 1. Setback from property line: fifteen (15) feet.
- B. Licensed and approved home occupation may have one (1) sign not exceeding two (2) square feet.
  - 1. Setback from property line: fifteen (15) feet.

8.03.03 *Multi-Family*

- A. Signs Permitted:
  - 1. One (1) wall sign, not to exceed thirty-two (32) square feet;
  - 2. One (1) free-standing sign, not to exceed thirty-two (32) square feet on each street frontage; and
  - 3. All parcels: One (1) ground or wall "For Sale" or "For Rent" sign per lot, not to exceed thirty-two (32) square feet.
- B. Maximum height: twelve (12) feet.
- C. Minimum front setback: zero (0) feet.

**D.** Minimum side setback: five (5) feet.

*8.03.04 HP, PS*

**A.** Signs permitted:

1. One thirty-two (32) square foot free-standing sign per lot;
2. One twelve (12) square foot wall sign per permitted use; and
3. One (1) ground or wall "For Sale" or "For Rent" sign per lot when such sign has an area per face of not more than thirty-two (32) square feet.

**B.** Maximum height: twelve (12) feet.

**C.** Minimum front setback: zero (0) feet.

**D.** Minimum side setback: five (5) feet.

*8.03.05 RT, RV, VC, CC, CF, AC*

**A.** Signs Permitted:

1. One (1) free-standing sign not to exceed one hundred (100) square feet at each major entrance to a development, or a free-standing sign not to exceed one hundred (100) square feet;
2. One (1) wall sign with an area not more than twenty-five (25%) percent of the total square footage of the front wall not to exceed sixty (60) square feet; and
3. One (1) ground or wall "For Sale" or "For Rent" sign per parcel not to exceed thirty-two (32) square feet.

**ARTICLE IX**  
**OPERATIONAL PERFORMANCE STANDARDS**

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# ARTICLE IX

## OPERATIONAL PERFORMANCE STANDARDS

### 9.00.00        **GENERALLY**

#### 9.00.01    *Purpose And Intent*

It is the purpose of this Article to provide appropriate standards relating to the operation of certain activities throughout the City. Such operations may create or maintain such excessive noise, vibration, air pollution, odor, or electromagnetic interference as to be a detriment to the public health, comfort, convenience, safety, and welfare. These provided to protect the public interest, health and welfare.

#### 9.00.02        *Applicability*

These standards shall apply to all lands within the City's jurisdiction.

#### 9.00.03        *General Standards And Requirements*

##### **A.    References**

The following references are cited as the basis for the standards and requirements established in this Article IX:

<u>Official Reference Document Cited</u>	<u>Designation</u>
Code of Federal Regulation, Title 40, <i>Protection of Environment</i>	4OCFR
Chapter 17-2, Florida Administrative Code, <i>Air Pollution</i>	FAC17-2
Manufacturing Chemist Association, <i>Air Pollution Abatement Manual</i>	APAM
U.S. Public Health Report 47, No. 12, <i>Measurement of Density Mineral Dust</i>	PHR47
Title 10, Chapter 1, Part 20, Code of Federal Regulations, <i>Standards for Protection Against Radiation</i>	CFE10
American National Standards Institute - Applicable Standards	ANSI

- B. Within one year of the adoption of this Code the City shall specify the appropriate devices and instruments, if any, to be used for testing compliance with the standards required in this Article IX.

**9.01.00 NOISE**

Unless otherwise defined herein, all terminology shall be in conformance with applicable publications of the American National Standards Institute, Inc. [ANSI] or its successor body.

*9.01.01 Instrumentation*

Instrumentation used in making sound-level measurements shall employ a sound-level meter meeting the standards of the American National Institute, with measurements conducted in accordance with the *American Standard Method for the Physical Measurement of Sound*.

*9.01.02 Maximum Permissible Sound Levels By Receiving Land Use*

**A. Maximum Sustained Sound**

No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in the Table demonstrated below:

**SOUND LEVELS BY RECEIVING LAND USE**

Receiving Land Use Category	Time	Sound Level Limit [dBA]
Residential	7 AM to 10 PM	<b>60</b>
	10 PM to 7 AM	<b>75</b>
Commercial	7 AM to 10 PM	<b>65</b>
	10 PM to 7 AM	<b>60</b>
Industrial	At All Times	<b>75</b>

*9.01.03 Exemptions*

The following activities or sources are exempt from these noise standards:

- A. Activities covered by the following: Non-emergency signaling devices, Emergency signaling devices, Domestic power tools, Air-conditioning and air-handling equipment

for residential purposes, mosquito control vehicles, Operating motor vehicles, and Refuse collection vehicles.

- B. Un-amplified human voice.
- C. Aircraft operations.
- D. Construction and/or routine maintenance of public service utilities.
- E. Church bells or chimes.
- F. Emission of sound(s) for the purpose of alerting persons to the existing of an emergency or the performance of emergency response, rescue or other related work.

*9.01.04 Notice Of Violation*

Except in instances where a person is acting in good faith to comply with an abatement order, violation of any provision of this Code shall be cause for a notice of violation to be issued by the City Manager.

*9.01.05 Pre-Existing Uses Not In Conformance*

In instances where an industry or commercial business has established its use away from other incompatible uses and is subsequently encroached upon by development of an adjoining receiving land-use category thereby requiring a reduction in noise generation, the established industry or commercial business shall not emit noise which exceeds the maximum noise limitation for the receiving land-use category by more than 10 decibels [dBA].

**9.02.00 AIR POLLUTION**

**A. Standard**

To protect and enhance the air quality of the City, all sources of air pollution shall comply with rules set forth by the U.S. Environmental Protection Agency [Code of Federal Regulations, Title 40] and the Florida Department of Environmental Regulation [Florida Administrative Code, Chapter 17-21. No person shall operate a regulated source of air pollution without a valid operation permit issued by the Department of Environmental Regulation.

- B. Air pollution emissions shall be tested and results reported in accordance with techniques and methods adopted by the Department of Environmental Regulation and submitted to the Department. Such tests shall be carried out under the supervision of the Department and at the expense of the person(s) responsible for the source of the pollution.



## 9.03.00 FIRE AND EXPLOSIVE HAZARDS

### A. Standards

In all land-use districts in which the storage, use or manufacture of flammable or explosive materials is permitted, the following standards shall apply:

1. Storage and utilization of solid materials or products which are incombustible, or which in themselves support combustion and are consumed slowly as they burn, is permitted.
2. Storage, utilization or manufacture of solid materials or products including free-burning and intense-burning is permitted provided that said materials or products shall be stored, utilized or manufactured within completely enclosed buildings having a non-combustible structure and protected throughout by an automatic fire-extinguishing system. The requirements for an automatic fire-extinguishing system may be waived by the City Manager in cases where the introduction of water to a burning substance would cause an additional hazard.
3. Outdoor storage of solid fuels [coal, firewood, woodchips, and other solid flammables] is permitted provided storage is in conformance with the *Fire Protection Handbook [1986 Edition]*, published by the National Fire Protection Association.
4. Storage, utilization or manufacture of flammable and combustible liquids, or materials which produce flammable or explosive vapors or gases, shall be permitted in accord with National Fire Code #30, *Flammable and Combustible Liquids*, exclusive of the unrestricted storage of finished products in original, sealed containers.
5. The following classifications of liquids shall not be restricted by the provisions of this Code, provided that the storage, handling, and use of these liquids is in accordance with National Fire Code #30, *Flammable and Combustible Liquids*:

## CLASSIFICATION OF LIQUIDS

- Class I Shall include those having flash points below 100 degrees (°) Fahrenheit [37.8° Celsius] and may be subdivided as follows:
- Class I-A Shall include those having flash points below 73° Fahrenheit [22.8° Celsius] and having a boiling point below 100° Fahrenheit [37.8° Celsius].
  - Class I-B Shall include those having flash points below 73° Fahrenheit [22.8° Celsius] and having a boiling point at or above 100° Fahrenheit [37.8° Celsius].
  - Class I-C Shall include those having flash points at or above 73° Fahrenheit [22.8° Celsius] and having a boiling point below 100° Fahrenheit [37.8° Celsius].
- Class II Shall include those having flash points at or above 100° Fahrenheit [37.8° Celsius] and below 140° Fahrenheit [60° Celsius].
- Class III Shall include those having flash points at or above 140 degrees (°) Fahrenheit [60° Celsius] and may be subdivided as follows:
- Class III-A Shall include those having flash points at or above 140° Fahrenheit [60° Celsius] and below 200° Fahrenheit [93.4° Celsius].
  - Class III-B Shall include those having flash points at or above 200° Fahrenheit [93.4° Celsius].

### **9.04.00 ELECTROMAGNETIC INTERFERENCE**

In all land-use districts, no use, activity or process shall be conducted which produces electric and/or magnetic fields which adversely affect public health, safety, and welfare including, but not limited to, interference with radio, telephone or television reception from off the premises where the activity is conducted.

### **9.05.00 MARINAS**

#### **A. Standards**

1. Water vessels with holding facilities for sewerage held in wet moorage, and adjacent areas accommodating recreational vehicles overnight, shall have convenient access to developer-provided pump-out, holding, or

treatment facilities for sewerage, bilge, and other wastes contained on vessels and from vehicles.

2. Marinas and other major developments within the Shoreline Protection Zone shall post highly visible signs advising users of these developments in regard to the following:
  - (a) Regulations pertaining to the handling and disposal of waste., sewerage, or toxic materials;
  - (b) Regulations prohibiting the use of vessel toilets while moored unless such toilets are self-contained or possess an approved treatment device;
  - (c) Regulations prohibiting the disposal of fish or shellfish cleaning wastes, scrap-fish, viscera, or unused bait within, or immediately adjacent to, the subject development; and
  - (d) Cautionary messages advising users about local ecological concerns such as manatee protection;
3. Marinas shall provide boat-launch ramp facilities unless the developer applicant can demonstrate that provision of such facilities is not feasible and/or that a launch ramp will do excessive damage to the surrounding aquatic environment;
4. Marinas shall have adequate rest-room facilities which comply with the regulations of the Collier County Health Department; and
5. Marina operators shall provide garbage receptacles at several convenient locations to accommodate the needs of marina users.
6. Marinas shall comply with the Marina Siting Plan for Collier County.

#### **9.06.00 ODOR**

##### **A. Generally**

In instances where the fishing industry has established its crab-trap storage use away from other incompatible uses and is subsequently encroached upon by development of an adjoining receiving land-use category, the odor emitted by drying crab-traps is recognized as an established fishing-industry commercial

business practice and exempt from complaint by encroaching, incompatible development.

**B. Odor Hazard Warning**

All agreements for deed, purchase agreements, leases, or other contracts for sale or exchange of lots within an area zoned Commercial Fishing, and all instruments conveying title to lots within an area zoned Commercial Fishing must publish prominently the following odor hazard warning in the subject document:

**Odor Hazard Warning**

This property may be subject to odors emitted from time to time by the commercial fishing industry. You should contact local building and zoning officials and obtain the latest information about fishing-industry-related odors and restrictions before making plans for the use of this property.

**ARTICLE X  
HARDSHIP RELIEF**

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# ARTICLE X

## HARDSHIP RELIEF

### 10.00.00      **GENERALLY**

Within the districts established by this Code or amendments that may later be adopted, there may exist lots, structures, uses of land or water and structures, and characteristics of use which were lawful before this Code was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendments. It is the intent of this Code to permit these non-conformities to continue until they are voluntarily removed, but not to encourage their survival. Non-conforming uses are declared by this Code to be incompatible with permitted uses in the districts involved. It is further the intent of this Code that the non-conformities shall not be enlarged upon, expanded, intensified, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. The purpose of this Article is to provide mechanisms for obtaining relief from the provisions of this Code where hardship would otherwise occur. Three forms of hardship are addressed in Article X: 1] Hardships that would be caused if non-conforming development were required to come into compliance immediately with this Code [Section 10.01.00]; 2] Hardships that would be caused in particular cases by the imposition of the Code's development design standards [Section 10.02.00]; 3] Hardships that may be caused in particular cases by the Code's resource protection standards [Section 10.03.00].

### 10.01.00      **EXISTING NON-CONFORMING DEVELOPMENT**

#### 10.01.01      *Continuation Of Non-Conforming Development*

Subject to the provisions of Article X delineated below for terminating non-conforming development, such development may, if otherwise lawful and in existence on the date of enactment of this Code, continue in its non-conforming state.

#### 10.01.02      *Termination Of Non-Conforming Development*

##### **A.      Generally**

Non-conforming development must be brought into full compliance with the land-use regulations in Article II of this Code, and the development-design-and-improvement standards in Article VI of this Code, in conjunction with the following activities:

1. The gross floor area of the development is expanded by more than 10 percent, or more than 4000 square feet [s.f.], whichever is less. Repeated expansions of a development, constructed over any period of time commencing with the effective date of this Code, shall be combined in determining whether this threshold has been reached.
2. Reconstruction of the principal structure after it has been substantially destroyed by fire or other calamity. A structure is determined to have been "substantially destroyed" if the cost of reconstruction is 50 percent or more of the fair-market value of the structure in question before the calamity. In instances of multiple principal structures on a site, the cost of reconstruction shall be the combined fair-market value of all the structures in question.

**B. Special Provisions For Specific Non-Conformities**

1. **Non-Conformity With The Stormwater-Management Requirements Of This Code:** In addition to the activities listed in Section 10.01.02 A., an existing development that does not comply with the stormwater management requirements of this Code must be brought into full compliance when the use of the development is intensified, resulting in an increase in stormwater runoff or added concentration of pollution in the runoff.
2. **Non-Conformity With The Parking And Loading Requirements Of This Code:** In addition to the activities listed in Section 10.01.02 A., full compliance with the requirements of this Code shall be required where the seating capacity or other factors controlling the number of parking or loading spaces required by this Code is increased by 20 percent or more.
3. **Non-Conforming Signs:**
  - a. Amortization:
    - (1) All non-conforming signs with a replacement cost of less than \$50.00, all signs for which no permit was issued by the City of Everglades City, and all signs prohibited by Section 8.02.00 [Prohibited Signs] of this Code shall be

removed or made to conform within 60 days of the enactment of this Code.

- (2) All other non-conforming signs shall be removed or altered to be conforming within 3 years of the effective date of this Code, unless an earlier removal is required by Section 10.01.02 A. above.

b. **Continuation Of Non-Conforming Signs:**

Subject to the limitation imposed by the amortization schedule above and further subject to the restrictions of Sections 10.01.02 A. and 10.01.02 B. 3. above, a non-conforming sign may be continued and shall be maintained in good condition as required by this Code, but it shall not be:

- (1) Structurally changed to another non-conforming sign, except pictorial content may be changed;
- (2) Altered or expanded in any manner that increases the degree of non-conformity;
- (3) Re-established after damage or destruction if the estimated cost of reconstruction exceeds 50 percent of the appraised replacement cost as determined by the Code Enforcement Officer;
- (4) Continued in use where a conforming sign or sign structure shall be erected on the same parcel or unit;
- (5) Continued in use where the structure housing the occupancy is demolished or requires renovations at a cost exceeding 50 percent of the assessed value of the structure; and
- (6) Continued in use after the structure housing the occupancy has been vacant for 6 months or longer.

**4. Non-Conforming Vehicle-Use Areas:**

- a. A vehicle-use area is any portion of a development site used for circulation, parking, and/or display of motorized vehicles; and
- b. In addition to the activities listed in Section 10.01.02 A. above, an existing vehicle-use area that does not comply with the requirements of this Code must be brought into full compliance when 25 percent or more of the paved vehicle-use area is replaced, resurfaced or expanded.



**C. Non-Conforming Lots Of Record**

In any District, any permitted or permissible structure may be erected, expanded, or altered on any lot of record at the effective date of adoption or relevant amendment to this Land Development Code. The minimum width and minimum yard requirements shall be as for the most similar district to which such lot of record most closely conforms in area.

**D. Non-Conforming Uses Of Lands Or Water Or Structures**

Where, at the effective date of adoption or relevant amendment of this Land Development Code, lawful use of lands or waters exists which would not be permitted under this Land Development Code, the use may be continued, so long as it remains otherwise lawful, provided:

**1. Enlargement, Increase, Intensification, Alteration**

No such non-conforming use shall be enlarged, intensified, increased or extended to occupy a greater area of land, structure or water than was occupied at the effective date of adoption or relevant amendment of this Land Development Code.

**2. Discontinuance**

If any such non-conforming use ceases for any reason (except where governmental action impedes access to the premises) for a period of more than ninety (90) consecutive days, any subsequent use of land shall conform to the regulations specified by this Land Development Code for the District in which such land is located.

**3. Subdivision Or Structural Additions**

No land in non-conforming use shall be subdivided, nor shall any structures be added on such land except for the purposes and in a manner conforming to the regulations for the District in which such land is located; provided, however, that subdivision may be made which does not increase the degree of non-conformity of the use.

**4. Change In Tenancy Or Ownership**

There may be a change in tenancy, ownership, or management of a non-conforming use, provided there is no change in the nature or character of such non-conforming use.

**5. Change In Use**

If no structural alterations are made, any non-conforming use of a structure, or of a structure and premises in combination may be changed to another non-conforming use of the same character, or to a more restrictive non-conforming use, provided the City Council upon recommendation of the Planning and Zoning Committee shall find after public notice and hearing that the proposed use is equal or more appropriate to the District than the existing non-conforming use and that the relation of the structure to surrounding properties is such that adverse effects on occupants and neighboring properties will not be greater than if the existing non-conforming use is continued. In permitting such change, the City Council may require appropriate conditions and safeguards in accordance with the intent and purpose of this Land Development Code.

**6. Change To Conforming Use Requires Future Conformity With District Regulations**

Any structure, or structure and premises in combination, in or on which a non-conforming use is replaced by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use shall not thereafter be resumed, nor shall any other non-conforming use be permitted.

**7. Casual, Temporary Or Illegal Use**

The casual, temporary or illegal use of land or structures, or land and structures in combination, shall not be sufficient to establish the existence of a non-conforming use or to create rights in the continuance of such use.

**E. Non-Conforming Structures**

Where a structure exists lawfully under this Land Development Code at the effective date of its adoption or relevant amendment that could not be built under this Land Development Code or relevant amendment by reason of restrictions on lot area, lot

coverage, height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

**1. Enlargement Or Alteration**

No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

**2. Destruction**

Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its actual replacement cost at the time of destruction, as determined by a cost-estimate submitted to the Planning and Zoning Committee, it shall not be reconstructed except in conformity with provisions of this Land Development Code. Notwithstanding the foregoing restrictions as to reconstruction, any residential structure or structures in any residential zone district may be rebuilt after destruction to the prior extent, height and density of units per acre regardless of the percentage of destruction. In the event of such rebuilding, all setbacks and other applicable district requirements shall be met unless a variance therefore is obtained according to Section 10.02.00. For the purpose of this Section, a hotel or motel shall be considered to be a residential structure.

**3. Movement**

Should such structure be moved for any reason for any distance whatsoever, other than as a result of governmental action, it shall thereafter conform to the regulations for the District in which it is located after it is moved.

**4. Improvements Or Additions To Non-Conforming Mobile Homes**

Improvements or additions to non-conforming mobile homes containing conforming uses shall be permitted if the addition or improvement complies fully with the setback and other applicable regulations.

**5. Repairs And Maintenance**

On any non-conforming structure or portion of a structure and on any structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding twenty percent (20) of the current assessed valuation of the structure (or of the non-conforming portion of the structure if a non-conforming portion of a structure is involved), provided that the cubic content of the structure existing at the date it becomes non-conforming shall not be increased.

**6. Non-Conforming Structures Unsafe Because Of Lack Of Maintenance**

If a non-conforming structure or portion of a structure, or any structure containing a non-conforming use, becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by the duly authorized official of the City of Everglades City to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

**7. Non-Conforming Structures Unsafe For Reasons Other Than Lack Of Maintenance**

If a non-conforming structure or portion of a structure, or any structure containing a non-conforming use, becomes physically unsafe or unlawful for reasons other than lack of repairs or maintenance, nothing contained herein shall be deemed to prevent the strengthening or restoring to a safe condition of such building or part thereof declared to be unsafe by the authorized official of Everglades City charged with protecting the public safety; provided, however, that where such unsafeness or unlawfulness is the result of damage from destruction, the percentage of damage limitations set out in Section 10.01.02 E. 2. shall apply.

**10.02.00 VARIANCES**

*10.02.01 Generally*

**A. Granted By The Planning And Zoning Committee With The Approval Of The City Council**

The Planning and Zoning Committee, with the approval of the City Council, may grant a variance from the strict application of the development standards under the district regulations of Article II of this Code, except the provisions Article IV, Consistency/Concurrency, if the provisions of Section 10.02.00 are followed and appropriate findings called for in this Section are made.

**B. Variances To Be Considered As Part Of A Development Review**

Any person undertaking a development activity not in conformance with this Code may apply for a variance in conjunction with an application for development review. When a variance is sought, it must be granted or denied by the Planning and Zoning Committee, with the approval of the City Council, in conjunction with the development review.

*10.02.02 Limitations On Granting Variances*

**A. Initial Determination**

The Planning and Zoning Committee shall determine first whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the Planning and Zoning Committee, with the approval of the City Council, shall make the following findings listed under 10.02.02 B. based on the granting of the variance for that site alone. If, however, the condition is common to other sites so that requests for similar variances are likely to be received, the Planning and Zoning Committee, with the approval of the City Council, shall make the required findings based upon the cumulative effect of granting the variances to all persons who may apply.

**B. Required Findings**

The Planning and Zoning Committee shall not recommend to the City Council any requested variance unless it makes a positive finding, based on substantial competent evidence, on each of the following considerations:

1. Practical or economic difficulties militate against carrying out the strict conditions of the regulation in question;
2. The request for variance is not based exclusively upon the developer's desire to reduce the cost of developing the proposed site;
3. The proposed variance will not increase substantially the traffic congestion on surrounding public streets, the danger of fire, or other hazard to the general public; and
4. The proposed variance will not diminish substantially the property values surrounding the site, nor will it alter the essential character of the surrounding area.
5. The plight of the applicant is due to unique circumstances not created by the applicant.
6. The proposed variance is based on the preservation of a protected tree as provided for by Section 5.01.06.

**C. Imposition Of Conditions**

In granting a development approval involving a variance, the Planning and Zoning Committee, with the approval of the City Council, may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to allow a finding to be made on any of the foregoing factors, or to minimize the injurious effect of the variance.

*10.02.03 Special Provisions Where Variance Is Sought To The Requirements Of Flood Damage Prevention Regulations*

**A. Additional Finding**

In addition to the findings required above, the Planning and Zoning Committee, with the approval of the City Council, shall find that the required variance will not result in an increase in the elevation of the Base Flood, additional threats to public safety, additional public expense, the creation of nuisances, fraud or victimization of the public, or conflicts with other local ordinances.

**B. Considerations**

Before recommending the granting of a variance to the City Council, the Planning and Zoning Committee shall consider:

1. The danger that materials may be swept from the proposed development site onto other lands;
2. The danger to life and property from flooding and erosion;
3. The potential of the proposed facility/structure and its contents to cause flood damage and the effect of that damage on the owner and the public;
4. The importance of the services provided by the proposed facility/structure to the community, and whether it is a functionally-dependent facility;
5. The availability of alternative locations, not subject to flooding or erosion, for the proposed use;
6. The compatibility of the proposed use with existing and anticipated neighboring development;
7. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
8. Safe vehicular access to the property in times of flood;
9. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and effects of wave action, if applicable, at the proposed site; and
10. The costs of providing governmental services during and after floods, including maintenance and repair of public utilities and facilities.

**C. Special Restriction For Regulatory Floodways**

Variations that would increase flood levels during the Base Flood shall not be issued within any Regulatory Floodway.

**D. Flowage Easements**

No variance that would increase flood damage on other property shall be granted unless flowage easements have been obtained from the owners of all affected properties. In no event, shall a variance be granted that would increase the elevation of the Base Flood by more than one (1) foot.

**E. Notifications**

All variances to the Flood Damage Prevention Regulations shall, in accordance with Federal law:

1. Specify the difference between the Flood Protection Elevation and the elevation to which the proposed facility/structure is to be built;
2. State that the variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 per \$100.00 of insurance coverage; and
3. State that construction below the Flood Protection Level increases risks to life and property.

**F. Record Of Variances To Be Maintained**

The City Clerk shall maintain a record of all variances including the justification for their issuance and a copy of the notice of the variance. The City Clerk shall report all variances in an annual report to the City Council.

**G. Historic Properties**

Notwithstanding the foregoing requirements, building permits may be granted for the reconstruction, rehabilitation or restoration of facilities and structures:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior, or



- (b) Directly by the Secretary of the Interior in states without approved programs.

Main Historic Structures shall be granted building permits as provided for below:

1. Main Historic Structures:
  - (a) The only type of building permit application which will be accepted for review pertaining to the Main Historic Structure is a remodeling permit; and
  - (b) Additions to the Main Historic Structure may only be made if an engineer's certified affidavit stating that the basic structure of the building will not be affected is attached to the application for building permit, shall be considered as new construction, and shall meet all standards of this Code.
2. Detached Accessory Structures To A Main Historic Structure:  
Applications for the construction of detached accessory structures will be considered as applications for new construction.

#### **10.03.00 TRANSFERABLE DEVELOPMENT RIGHTS**

##### **A. Development Rights Created**

City of Everglades City Development Rights are hereby created. All Protected Environmentally-Sensitive Areas, except those owned by a public agency and those subject to a conservation easement or other legal restriction precluding the physical development of the land on the effective date of the Code, are assigned City of Everglades City Development Rights according to the following ratios:

1. Wetlands: Fifty percent (50%) of the development potential authorized in the City's Comprehensive Plan may be transferred; and
2. Any fractional acreage equal to one-half or greater shall be rounded up to the nearest whole number.

##### **B. Severability**

City of Everglades City Development Rights shall be severable from the underlying fee and shall be transferable to receiver parcels of land identified pursuant to the Future Land Use Element of the City's Comprehensive Plan.

##### **C. Use Of Development Rights On Receiver Parcels**

1. **Commercial:**

If the receiver site is designated for commercial uses, each Development Right may be used to increase the intensity of the commercial use by twenty-five percent (25%).

2. **Residential:**

If the receiver site is designated for residential uses, each Development Right may be used to increase the intensity of the residential use by 2 dwelling units per acre.

3. **Maximum Intensity/Density:**

Gross density of the receiver parcel shall not exceed that specified in Section 2.02.04 of this Code.

**D. Procedure For Transferring Development Rights**

1. **Timing:**

Development Rights allotted to a Protected Environmentally-Sensitive Area may be transferred to any person at any time and shall be deemed, for taxation and other purposes, to be appurtenant to the land from which the rights are transferred until a Development Order is issued authorizing use of the Development Rights at a receiver parcel at which time they shall attach to the receiver parcel for all purposes.

2. **Recordation Of Transfer Of Development Rights:**

No Development Right shall increase the density and/or intensity of the use of a receiver site until the owner of the transferor parcel has recorded a deed in the chain of title of the transferor parcel expressly restricting the use of the land in perpetuity to a conservation zone. The deed restriction shall be expressly enforceable by the City, and a boundary plat for the transferor parcel shall be recorded reflecting the restriction.

3. **Evidence Of Restriction Required For Development Approval:**

A developer of a receiver site must submit, in conjunction with his application for development approval, evidence that the transferor restricted to non-development uses and plat has been recorded in accordance provisions.

**ARTICLE XI**  
**COMMITTEES**

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# ARTICLE XI

## COMMITTEES

### 11.00.00      **GENERALLY**

The purpose of this Article is to create the committees and agencies needed to administer this Code under the authority prescribed by this Code and State of Florida statutes and administrative rules.

### 11.01.00      **CITIZEN COMMITTEES**

#### *11.01.01      Generally*

All citizen committees created to administer this Code shall be governed by the provisions listed under A. and B. below. These provisions apply to each citizen committee created pursuant to this Code. Other citizen committees may be created based on local need.

#### **A.      Board Membership And Officers**

1.      Committees shall have five (5) members appointed by the Mayor and approved by the City Council;
2.      Each member shall be an elector and shall reside in the City;
3.      Each member shall be appointed to a two (2) year term;
4.      When a committee position becomes vacant before the end of the term, the Mayor with the approved of the City Council shall appoint a substitute member to fill the vacancy for the duration of the vacated term. A member whose term expires may continue until a successor is qualified and appointed;
5.      Members may be removed without notice and assignment of cause by a majority vote of the City Council;
6.      The Mayor with the approval of the City Council shall appoint annually a chair and a secretary from among the members;
7.      The secretary shall be the recorder and custodian of all committee records and shall provide the City Clerk with the official record of all committee proceedings;
8.      Members shall not be compensated, but may be paid for travel and other expenses incurred on committee business under procedures prescribed in advance by the City Council;

9. The City Council shall appropriate funds to permit each committee to perform its prescribed functions; and
10. If any member fails to attend three (3) successive meetings, the committee shall declare the member's office vacant and so notify the City Council.

**B. Committee Procedures**

1. Each committee shall adopt rules of procedure to carry out its purposes;
2. All committee rules must conform to the provisions of this Code, other City ordinances, and the statutes and administrative rules of the State of Florida;
3. Each committee shall meet at least once each calendar month, unless canceled by action of the committee or its chair, and more often at the call of the chair or the City Council;
4. Each committee shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question;
5. Three (3) members shall constitute a quorum; and
6. Each decision of a committee must be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.

*11.01.02 Planning And Zoning Committee*

**A. Establishment**

The Planning and Zoning Committee ("the Committee") is hereby created as a citizen committee to recommend land-use policies to the City Council.

**B. Membership Of The Planning and Zoning Committee**

Any qualified citizen may be appointed to the Committee, but those with experience or interest in the field of planning and zoning shall receive special consideration.

**C. General Functions, Powers And Duties**

1. The Committee shall obtain and maintain information on population, property values, land use and other information necessary to assess the quantity, direction, and type of development to be expected in the City.

2. The Committee shall coordinate all matters relating to the procedural requirements of the development review process in respect to the following duties:
  - a. Receive all applications for development approval;
  - b. Determine the completeness of each development application;
  - c. Ensure that proper notice is given prior to all hearings on development applications;
  - d. Ensure that the time limits prescribed in this Code are met; and
  - e. Monitor the progress of all development applications through the review process and be available to respond to the inquiries all of interested persons.
3. Pursuant to and in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act [the "Act"], Chapter 163, Part II, F.S., the Committee is hereby designated as the Local Planning Agency for the City and shall perform the functions and duties as prescribed in the Act.
4. The Committee shall oversee the implementation and effectiveness of this Code and recommend amendments to the City Council that are consistent with the City's Comprehensive Plan.
5. The City Council may, from time to time, request the Committee to provide it with advice in regard to specific land-use issues and policies.
6. The Committee shall inform and provide advice to the City Council and the general public on the adopted land-use policies of the City.
7. The Committee shall conduct public hearings necessary to gather information necessary for the drafting, establishment, amendment, and maintenance of the various elements of the City's Comprehensive Plan and the provisions of this Code.
8. The Committee may make, obtain, or commission studies on the location, condition, and adequacy of specific facilities in the City, e.g., housing, commercial and industrial facilities, parks and recreational facilities, public buildings, public and private utilities, traffic circulation, and parking.

9. The Committee shall review any and all redevelopment plans prepared under Chapter 163, Part III, F.S.
10. Where a pending or repeated violation of this Code continues to exist, including, but not limited to, occupational license, fire, building, zoning and sign codes, the Committee shall recommend to the City Council equitable, expeditious, effective, and inexpensive methods of enforcing the City's codes and ordinances which have no criminal penalty.
11. The Committee shall perform other duties assigned to it under the City's lawful resolutions and ordinances, and the statutes and administrative rules of the States of Florida.
12. All final actions of the Committee are advisory only to the City Council, and the Committee may not, in any manner, obligate the City of Everglades City.

**D. Application Fees**

The City Council shall adopt by resolution a schedule of application fees for functions performed by the Committee in response to applications submitted by any person, corporation, organization, or government entity.

**ARTICLE XII**  
**ADMINISTRATION AND ENFORCEMENT**

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## ARTICLE XII

### ADMINISTRATION AND ENFORCEMENT

#### **12.00.00      GENERALLY**

##### *12.00.01      Purpose*

The purpose of this Article is to set forth the application and review procedures required for obtaining development orders and certain types of permits; it also specifies the procedures for appealing decisions and seeking legislative action.

##### *12.00.02      Withdrawal Of Applications*

An application for development review may be withdrawn at any time so long as no notice has been given that the application will be reviewed at a public hearing.

#### **12.01.00      AUTHORIZATION BY A DEVELOPMENT PERMIT REQUIRED PRIOR                   TO UNDERTAKING ANY DEVELOPMENT ACTIVITY**

##### *12.01.01      Generally*

No development activity may be undertaken unless the activity is authorized by a development permit.

##### *12.01.02      Prerequisites To Issuance Of Development Permit*

Except as provided in Section 12.01.03 below, a development permit may not be issued unless the proposed development activity is authorized by a final development order issued pursuant to this Code.

##### *12.01.03      Exceptions To Development Order Requirement*

A development permit may be issued for certain development activities in the absence of a development order issued pursuant to this Code, e.g., development activity necessary to implement a valid site plan or development plan where the start of construction took place prior to the adoption of this Code and has continued in good faith evidenced by uninterrupted construction activity. Compliance with the development standards in this Code is not required if those standards are in conflict with the previously approved plan.

*12.01.04 Post-Permit Changes*

After a permit has been issued, it shall be unlawful to change, modify, alter or otherwise deviate from the terms of or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the City Clerk.

**12.02.00 PROCEDURE FOR REVIEW OF DEVELOPMENT PLANS**

*12.02.01 Optional Pre-Application Conference*

Prior to filing for development plan review, the developer may meet with the Planning and Zoning Committee to discuss the development review process. No person may rely upon any comment concerning a proposed development plan or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

*12.02.02 Optional Review Of Concept Plans*

- A. All developments may be submitted to a Concept Review.
- B. The developer may file a completed application and a Concept Plan as a prerequisite to obtaining a Concept Review.
- C. The proposal shall be placed on the agenda of the next meeting of the Planning and Zoning Committee that provides sufficient time for proper notice.
- D. A copy of the Concept Plan and notice of the time and date of the Concept Review shall be delivered to each member of the Planning and Zoning Committee.
- E. The Planning and Zoning Committee shall consider:
  - 1. Characteristics of the site and the surrounding area, including important natural and man-made features, the size and accessibility of the site, and surrounding land uses.
  - 2. Whether the concurrency requirements of Article IV of this Code could be met if the development were built.
  - 3. The nature of the proposed development, including land-use types and densities, the placement of proposed buildings and other improvements on

the site; the location, type, and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system, including bikeways and sidewalks if required; the approximate total ground coverage of paved areas and structures; and linkage to existing water and sewerage treatment systems, or provision for new water and treatment systems as required.

4. Conformity of the proposed development with the City's Comprehensive Plan, this Code, and other applicable regulations.
  5. Applicable regulations, review procedures, and submission requirements.
  6. Concerns and desires of surrounding landowners and other affected persons.
  7. Other applicable factors and criteria prescribed by the Comprehensive Plan, this Code, or other law.
- G. The Planning and Zoning Committee shall issue order, finding or other indication of approval or disapproval of the proposal, and no person may rely upon any comment concerning the proposal, or any expression of any nature about the proposal, made by any person during the concept review process as a representation or implication that the particular proposal will be ultimately approved or disapproved in any form.

*12.02.03 Review Of Development Plans For Developments*

**A. Review Of Development Plans**

[Editor's note: This section has been deleted by Amendment and replaced as follows.]

1. The developer shall submit a development plan to the Planning and Zoning Committee no later than five (5) working days prior to the next scheduled meeting of the Planning and Zoning Committee or two (2) working days prior to the next scheduled meeting of the Planning and Zoning Committee if seeking approval for an accessory structure to a residential structure with two or less dwelling units per structure.
2. Within twenty-five (25) working days the Planning and Zoning Committee shall determine whether the development plan should be approved or denied based on whether the plan conforms to the procedures delineated below.<sup>1</sup>

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<sup>1</sup> Amended in August 2021 as proposed by City Council, Ordinance No. 2021-02, filed with the City Clerk May 4, 2021 adopted June 1, 2021

3. The Planning and Zoning Committee shall:
  - a. Issue a development order complying with Section 12.02.05 below; or
  - b. Refuse to issue a development order based on the failure of the developer to comply with Section 12.05.05 below.

*12.02.04 Project Phasing*

If a development is to be developed in specific phases, a master plan for the entire development site must be approved by the Planning and Zoning Committee, with the agreement of the City Council. The master plan shall be submitted simultaneously with an application for review of the plan for the first phase of the development. Each phase shall include a proportionate share of any site and building amenities of the entire development, e.g., recreational and open space, except that more than a proportionate share of the total amenities may be included in the earlier phases with corresponding reductions in the later phases.

*12.02.05 Required And Optional Contents Of Development Plans*

**A. Required Contents**

An approved development plan with findings and conclusions shall contain the following:

1. A delineation of required permits listed according to the federal, state, regional, and county approvals that must be obtained in order for a development order to be issued.
2. A demonstration of consistency with the concurrency management requirements in Article IV of this Code:
  - a. Initial determination of concurrency indicating that capacity is expected to be available for the proposed project.
  - b. Notice that one or more concurrency determinations may be required subsequently. This notice may include a provisional listing of facilities for which level of service [LOS] commitments may be required prior to the issuance of a building permit.
3. A specific time period during which the development order is valid and development shall commence. A development order shall remain valid

only if development commences and continues in good faith according to the terms and conditions of approval.

4. A commitment by the City to the following:
  - a. The necessary facilities shall not be deferred or deleted from the Capital Improvements Element or the one-year capital budget unless the subject final development order expires or is rescinded prior to the issuance of a certificate of occupancy.
  - b. Contracts shall provide that construction of necessary facilities must proceed to completion with no unreasonable delay or interruption.
5. A copy of the recorded deed, including documentary stamps.
6. In the event the owner of record is being represented by a person or person other than himself, a notarized letter from the owner of record designating their appointed representative shall be submitted. The letter shall contain:
  - a. A description of the nature of the building project; and
  - b. A sketch of the property boundaries and the general location of any existing structures and the proposed construction when completed.
7. Location of the subject property on a city map provided by the City Clerk.
8. The title of the project and the names of the architect, engineer, and general contractor.
9. An exact survey drawn to scale and of sufficient size to show:
  - a. Boundaries;
  - b. Existing streets, buildings, structures, and vegetation;
  - c. Access to utilities and points of utility hook-ups; and
  - d. Statement of elevation from nearest benchmark to property proposed for development on a standard form provided by the City Clerk.
10. A traffic circulation map, including pedestrian traffic, showing access points and proposed traffic flow.
11. Tabulation of the total gross area in the project, and the percentages of the total area proposed to be devoted to the specific project features listed below:
  - a. Structures,
  - b. Parking,

- c. Landscaping,
  - d. Internal roads [if required], and
  - e. Recreation and open space [if required].
12. Density statement addressing the maximum density allowed and the density proposed [not required for a single-family dwelling].
13. Statement of means of granting guarantees to the City that it will be held harmless and liability-free in regard to common facilities related to the development, e.g., deed restrictions, deeds of trust, homeowners associations and their activities, and surety bond arrangements.
14. Site plan drawn to exact scale of sufficient size to promote ease of readership providing dimensions of the total area proposed to be devoted to the specific project features listed below:
  - a. Boundaries;
  - b. Setbacks;
  - c. Ingress and Egress;
  - d. Structures, existing and proposed;
  - e. Existing vegetation [by name] areas and tree [by name] locations;
  - f. Parking areas;
  - g. Internal roads; and
  - h. Recreational areas and open spaces.
15. Parking plan.
16. Landscaping plan.
17. Elevation and drainage plan.
18. Blueprints which include:
  - a. Electrical plan,
  - b. Water and sewer plan,
  - c. Mechanical plan,
  - d. Building plan, and
  - e. Flood protection plan.
19. A written statement of *Findings* demonstrating compliance with each of the following:



- a. Flood Ordinance,
  - b. Adopted Fire Codes, and
  - c. Adopted Building Codes.
20. All of the listed items in the above sequence shall be addressed with the number and letter designations as shown and items which do not apply must be addressed in some manner or responded to as Not Applicable [NA].

**B. Optional Contents**

1. A bond in the amount of one hundred ten percent (110%) of the cost of services or facilities that the applicant is required to construct, contract for construction, or otherwise provide.
2. Such other optional conditions as may be required by the Planning and Zoning Committee to ensure that concurrency will be met for all applicable facilities and services.

*12.02.06 Administrative Hearing*

Each administrative hearing shall conform to the following procedures, as supplemented by law, rule or decision.

**A. Burden And Nature of Proof**

The applicant for any development permit must prove by a preponderance of the evidence that the proposal satisfies the applicable requirements and standards of this Code.

**B. Order Of Proceedings**

1. The Planning and Zoning Committee shall:
  - a. Determine whether it has jurisdiction over the matter at issue, and
  - b. Determine whether any of its members must abstain or be disqualified.
2. The Planning and Zoning Committee shall take official notice of known information related to the issue, including:
  - a. State law and the applicable ordinances, rules, resolutions, and official policies of the City; and
  - b. Other public records and facts judicially noticeable by law.

3. Matters officially noticed need not be established by evidence and are binding to the extent that they are relevant and material. Requests that official notice be taken shall be recorded and an opportunity for rebuttal shall be given to opposing parties. The Planning and Zoning Committee may take notice, without prompting or suggestion, of matters listed in Section 12.02.08 B. 2. above and state all matters officially noticed for the record.
4. Members of the Planning and Zoning Committee may view the site of the proposed development with or without notification to the parties, but after the visit, shall place the time, manner, and circumstances in the official record.
5. The developer and interested persons may present information. The Planning and Zoning Committee may approve or deny a request from a person attending the hearing to ask a question. Unless the Committee specifies otherwise and the request to ask a question is approved, the Committee will direct the question to the person submitting testimony.
6. Before the hearing has concluded, the Planning and Zoning Committee shall restate the issues and comment upon the law and facts pertaining to the decision and, if opportunity for rebuttal is provided, may ask additional questions of any person who has testified or presented information.

**C. Findings And Order**

Unless the Planning and Zoning Committee and the developer agree to an extension, the Committee shall, within fifteen (15) working days of the hearing, prepare an order including:

1. A statement of the applicable criteria and standards against which the proposal was tested;
2. Findings of facts establishing compliance or noncompliance with the applicable criteria and standards of this Code; and
3. The reasons for a conclusion to approve, conditionally approve, or deny.

**D. Record Of Proceedings**

1. All proceedings shall be recorded electronically and shall, if required for official review by the Planning and Zoning Committee, be transcribed if so ordered by action of the Committee.
2. The Planning and Zoning Committee shall, where practicable, include in the hearing record an exhibit of each item of physical and/or documentary evidence presented and shall mark each item to show the identity of the person presenting it. Exhibits shall be retained in the hearing file. until the applicable appeal period has expired.
3. The findings and order shall be included in the record of proceeding of the Planning and Zoning Committee.

*12.02.07 Submittals*

**A. Application**

Applications for development review shall be available from the City Clerk. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation, and embossed with the corporate seal.

**B. General Plan Requirements**

All development plans submitted pursuant to this Code shall conform to established local practice for a period not to exceed twelve (12) months following adoption of this Code. Within 1 year of Code adoption, the City Council shall adopt and incorporate into this Code updated standards governing submitted plans including, but not limited to, plan format; maps; site plans; blueprints; property descriptions; developer identification information; and assessments of the impact of the proposed development on the natural features of the site, adjacent sites, and public facilities.

- C.** Where the ownership includes private streets, ownership and maintenance association documents shall be submitted with the development plan, and the dedication contained in the development plan shall clearly indicate the roads and maintenance responsibility of the association without recourse to the City or any other public agency; and Man-made lakes, ponds, and other man-made waters, excluding

retention/detention areas shown on the final development plan, shall be made a part of adjacent private lot(s) as shown on the final plat.

**D. Master Plan**

A master plan is required for a phased development. It shall provide a concept plan for the entire development, a phasing schedule, total acreage of each phase, gross density (residential) and gross intensity [non-residential] of each phase, number of residential units, estimates of total commercial and industrial uses, a "vicinity" analysis of surrounding uses and the impact of the proposed development on other land uses in the general vicinity of the development, and any other appropriate documentation required by the Planning and Zoning Committee.

*12.02.08 Platting*

Where proposed development includes the subdivision of land, the final approval of the development plan by the Planning and Zoning Committee, with the approval of the City Council, shall be made contingent upon approval of a plat conforming to the development plan.

*12.02.09 Guarantees And Sureties*

The approval of any development plan shall be subject to the developer providing assurances that all required improvements, including, but not limited to, stormwater drainage facilities, roadways, and water and sewer lines, shall be satisfactorily constructed according to the specific requirements of the approved development plan.

**12.03.00 PROCEDURES FOR OBTAINING A MINOR REPLAT**

*12.03.01 Review Procedure*

**A. Generally**

The Planning and Zoning Committee, with the approval of the City Council, may recommend a minor replat that conforms to the requirements of this Section.

**B. Submittals**

The Planning and Zoning Committee shall consider a proposed minor replat upon submittal of the following materials:

1. An application form provided by the City Clerk;

2. Ten (10) paper copies of the proposed minor replat;
3. Land description and acreage or square footage of the original and proposed lots and a scaled drawing showing the intended division prepared by a professional land surveyor registered in the State of Florida.
4. In the event a lot contains any principal or accessory structures, a survey showing the structures on the lot shall accompany the application.

**C. Review Procedure**

1. The Planning and Zoning Committee shall transmit a copy of the minor replat to appropriate City officials for review and comment; and
2. If the minor replat meets the conditions of this Section and otherwise complies with all applicable laws and ordinances, the Mayor, with the consent of the City Council, shall approve the minor replat by signing the application form.
3. Upon approval of the minor replat, the City Clerk shall facilitate the recordation of the replat on the appropriate maps and documents, and shall, at the developers expense, have the replat recorded as provided for in §177-091, F.S.

*12.03.02 Standards And Restrictions*

**A. Standards**

All minor replats shall conform to the following standards:

1. Each proposed lot must conform to the requirements of this Code and applicable Florida law; and
2. Each lot shall abut a public or a private street for the required minimum lot width for the zoning district where the lots are located.

**B. Restrictions**

No further division of an approved minor replat is permitted under this Section, unless a development plan is prepared and submitted in accordance with this Article.

**12.04.00 PROCEDURE FOR OBTAINING DEVELOPMENT PERMITS**

*12.04.01 Application*

Application for a development permit shall be made to the Planning and Zoning Committee on a form provided by the City Clerk.

*12.04.02 Review And Issuance Of Development Permits*

Existing City procedures for the issuance of building, electrical, foundation, sign, and other development permits will remain in force after the adoption of this Code.

**12.05.00 PROCEDURE FOR AMENDING THIS CODE AND THE CITY'S COMPREHENSIVE PLAN**

*12.05.01 State Law Controlling*

The procedures listed in this Section shall be followed in amending this Code and the Comprehensive Plan. This Section supplements the mandatory requirements of state law to be adhered to in all respects, particularly §163.3187, F.S. relating to the scheduling and the procedures for the biannual consideration of Comprehensive Plan amendments.

*12.05.02 Application*

Any person, committee, or agency may apply to the Planning and Zoning Committee to amend this Code or the Comprehensive Plan in compliance with procedures prescribed by the Committee.

*12.05.03 Amending This Code*

The Planning and Zoning Committee shall set the time for a hearing to amend this Code before the Committee within sixty (60) days of the date the application was made.

*12.05.04 Amending The Comprehensive Plan*

The Planning and Zoning Committee shall set the time for biannual hearings to amend the Comprehensive Plan before the Committee only during the months of January and June of each calendar year.

*Section 12.05.05 Amending this Code Seeking Rezoning*

A. An amendment to this Code seeking rezoning requires the City Council to make, or be provided by the Planning and Zoning Committee, a positive finding, based upon substantial competent evidence presented at a public, legislative hearing, on each of the following standards:

1. Conformance with the requirements of this Code.
2. The available uses to which the property may be put are appropriate to the property in question and are compatible with the existing and planned uses in the area.
3. The amendment is consistent with the goals, objectives, and policies of all Elements of the City Comprehensive Plan.

4. The amendment will not result in significant adverse impacts to the environment or historical resources.
5. The amendment will not create an isolated district unrelated to the scale and character of adjoining land uses.
6. The amendment will not adversely affect adjoining property values.
7. The amendment will not adversely impact nor exceed the capacity or the fiscal ability of the City to provide available public facilities, including transportation, water and sewer, solid waste, drainage, recreation, education, fire protection, library service and other similar public facilities. Compliance with the adopted Levels of Service standards can be demonstrated if necessary
8. The amendment shall provide for efficient and orderly development considering the impact upon growth patterns and the cost to the City to provide public facilities.<sup>2</sup>

*12.05.06 Recommendation Of The Planning And Zoning Committee*

The Planning and Zoning Committee shall hold a legislative hearing on each application to amend this Code or the Comprehensive Plan and thereafter submit to the City Council a written recommendation which:

- A.** Identifies any provisions of the Code, Comprehensive Plan, or other law relating to the proposed change and describes how the proposal relates to each proposal for change.
- B.** States factual and policy considerations pertaining to the proposed changes.

*12.05.07 Decision By The City Council*

The City Council shall hold a legislative hearing on the proposed amendments and may enact or reject the proposal, or enact a modified proposal within the scope of matters considered in the hearing.

*12.05.08 Legislative Hearing*

Each legislative hearing shall conform to the following requirements:

**A. Notice**

Notice that complies with the requirements of state law and this Code shall be given for each public legislative hearing.

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<sup>2</sup> Amended in 2021 as proposed by City Council, Ordinance No. 2020-07 filed with the City Clerk August 4, 2021 adopted September 1, 2021

**B. Hearing**

The public legislative hearing shall, as a minimum:

1. Comply with the requirements of state law;
2. Present the Planning and Zoning Committee's analysis of the proposed change;
3. Present a summary of reports, if any, by other interested agencies;
4. Permit any person to submit written recommendations and comments before or during the public hearing; and
5. Permit a reasonable opportunity for interested persons to make oral statements.

**12.06.00 PROCEDURE FOR APPEALING DECISIONS**

*12.06.01 Appeals From Decisions Of The City Council*

A developer or any adversely affected party may appeal a final decision of the City Council on an application for a development permit or development order.

**12.07.00 JUDICIAL REVIEW**

*12.07.01 Review Of Legislative Decisions*

A final legislative action of the City Council may be reviewed in a court of proper jurisdiction as prescribed by law.

**12.08.00 ENFORCEMENT OF DEVELOPMENT PERMITS AND ORDERS**

*12.08.01 Ongoing Inspections*

**A. Inspections**

The Planning and Zoning Committee shall implement a procedure for periodic inspection of development work in progress to ensure compliance with the Development Permit which authorized the activity.

**B. Minor Deviations**

If the work is found to have one or more Minor Deviations, the Planning and Zoning Committee shall amend the Development Order to conform to actual development. The Planning and Zoning Committee may, however, treat any Minor Deviation that affects significantly the development's compliance with the purposes of this Code as a Major Deviation.



**C. Major Deviations**

If the work is found to have one or more Major Deviations:

1. The Planning and Zoning Committee shall place the matter on the next agenda of the City Council, allowing for adequate notice, and recommend appropriate action for the City Council to take.
2. The Building Inspector shall issue a stop-work order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the Planning and Zoning Committee determines that work or occupancy may proceed pursuant to the decision of the City Council.
3. The City Council shall hold a public hearing on the matter and shall take one of the following actions:
  - a. Order the developer to bring the development into substantial compliance [i.e., having no or only Minor Deviations] within a reasonable period of time. The City Council may revoke the Development Order or Permit if this order is not complied with.
  - b. Amend the Development Order or Permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development approval given and the requirements of this Code.
  - c. Revoke the relevant Development Order or Permit based on a determination that the development cannot be brought into substantial compliance and that the Development Order or Permit should not be amended to accommodate the deviations.

**D. Action Of Developer After Revocation Of Development Order**

After a Development Order or permit has been revoked, development activity shall not proceed on the site until a new Development Order or Permit is granted in accordance with procedures for original approval.

*12.08.02 Application For Certificates Of Occupancy*

Upon completion of work authorized by a Development Permit or Development Order, and before the development is occupied, the developer shall apply to the Planning and Zoning Committee for a Certificate Of Occupancy. The Planning and Zoning Committee shall inspect the work and issue the Certificate if found to be in conformity with the Permit or Order.

**12.09.00 ENFORCEMENT OF CODE PROVISIONS**

*12.09.01 Generally*

The Planning and Zoning Committee shall enforce this Code according to the procedures set forth below.

*12.09.02 Enforcement Procedures*

- A. When the Planning and Zoning Committee has reason to believe that the provisions of this Code are being violated, it shall initiate enforcement proceedings.
- B. The Planning and Zoning Committee shall notify the alleged violator of the nature of the violations and provide a reasonable period of time to eliminate them. If the violations are not eliminated within the time specified, the Planning and Zoning Committee shall notify the City Council and request a hearing. If a violation presents a serious threat to the public health, safety, and welfare, the Planning and Zoning Committee shall immediately take the case before the City Council, even if the violator has not been notified.
- C. Written notice of the Request For Hearing and of the date, time, and place of the hearing shall be sent to the alleged violator by certified mail, return receipt requested, or by personal service.
- D. Hearing before the City Council shall be conducted as follows:
  - 1. The City Clerk shall read the Statement Of Violations and Request For Hearing.
  - 2. The alleged violator shall be asked if he wishes to contest the charges.
  - 3. The City shall present its case and the alleged violator shall present his case. The alleged violator's case may be presented by an attorney, or other representative chosen by the alleged violator.

4. Both parties may call witnesses and all witnesses shall be sworn. All testimony shall be under oath and shall be recorded.
  5. Formal rules of evidence shall not apply, but fundamental due process shall be observed.
  6. Both parties may cross-examine witnesses and present rebuttal evidence.
  7. The City Council and its attorney may call or question any witness.
  8. After all evidence has been submitted, the Mayor shall close presentation of evidence.
  9. The City Council shall immediately deliberate and make a decision in open session. If a decision cannot be reached in the initial meeting, the City Council shall adjourn and reconsider the matter as soon as possible at a time and date certain.
  10. A quorum of the City Council must be present at the hearing. If a quorum is present, the vote of a majority of the City Council members at the hearing shall be the decision of the City Council.
  11. The decision shall be announced as an oral order of the City Council and shall be reduced to writing within 10 days and mailed to all parties.
  12. The decision shall contain findings of fact and conclusions of law and shall state the affirmative relief granted by the City Council.
  13. The City Council may, at any hearing, order the reappearance of a party at a future hearing.
- F.** The City Council, upon finding a violation, shall issue an Order To Comply, setting a date certain for compliance, and a fine to levied if the deadline for compliance is not met. The fine shall not exceed \$250.00 for each day the violation continues past the specified compliance date.
- G.** After an order has been issued by the City Council and a date for compliance has been set, a designated member of the Planning and Zoning shall make a re-inspection to determine compliance or noncompliance with the order.
- H.** If the designated member of the Planning and Zoning Committee finds compliance with the order, the City Clerk shall close the file and so report to the City Council.

- I. If the designated member of the Planning and Zoning Committee finds noncompliance with the order, the City Council may order the violator to pay the fine as specified in the City Council's order.
- J. A copy of the order imposing the fine shall be mailed to the violator by certified mail, return receipt requested, or personally served upon the violator.
- K. If a fine remains unpaid for a period of fourteen (14) days, a certified copy of the order imposing the fine shall be recorded in the public records of Collier County, which shall thereafter constitute a lien against the land on which the violations exists, or if the violator does not own the land, upon any other real or personal property owned by the violator, and may be enforced in the same manner as a court judgment by the sheriffs of this state, including a levy against personal property. If the fine remains unpaid for a period of one (1) year following the date the lien was filed, the City Council may authorize the City Attorney to foreclose on the lien.
- L. In addition to the penalties prescribed above, the City Council shall:
  - 1. Direct the Planning and Zoning Committee not to issue any subsequent development orders for the development until the violation has been corrected.
  - 2. Inform the violator that no further work under an existing approval may proceed until the violation has been corrected.

*12.09.03 Other Penalties And Remedies*

If the Planning and Zoning Committee determines that the Code enforcement process delineated above would be an inadequate response to a given violation, it may recommend that the City Council pursue the following penalties and remedies, as provided by law:

**A. Civil Remedies**

If any building or structure is erected, constructed, reconstructed, altered, repaired, or maintained or any building, structure, land, or water is used in violation of this Code, the City Council, through the City Attorney, may institute any appropriate civil action or proceedings in any court to prevent, correct, or abate the violation.

**B. Criminal Penalties**

Any person who violates any provision of this Code shall be deemed guilty of a misdemeanor and shall be subject to fine and imprisonment as provided by law.

*12.09.04 Right Of Entry*

The Planning and Zoning Committee and Code Enforcement Officer, or his/her representative shall enforce the provisions of this Code and they may enter any building, structure, or premises to perform any duty imposed upon them by this Code. Any act of obstructing performance of their duties shall constitute a violation of this Code.

*12.09.05 Construction And Use To Be As Provided In Applications: Status Of Permit Issued In Error*

A. Building permits or Certificates of Occupancy issued on the basis of plans and specifications approved by the Planning and Zoning Committee authorize the use, arrangement, and construction set forth in such approved plans and applications only. Use, arrangement or construction different from that authorized shall be deemed a violation of this Code.

1. Statements made by the applicant on the building permit application shall be deemed official statements. Approval of the application by the Planning and Zoning Committee shall, in no way, exempt the applicant from strict observance of applicable provisions of this Code and all other applicable regulations, ordinances, codes and laws.
2. A building permit issued in error shall not confer any rights or privileges to the applicant to proceed to or continue with the construction, and the City shall have the power to revoke such permit until said error is corrected.
3. Mathematical errors made in computing the total fees for the building must be corrected within ten (10) working days of the date of issuance. Errors detected by either the applicant or the City shall stand in error after ten (10) working days.

*12.09.06*

All improvements made to any structure shall be in accordance with:

- |            |                        |
|------------|------------------------|
| 1994 SBCC1 | Standard Building Code |
| 1994 SBCC1 | Plumbing Code          |
| 1994 SBCC1 | Mechanical Code        |

1994 SBCC1	Gas Code
1996 NFPA	Electrical Code
1994 NFPA	Life Safety Code

All improvements made to any structure or parcel of land are subject to the application for a permit and approval of such permit.

*12.09.07*

All applications for development orders shall be submitted to the Planning and Zoning Committee at a workshop meeting for review to determine compliance with this Ordinance. Upon approval, the Planning and Zoning Committee shall then submit the application to the City Clerk, who shall be responsible for getting said application to any City Official or department involved in the permitting review process, along with written comments of the Planning and Zoning Committee.

*12.09.08*

If the application is deficient, a letter shall be sent to the applicant specifically detailing the deficiencies. The applicant may correct the deficiencies and re-submit the application for further review. No new fees or duplication of fees are required for re-submission of the application.

*12.09.09*

Any permits required by Collier County, the State of Florida, or the U.S. Army Corps of Engineers or other local, state or Federal agency, must be included with the application. Approval of access to Highway 29 must be provided. All access to Highway 29 must be in accordance with Collier County Ordinance 82-91 and Collier County right-of-way (R-O-W) Construction Standards Handbook, 1982 edition, or may be amendable. All buildings must meet the City's Flood Ordinance 87-02, amended. Any permit for a structure over thirty-five (35) feet in height must be accompanied with a letter of no objection from the Federal Aviation Administration (FAA).

*12.09.10*

Pre-printed applications are available at City Hall.

*12.09.11*

All applications for building permits shall, in addition to containing the information required by the Building Official, be accompanied by plot and construction plans drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of buildings already existing, if any; the size and location on the lot of the building or buildings to be erected or altered; the existing use of buildings on the lot, if any; the intended use of each building or buildings or parts thereof; the number of families the building is designated to accommodate; the location and number of required off-street parking and off-street loading spaces; and such other information with regard to the lot and existing proposed structures as may be necessary to determine compliance with and provide for the enforcement of Code.

Existing trees and shrubs must be located and identified and the removal of all *Broussonetia Papyrifera* (Paper Mulberry), *Causuarinaceau* (Australian Pine), *Enterolobium Cyclocappum* (Ear Tree), *Melaleuca Leucadredra* (Punk), *Melia Azedrach* (Chinaberry Tree), *Schinus Terebinthifolius* (Brazilian Pepper Tree) (Florida Holly), and *Cocos Nocifera* (Jamaican Tall Palm) must be affected prior to the issuance of a building permit. Where ownership or property lines are in doubt, the Planning and Zoning Committee may require the submission of a survey, certified by a land surveyor or engineer, prior to commencement of construction. All appropriate impact fees and building permit fees must be paid prior to the issuance of any building permit.

*12.09.12 New Construction*

- A. All applications for building permits shall be accompanied by:
1. Development Plan (See requirements in Article XII).
  2. Utility hook-up fees in full or an official statement from the City Council outlining a specific payment schedule, with the first payment attached.
  3. A notarized statement that all of the following species of plants have been removed from the property, and gives permission for on-site inspection:
    - a. *Broussonetia Papyrifera* (Paper Mulberry)
    - b. *Causuarinaceau* (Australian Pine)
    - c. *Enterolobium Cyclocappum* (Ear Tree)
    - d. *Melaleuca Leucadredra* (Punk)
    - e. *Melia Azedrach* (Chinaberry Tree)

- f. Schinus Terebinthifolius (Brazilian Pepper Tree) (Florida Holly)
  - g. Cocos Nocifera (Jamaican Tall Palm)
- B.** Stakes are in place marking the boundaries of the land to be constructed upon and are clearly visible from the nearest street.
- C.** All improvements shall conform to the City's Flood Ordinance, and adopted Fire Codes.
- D.** Fees for building permits, which are located in this Ordinance under Appendix A, shall be payable upon the delivering of the approved building permit to the applicant.

*12.09.13 Remodeling*

- A.** All applications for building permits for remodeling of existing structures shall be accompanied by:
- 1. Detailed sketch, to scale, of existing floor plan including all electrical, plumbing and mechanical locations.
  - 2. Detailed sketch, to scale, of all proposed changes including electrical, plumbing and mechanical changes.
  - 3. Notarized statement from owner of record stating that: a) the remodeling will not cause any structural features of the building to be altered or b) all fire code requirements will be met.
  - 4. A notarized statement that all of the following species of plants have been removed from the property, and gives permission for on—site inspection:
    - a. Broussonetia Papyrifera (Paper Mulberry)
    - b. Causuarinaceau (Australian Pine)
    - c. Enterolobium Cyclocappum (Ear Tree)
    - d. Melaleuca Leucadredra (Punk)
    - e. Melia Azedrach (Chinaberry Tree)
    - f. Schinus Terebinthifolius (Brazilian Pepper Tree) (Florida Holly)
    - g. Cocos Nocifera (Jamaican Tall Palm)
- B.** Fees for remodeling permits (See Appendix A) shall be payable upon the delivering of the approved permit to the applicant.



*12.09.14 Additions*

- A. All applications for additions shall be considered as applications for new construction, and requirements for application for new construction and the appropriate fee schedule apply.
- B. All items in the development plan must be addressed by number and letter. Those items which do not apply shall be responded to by number and letter with the use of "N/A."
- C. If the addition is for a bathroom, appropriate hook-up fees shall be paid upon submitting the application.

*12.09.15 Improvements*

- A. Improvements may include, but are not limited to, the following:
  - 1. Re-roofing
  - 2. Adding siding (facelifting)
  - 3. Fences
  - 4. Concrete slabs
  - 5. Screened enclosures
- B. Building permit applications for improvements must include the following information:
  - 1. A statement from the owner of record detailing the proposed improvements, who will be doing the work, and the projected costs separately by materials and labor.
  - 2. A scaled drawing showing the location of the property lines and the proposed fence, concrete slab or screened enclosure.
  - 3. The Planning and Zoning Chairman has authority independent of the Planning and Zoning Committee to authorize the issuance of a building permit or to refuse the permit issuance if the application is deficient. The applicant may resubmit the application for further review. No new fees or duplication of fees are required for re-submission of the application.
  - 4. Fees for improvement permits shall be payable upon the delivering of the approved permit to the applicant.
  - 5. Indian chickees — Person(s) wishing to have chickees erected by American Indian builders using only "gathered" materials shall adhere to the following:
    - a. A scaled sketch shall be submitted to the City Clerk showing:

- 1) Property lines.
  - 2) Location of existing structures, indicating distance from the property line and other structures.
  - 3) Location of any propane tanks or other above ground fuel storage tanks and dispensers indicating distances from the property line and other tanks and structures.
- b. A notarized statement that no concrete, milled lumber and/or electrical connections shall be installed in the chickee.
  - c. No fee shall be required.
  - d. The Planning and Zoning Chairman has authority independent of the Planning and Zoning Committee to authorize the issuance of a free building permit to the applicant and jurisdiction to refuse the permit issuance if, in his/her opinion, the chickee would endanger existing tanks and/or structures if the palm fronds were to be ignited.
  - e. Application for the construction of one chickee which shall incorporate the use of concrete, milled lumber and/or electrical connections shall be considered to be an "addition" and be completed in every way outlined in Section 12.09.14 above. Appropriate fees shall be paid with the delivering of the permit to the applicant.
  - f. Application for the construction of two or more Indian chickees which shall incorporate the use of concrete, milled lumber and/or electrical connections shall be considered to be "new construction" and be complete in every way outlined in Section 12.09.12 above. Appropriate fees shall be paid with the delivering of the permit to the applicant.

#### **12.10.00 REPEAL OF PRIOR PROVISIONS**

Any zoning regulations for the City of Everglades City in effect on the day prior to the effective date of this Code which are inconsistent with this Code are hereby repealed.

#### **12.11.00 ABROGATION**

This Land Development Regulations Code is not intended to repeal, abrogate or

interfere with any existing easements, covenants or deed restrictions duly recorded in the Official Public Records of Collier County.

**12.12.00 SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of this Code shall continue in full force and effect.

**12.13.00 EFFECTIVE DATE**

These Land Development Regulations shall take effect upon the effective date of the remedial comprehensive plan amendments adopted by the City to its Comprehensive Plan as provided for and contemplated in the Stipulated Settlement Agreement between the City of Everglades City and the Florida Department of Community Affairs in DOAH Case No. 89-1160 GM.

DONE AND ORDERED in regular session, on this 2nd day of January, 2001.

CITY COUNCIL  
CITY OF EVERGLADES CITY, FLORIDA

Attest:

\_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Councilman

ORDINANCE NO. 2018-6

AN ORDINANCE OF THE CITY EVERGLADES CITY, FLORIDA, ADOPTING CHAPTER 162, FLORIDA STATUTES; REPEALING ANYTHING TO THE CONTRARY; PROVIDING FOR PUBLICATION IN ACCORDANCE WITH THE REQUIREMENTS OF LAW; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Everglades City currently regulates the code enforcement process within the City;

WHEREAS, chapter 162, Florida Statutes, provides the framework for local government code enforcement; and

WHEREAS, the City wants to conform its regulation of the code enforcement process within the City to chapter 162, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVERGLADES CITY, FLORIDA, THAT:

SECTION 1. The above recitals are true, correct, and incorporated by reference as if set forth fully herein.

SECTION 2. The City of Everglades City hereby adopts chapter 162, Florida Statutes, in its entirety as the sole method of regulation of code enforcement within the City. Any City ordinances or resolutions or any portion of the City Land Development Code that directly regulates code enforcement are hereby repealed.

SECTION 3. Notwithstanding the foregoing, City Ordinance No. 2018-5, shall remain in effect.

SECTION 4. This Ordinance shall be published in accordance with the requirements of law.

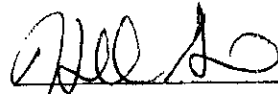
SECTION 5. Each provision of this Ordinance shall be deemed separate and severable and if any section or part thereof is held to be invalid by a court of

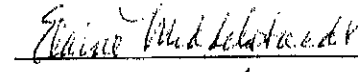
competent jurisdiction, the remainder of the Ordinance shall not be affected.

**SECTION 6.** This Ordinance shall become effective immediately upon its passage and adoption.

PASSED ON FIRST READING August 7, 2018.

PASSED ON SECOND AND FINAL READING September 4, 2018.

  
\_\_\_\_\_  
Mayor

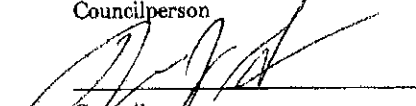
  
\_\_\_\_\_  
Councilperson

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
Dottie Joiner, City Clerk

  
\_\_\_\_\_  
Councilperson

  
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Councilperson

  
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Councilperson

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