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Cape Coral, FL Land Use and Development Regulations

.13 *Corridor District (Corr).*

A. Purpose and intent.

This district is established to:

1. Implement the recommendations of the Pine Island Road Master Plan;
2. To promote such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), residential, golf courses, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities;
3. To provide design guidelines for large scale retail; and
4. Otherwise implement this ordinance.

The nature of the development(s) that can be built within the Corridor district is determined by the size of the land to be developed. As the property size increases, so do the options for development.

B. Permitted uses.

1. Administrative office;
2. Animal kennel, (indoor only) (45,000 square feet minimum lot area);
3. Assisted living facility;
4. Artisan brewery (see table within § 2.7.13.D.6);

(Ord. 31-14, § 4, 10-20-2014)

5. Artisan distillery (see table within § 2.7.13.D.6);

(Ord. 31-14, § 4, 10-20-2014)

6. Artisan winery (see table within § 2.7.13.D.6);

(Ord. 31-14, § 4, 10-20-2014)

7. Automatic teller machine (ATM);

8. Automotive and equipment dealers - Groups I, (two acres minimum lot area), II, (45,000 square feet minimum lot area) and III (45,000 square feet minimum lot area);

(Ord. 16-05, 2-28-2005)

9. Automotive parking establishment;
10. Automotive parts store;
11. Automotive service establishment;
12. Banks and financial establishments - Groups I and II;
13. Bar or cocktail lounges;
14. Boarding or rooming houses (See Art. III, § 3.3.5) (45,000 square feet minimum lot area);
15. Boat parts store;
16. Brewpub;

(Ord. 31-14, § 4, 10-20-2014)

17. Building materials sales - Groups I and II;
18. Business offices - Groups I and II;
19. Caretaker/watchperson residence;
20. Carry-out/delivery food service establishment;
21. Child care facility;
22. Clothing store, general;
23. Clubs: commercial, country, fraternal, and membership organization;
24. Conjoined residential structures (see dimensional regulations E.1.);
25. Contractors and builders - Groups I and II;
26. Cultural facilities;
27. Daycare center, adult;
28. Department store;
29. Drug store;
30. Duplex dwellings (see dimensional regulations E.1.);
31. Entrance gate (applicable to private subdivisions with private rights-of-way);
32. Essential services;
33. Essential service facilities - Group II - distribution electric substation only (see § 3.27);
34. Flea market, indoor (45,000 square feet minimum lot area);
35. Florist shop;
36. Food stores - Groups I and II;
37. Gate house;
38. Golf course public or private (45,000 square feet minimum lot area);
39. Government uses - Group I and II;
40. Hardware stores;
41. Health care facilities - Group I, II, and III;
42. Health care facilities - Group IV (45,000 square feet minimum lot area);
43. Heating and cooking fuel establishments;
44. Hobby, toy, game shops;
45. Home occupation;
46. Hospice;
47. Hotel/motel, convention, efficiency, resort and transient;
48. Household/office furnishings - Groups I and II;
49. Insurance companies;
50. Landscaping services establishments (45,000 square feet minimum lot area);
51. Lawn and garden supply store;

52. Manufacturing:
 - a. Apparel manufacturing;
 - b. Electrical machinery and equipment manufacturing - Group I;
 - c. Electrical machinery and equipment manufacturing - Group II (45,000 square feet minimum lot area);
 - d. Furniture and fixtures (45,000 square feet minimum lot area);
 - e. Leather and leather manufacturing - Groups I and II;
 - f. Machinery manufacturing - Group II;
 - g. Measuring, analyzing, and controlling instruments manufacturing;
 - h. Novelties, jewelry, toys, signs manufacturing - Groups I, II, and III;
 - j. Paper and allied products manufacturing - Groups II and;
 - j. Rubber and plastic products - Group II (45,000 square feet minimum lot area); and
 - k. Stone, day, glass and concrete products manufacturing - Group I (45,000 square feet minimum lot area).
53. Marina;
54. Medical office;
55. Mortgage broker;
56. Mortuary, funeral home, and crematory;
57. Motion picture theater;
58. Multi-family dwellings (see dimensional regulations E.1.);
59. Nature and wildlife preserves;
60. Newsstand;
61. Nightclub;
62. Non-store retailers - Groups I and IV;
63. Package store;
64. Parks - Groups I, II, III, and VI;
65. Personal services - Groups I, II, III, and IV;
66. Pet services;
67. Pet shop;
68. Pharmacy;
69. Photo finishing lab;
70. Places of worship;
71. Printing services establishment;
72. Private park;
73. Radio and television stations;
74. Recreation, commercial - Group I;
75. Recreation, commercial - Groups II and III (45,000 square feet minimum lot area);

76. Religious facility;
77. Rental establishments - Groups I and II;
78. Rental establishments - Group III (45,000 square feet minimum lot area);
79. Repair shops - Groups I, II, and III;
80. Repair shops - Group IV (45,000 square feet minimum lot area);
81. Restaurants - Groups I, II, III, and IV;
82. Restaurant, fast food;
83. Research, development and testing labs - Groups II and III;
84. Schools, commercial;
85. Schools: non-profit, private, public - Groups I and II;
86. Single-family dwellings (see dimensional regulations E.1.);
87. Social services - Groups I, II, and III;
88. Specialty retail shops - Groups I, II, III, and IV;
89. Studio;
90. Swimming pool supply store (without liquid chemical tanks);
91. Transportation services - Groups I and II;
92. Transportation services - Group III (45,000 square feet minimum lot area);
93. Used merchandise stores - Groups I and II;
94. Used merchandise - Group III (45,000 square feet minimum lot area);
95. Variety store;
96. Veterinary and animal clinics;
97. Warehouse, private (45,000 square feet minimum lot area);
98. Warehouse, public (45,000 square feet minimum lot area); and
99. Wholesale establishment - Group III (45,000 square feet minimum lot area).

(Ord. 6-10, 5-24-2010)

C. Special exception uses.

1. Agricultural and farm equipment supply (45,000 square feet minimum lot area);
2. Amusement park (45,000 square feet minimum lot area);
3. Animal and reptile exhibit;
4. Artisan brewery (see table within § 2.7.13.D.6);

(Ord. 31-14, § 4, 10-20-2014)

5. Artisan distillery (see table within § 2.7.13.D.6);

(Ord. 31-14, § 4, 10-20-2014)

6. Artisan winery (see table within § 2.7.13.D.6);

(Ord. 31-14, § 4, 10-20-2014)

7. Automotive and equipment dealers - Groups IV and V (45,000 square feet minimum lot area);

8. Automotive repair and service - Group I;

(Ord. 3-06, 3-13-2006)

9. Automotive service station limited w/convenience store (45,000 square feet minimum lot area);

10. Automotive service station full with repair service (45,000 square feet minimum lot area);

11. Boat repair and service (45,000 square feet minimum lot area);

12. Building materials sales - Group III (45,000 square feet minimum lot area);

13. Business offices - Group III (45,000 square feet minimum lot area);

14. Cemetery (45,000 square feet minimum lot area);

15. Cleaning and maintenance services;

16. Contractors and builders - Group III (45,000 square feet minimum lot area);

17. Essential service facilities - Group I (see special regulations for communication [wireless] towers);

(Ord. 69-10, 10-18-2010)

18. Heliport;

19. Helistop;

20. Manufacturing (45,000 square feet minimum lot area):

a. Chemical and allied product manufacturing - Group I;

b. Printing plant; and

c. Transportation equipment manufacturing - Groups I, II and III;

21. Model home (see special regulations D.1.);

22. Motor freight terminals (45,000 square feet minimum lot area);

23. Neighborhood storage facility (see special regulations D.3.);

24. Race track - Groups I and II (45,000 square feet minimum lot area);

25. Self service fuel pumps (45,000 square feet minimum lot area);

26. Self service fuel pump station (45,000 square feet minimum lot area);

27. Storage, enclosed (45,000 square feet minimum lot area);

28. Swimming pool supply store (with liquid chemical tanks);and

29. Wholesale establishment - Group IV (45,000 square feet minimum lot area).

(Ord. 81-04, 8-2-2004; Ord. 6-10, 5-24-2010; Ord. 69-10, 10-18-2010)

(Ord. 03-06, 3-13-2006; Ord. 102-07, 9-10-2007)

D. *Special regulations.*

1. Model home site(s) may be permitted as a special exception subject to the following requirements:

a. Must be a dwelling unit that is part of an approved residential development. Stand alone model home sites are not permitted. In addition, model home site(s) shall be allowed as a special exception use for a period not to exceed the period when units within a residential or mixed-use development are actually under construction, or offered for sale or lease. The special exception for the model home site(s) use shall terminate and any model home site(s) use shall be converted to another lawful use not later than the date that the construction of all of the units

within a residential or mixed-use development has been completed and all of the units have been either sold or rented. Although the Hearing Examiner may approve a termination date for a special exception to operate a model home site that is earlier than that otherwise required by this section, the termination date for such a special exception shall, in no event, be later than that otherwise provided in this section.

- b. Model units and sales offices may be open for business between 9:00 a.m. and 9:00 p.m. daily.
- c. Parking: five spaces on-site for the first model unit, three additional paved spaces on-site for each additional model unit.
- d. Access to the parking area that serves the model unit(s) shall be through an approved access point that serves the residential development.
- e. Outside lighting is permitted, except from 10:00 p.m. to 7:00 a.m.
- f. Security lighting: two security lights permitted, one at front and one at the rear of the building.
- g. Model home site(s) must be used exclusively for the display and sale of model units. No construction office or other real estate uses shall be permitted.
- h. Deposit required: A deposit of funds or other financial instruments payable to the City of Cape Coral is required as a construction conversion deposit to convert the property back to a residential or other permitted use when the structure is converted or sold. The amount of the deposit to be set forth as follows: \$5,000 for conversion of the parking lot; and, \$1,500 per model home site if driveway is not installed. The deposit shall be used by the city to remove any parking area not allowed in a residential zone or to convert the property to a residential or other permitted use. Such deposit shall be used when the model home site is abandoned as a model home, or at the expiration of the model home time limit, or if the model home site is sold as a residence or other permitted use and not converted to a residence or other permitted use, or if the structure is abandoned as a model home for 30 consecutive days. Conversion of the model home site must be completed within 60 days of the expiration of the time limit for the model home, or within 60 days of the structure being abandoned as a model home site, or prior to sale of the model home site for a residential or other permitted use. Any funds and interest resulting from these funds shall be returned to the party who made the deposit upon conversion of the model home site to a residential or other permitted use if such conversion is done by parties other than the city. Should the city be required to perform the conversion, all unused monies, including interest accrued, shall be refunded to the party making the deposit.

2. Except for enclosed storage, any storage of materials or merchandise outside of the building is prohibited.

3. If a neighborhood storage facility is approved by the Hearing Examiner as a special exception use, such neighborhood storage facility shall comply not only with the conditions, if any, imposed by the Hearing Examiner, but also shall comply with the following special regulations.

- a. No activity other than loading, unloading, and storage of goods is allowed from any storage unit. Furthermore, no business may be operated from any storage unit.
- b. No loading or unloading activity to individual storage units shall be performed so as to be visible from the front of the building or the front right-of-way.
- c. No hazardous materials shall be stored in a neighborhood storage facility.
- d. A neighborhood storage facility shall be located on a site that is not less than one acre in size.
- e. No outdoor storage of any kind shall occur or be allowed on a premise containing a neighborhood storage facility. All storage associated with a neighborhood storage facility shall be entirely confined within one or more enclosed buildings.
- f. A neighborhood storage facility shall comply with the architectural requirements as well as the requirements for large retain projects, when applicable, of this section.
- g. All heating, air conditioning, or other mechanical equipment located on the premises of a neighborhood storage facility shall be shielded or screened from a public right-of-way so as to minimize the effects of such equipment on surrounding properties.
- h. All freestanding outdoor lighting located on the premises of a neighborhood storage facility shall be not more than 15 feet in height when measured from the ground and shall be shielded so as to minimize the effects of

such lighting on surrounding properties.

i. No storage shall be visible from the exterior of the neighborhood storage facility. If the neighborhood storage facility contains windows, only finished construction including, but not limited to, walls, doors, etc., shall be visible through the windows. No neighborhood storage facility window that is visible from any adjoining property or from any public right-of-way shall have paint or any other substance or material applied directly to the surface of such window so as to prevent visibility through such window. This restriction shall not, however, prevent a neighborhood storage facility from utilizing "solar window tinting", the use of Spandrel glass or other comparable material or interior window treatments such as blinds, shutters, or draperies.

j. Upon submittal of the special exception use application, detailed building elevations (drawings of front, sides, and rear facades) of all proposed buildings shall be submitted to the Department of Community Development. The application will not be deemed complete until a complete set of building elevations has been provided.

(Ord. 102-07, 9-10-2007)

4. No existing or proposed non-residential use shall be established, constructed, enlarged, or expanded on properties located adjacent to a residential future land classification or to a property with Pine Island Road future land use classification that is not zoned Village or Corridor, except by means of either the planned development project (PDP) process described in § 4.2 or the alternative procedure described below:

For purposes of this subsection, a property shall be deemed to be adjacent to a residential future land use classification or to a property with Pine Island Road future land use classification that is not zoned Village or Corridor, only when all or part of a property line of the property abuts a residential future land use classification or abuts a property with Pine Island Road future land use classification not zoned Village or Corridor, or when the property is separated from such residential future land use classification or from a property with Pine Island Road future land use classification that is not zoned Village or Corridor only by an alley, canal, basin, lake, or other waterway.

Non-residential properties that are entirely separated from a residential future land use classification or from a property with Pine Island Road future land use classification not zoned Village or Corridor by any public right-of-way (excluding alleys, and canals, basins, lakes or any other waterway) shall not be deemed adjacent to such residential future land use classification or adjacent to a property with Pine Island Road future land use classification that is not zoned Village or Corridor.

As an alternative to the PDP required by this subsection, a non-residential use may be established, constructed, enlarged, or expanded within the Corridor district adjacent to a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor provided that the city approves a site plan for such development, including the separation from any residential future land use classification or property with Pine Island Road future land use classification not zoned village or corridor with a Buffer E as provided in § 5.2.11.F. which is not interrupted for any driveway or other vehicular ingress/egress.

(Ord. 107-07, 9-21-2009)

5. Communication [wireless] towers:

a. *Definitions.*

ANTENNA. A transmitting or receiving device used for services that radiates or captures electromagnetic radio frequencies for the communication of voice, video or data.

ANTENNA SUPPORT STRUCTURE. Any building or other structure, other than a tower, which can be used for location of wireless telecommunications facilities (WTCF).

CO-LOCATION. Erecting antenna(s) of a wireless service provider on a tower or an existing antenna support structure already supporting an antenna.

DESIGNED SERVICE STUDY. A study of the configuration and manner of deployment of wireless services the wireless provider has designed for an area as part of its network that demonstrates whether or not existing towers or tall structures in the search can be utilized for co-location.

MONOPOLE. A style of free-standing tower that is composed of a single shaft, usually composed of two or more hollow sections that are in turn attached to a foundation, with external antennas. This type of tower is

designed to support itself without use of guy wires or other stabilization devices.

POLE-MOUNTED. An antenna attached to or upon an electric transmission or distribution pole, a streetlight, a traffic signal or similar facility located within the public right-of-way or a utility easement. A utility pole-mounted facility shall not be considered a tower.

STEALTH OR CAMOUFLAGED FACILITY. Any antenna, tower or wireless telecommunications facility which is designed to blend into the surrounding environment or that camouflages or conceals the presence of the tower or wireless telecommunication facility to the extent that the average person would be unaware of its nature as a tower, antenna, or wireless telecommunications facility. Examples of stealth or camouflaged facilities include, but not limited to, man-made trees, clock towers, bell steeples, flag poles, light poles, and similar alternative-design mounting structures. Examples of stealth or camouflaged antennas include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, and antennas integrated into architectural elements.

STRUCTURE-MOUNTED. A wireless telecommunications facility, tower or antenna which is mounted to an existing building or structure not otherwise meant to support a wireless telecommunication facility, tower or antenna.

TOWER. A structure which is designed for the purpose of supporting one or more antennas or wireless telecommunication facilities. The term **TOWER** shall not include amateur radio antennas, structure-mounted and pole-mounted wireless telecommunication facilities.

WIRELESS TELECOMMUNICATIONS FACILITY (WTCF). Any cables, wires, lines, wave guides, antennas, and other equipment associated with the transmission or reception of telecommunications installed upon a tower or antenna support structure, including ground-based equipment in direct support of such transmission or reception. However, the term **WIRELESS TELECOMMUNICATION FACILITY** shall not include amateur radio antennas.

b. An application for a communication tower shall contain adequate documentation that co-location on an existing approved tower, of any type, or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:

(1) The results of a designed service study demonstrating to the satisfaction of the city that the equipment planned for a proposed communication tower cannot be accommodated on an existing or approved and un-built structure.

(2) The designed service study analysis shall be based upon a search area radius of three-quarters of a mile minimum distance from the proposed location of the intended WTCF or tower, including areas lying outside the incorporated area of the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-location opportunities, the city may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WTCF or tower location and identifies all other alternatives in the area. Further information may be required by the city on the ability of the WTCF or tower to be accommodated on specific sites within three-quarters of a mile of the proposed WTCF or tower.

(3) When co-location is determined by staff to be infeasible, the determination shall be based upon the results of the designed service study and other evidence provided by the applicant documenting one or more of the following reasons:

(a) *Structural limitation.* The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

(b) *Interference.* The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.

(c) *Insufficient height.* Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed, if applicable, professional.

(d) *Lack of space.* Evidence from the applicant, verified by a licensed professional, of the lack of space on existing towers or other structures within the search radius to accommodate the proposed facility.

(e) *Other factors.* Other reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building as documented by a qualified and licensed, if applicable, professional.

c. *Technical consultants.* The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for wireless telecommunications facilities or towers and to charge reasonable fees as necessary to offset the cost of such evaluations.

d. *Priority siting conditions.* Any new WTCF or tower shall be subject to a determination of the appropriate siting priority as indicated below. The priorities range from 1 to 4, with the preferred siting conditions found in Priority 1 and the least desirable siting conditions found in Priority 4. In the event that a proposed WTCF or tower cannot be sited to comply with the conditions in Priority 1, the development application shall demonstrate why a lower priority site is necessary.

(1) *Priority 1.* Pole- mounted WTCFs or the co-location of WTCFs on existing towers or antenna support structures located on property that is not adjacent to a residential land use designation, whether or not improved, or with a residential use upon the property, are preferred. If a WTCF cannot be co-located on a site which is not adjacent to a residential land use designation, or with a residential use, co-location on a site located adjacent to a residential land use designation, or that has a residential use on it is the next preference within Priority 1. Only when it can be demonstrated that there are not suitable existing structures, based on the determination made under section 5.b above, can a lower priority be considered for siting the proposed facility.

(2) *Priority 2.* If a WTCF cannot be located on a site specified in Priority 1, the applicant may propose a new WTCF or new tower on property designated Industrial, Public Facilities, Commercial/Professional, Highway Commercial, or Pine Island Road District on the future land use map.

(3) *Priority 3.* If a proposed WTCF cannot comply with Priorities 1 and 2, the applicant may propose a new WTCF or new tower on property designated Commercial Activity Center, Mixed-Use, Mixed-Use Preserve, Parks and Recreation, or Preservation on the future land use map.

(4) *Priority 4.* If a proposed WTCF cannot comply with Priorities 1, 2, and 3, the applicant may propose a new WTCF or new tower on property designated Downtown Mixed or Residential on the future land use map.

e. *Tower design standards.* In addition to any other applicable requirements provided elsewhere in the Land Use and Development Regulations, an application for a communication tower shall include the following:

(1) *Fall zone.* In the event of a catastrophic failure or collapse, towers shall be designed to collapse within an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall zone shall be certified by a professional engineer, licensed in the State of Florida.

(2) *Tower design for co-location.* A proposed tower shall be designed, when applicable, to allow for future rearrangement of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate co-location.

(3) *Monopoles or stealth.* All towers shall be monopoles or stealth design.

(4) *Illumination.* A tower shall not be artificially lighted except as may be required by federal or state regulations.

(5) *Surface or finish color.* Regardless of whether designed as a stealth facility, towers shall be painted or have a noncontrasting finish that minimizes the visibility of the facility from public view, except where contrasting color is required by federal or state regulation. In addition, the exterior of support facilities shall be designed to be compatible with the architectural design prevailing among the structures in the surrounding developed area.

(6) *Signage.* The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three feet in size which displays the owner's and/or permittee's name and an emergency telephone number.

(7) *Maximum height.* The maximum height of towers shall be 100 feet if the tower is designed for one service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet if the tower is designed to accommodate three or more service providers.

(Ord. 69-10, 10-18-2010)

6. Artisan brewery/distillery/winery.

a. Alcohol production for a calendar year shall not exceed those figures provided within the table immediately below.

<i>MAXIMUM PRODUCTION LIMITS FOR ARTISAN BREWERIES, DISTILLERIES, AND WINERIES</i>		
<i>Use</i>	<i>Maximum Production per Calendar Year as a Permitted Use</i>	<i>Maximum Production per Calendar Year as a Special Exception Use</i>
Artisan brewery	10,000 barrels(a)	20,000 barrels(a)
Artisan distillery	40,000 proof gallons(b)	75,000 proof gallons(b)
Artisan winery	3,000 cases(c)	5,000 cases(c)
(a) One barrel is equivalent to 31 gallons of beer.		
(b) A unit of measure defined as one gallon of spirits that is 50% alcohol at 60 degrees Fahrenheit.		
(c) One standard case is equivalent to 12 bottles with each bottle containing 750 ml.		

b. Any artisan brewery, artisan distillery, or artisan winery shall comply with the following requirements:

(1) The business owner shall submit semi-annual production records to the Department of Community Development for all alcohol and nonalcohol products produced within the establishment.

(2) All mechanical equipment used in the alcohol production process shall be located behind a wall or fence that separates the equipment from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. The wall or fence shall be opaque and have a minimum height of six feet. Chain link, with or without slats, shall be prohibited as a wall or fence material.

(3) Loading and unloading areas shall be restricted to the side or rear of the building. Loading and unloading areas shall not be located along the front of the building.

(4) Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:

(a) Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains on the property and the distance of the stockpiled grains from the property lines and the building containing the artisan brewery, distillery, or winery;

(b) Located only along the side or rear of the building;

(c) Prohibited within any yard abutting a residential use or residential zoning district;

(d) Fully enclosed in containers that are located behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet. Chain link, with or without slats, shall be prohibited as a wall or fence material.

(5) To encourage the repurposing of existing buildings within the Corridor District for the purpose of spurring economic development, for any artisan brewery, distillery, or winery that is approved as a permitted use, provisions(2), (3), and (4) within this subsection may be waived in part or in their entirety by the City Manager or the City Manager's designee. Business owners that plan to construct a new building for supporting an artisan brewery, distillery, or winery shall not be eligible for a waiver from these same requirements. For any artisan brewery, distillery, or winery that is approved as a special exception use, provisions(2), (3), and (4) within this subsection may be waived in part or in their entirety by the Hearing Examiner. In determining whether to waive one or more of these standards the City Manager or the City Manager's designee, or the Hearing Examiner shall utilize the following criteria:

(a) The visibility of the mechanical equipment and loading areas from a public street(s).

(b) The proximity and visibility of the mechanical equipment and loading areas from existing residential development.

(c) The existence of site conditions that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship.

(d) The effect other regulations would have on the proposed development or other locational factors that may make compliance with this section impossible or impracticable.

(e) The annual production of alcohol anticipated to be produced by the establishment.

(f) The size and extent of the equipment requiring screening.

(g) The total square footage of the loading and unloading areas.

(Ord. 31-14, § 4, 10-20-2014; Ord. 36-15, 8-31-2015)

7. Brewpub. Brewpubs are subject to the following requirements.

a. The area used for brewing, bottling, and kegging of all beverages produced by the establishment shall not exceed 40% of the total floor area of the restaurant, bar, or nightclub, or exceed a total floor area of 2,500 square feet devoted for brewing, bottling, and kegging, whichever is less.

b. A building plan shall be submitted to the City that clearly shows the area of the building that will be devoted to the brewing, bottling, and kegging component of the establishment.

c. No enclosed storage shall be allowed including the use of portable storage units, cargo containers, and tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:

(1) Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains and the distance of the stockpiled grains from property lines and the building containing the brewpub;

(2) Placed only along the side or rear of the building;

(3) Fully enclosed in containers that are screened behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet. Chain link, with or without slats, shall be prohibited as a wall or fence material.

(Ord. 31-14, § 4, 10-20-2014)

E. *Dimensional regulations.*

All development within the Corridor District shall be limited to the following:

Tract Size	
Less than 45,000	Non-residential uses only
45,000 s.f. and greater	Non-residential
	Residential: (minimum 20 acres)
	Single family
	Duplex multi-family
	Conjoined residential structure
	Multi-use (minimum 30 acres)

The dimensional regulations by type of development are as follows:

<i>1. Dimensional Regulations (Corr District) Residential</i>				

	<i>Single-Family</i>	<i>Duplex</i>	<i>Multi-Family</i>	<i>Conjoined Residential Structure</i>
Minimum area of the entire tract under development (a)	20 acres	20 acres	20 acres	20 acres
Minimum lot area within the tract under development	6,500 s.f.	8,000 s.f.	12,000	An average of 4,000 s.f. per unit
Maximum density	5.5 DU/Acre	8 DU/Acre	(b)	8 DU/Acre
Minimum yards for the entire tract	(c)	(c)	(c)	(c)
Minimum yards within the tract under development				
Front	20	20	20	20
Side	5	5	7.5	(d)
Rear	15	15	20	15
Minimum width at building line (e)	180	180	180	180
Minimum depth (e)	125	125	125	125
Maximum building height	30	38(f)	45(f)(g)	38(f)
Minimum living area	1,000 s.f. (h)	1,000 s.f. (h)	750 s.f. (i)	1,000 s.f. (h)
Each additional bedroom	100 s.f.	100 s.f.	150 s.f.	100 s.f.

(a) Minimum area of the entire tract under development is for the entire residential component of the development which may consist of single-family, duplex, multi-family, or conjoined residential structure or a combination of different residential products.

(b) The following table shall be used to determine the maximum number of dwelling units based on the parcel size:

<i>Acreage D.U./Acre</i>
Less than 9.99 16
10 - 14.99 18
15+ 20

(c) A minimum yard of 25 feet shall be provided around the perimeter of the entire residential development. If a masonry wall is provided the minimum yard in the side/front and/or rear of the property, where the wall is provided, can be reduced to 15 feet.

(d) For conjoined residential structures, zero-lot line between units and/or clustering of a group of structures providing side yard only between the structures located at the ends, are permitted provided that the structures meet all requirements and standards of the building code.

(e) Minimum lot width and depth apply to the entire tract to be developed. Within the development there is no minimum lot width or depth required for each dwelling unit.

(f) Up to 15 feet of additional height will be allowed when under-unit parking or garage with a minimum capacity of at least 60% of the required parking spaces are provided within the area to be developed.

(g) One additional foot in height is permitted when one additional foot is added to the minimum required front, side and rear yards. This condition only applies when the building subject to the additional height allowance is not closer to any other vertical structure than the minimum total yards required to permit the additional height.

(h) Minimum living area shall apply for up to two bedrooms units.

(i) Minimum living area shall apply for efficiency and one bedroom units.

2. Dimensional Regulations (Corr District) Non-Residential

Minimum area of the entire tract under development	Less than 45,000 s.f. (h)	45,000 s.f. and more (h)
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Maximum floor area ratio	1.00	1.00
Minimum yards (a)		
Front	25 ft. (h) (i)	25 ft. (h) (i)
Side	None (b) (c) (e) (f)	15 ft. (b) (d) (f)
Rear	10 ft. (g)(c)	25 ft (g) (c)
Minimum width at building line	50 ft. (h)	150 ft (h)
Minimum depth	None (h)	None (h)
Maximum building Height	45 ft. (k)	45 ft. (j) (k)

(a) Minimum yards are for separation between abutting developments.

(b) See Article III, §§ 3.7 and 3.8 for corner lot yards.

(c) All non-residential uses on parcels less than 45,000 s.f. which are located on lots abutting a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, shall maintain a minimum yard requirement for all structures of 25 feet in the side or rear yard abutting the residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor. All non-residential uses shall be permanently buffered from abutting and adjacent Residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, with a properly maintained landscaped buffer yard on the rear or side(s) of the use which actually abuts or is adjacent to the Residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor. In addition, non-residential uses which are separated at the front, side or rear lines from a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, by only a street containing not more than two lanes for motor vehicle traffic also shall be permanently buffered with a properly maintained landscaped buffer yard on such front, side and rear lot lines. For purposes of this subsection, a bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. (See Article V, § 5.2. for landscaping requirements.) (Ord. 107-07, 9-21-2009)

(d) All non-residential uses on parcels 45,000 s.f. or greater which are located on lots abutting a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, shall maintain a minimum yard requirement for all structures of 35 feet in the side or rear yard abutting the residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor. All non-residential uses shall be permanently buffered from abutting and adjacent Residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, with a properly maintained landscaped buffer yard on the rear or side(s) of the use which actually abuts or is adjacent to the Residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor. In addition, non-residential uses which are separated at the front, side or rear lines from a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, by only a street containing not more than two lanes for motor vehicle traffic also shall be permanently buffered with a properly maintained landscaped buffer yard on such front, side and rear lot lines. For purposes of this subsection, a bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. (See Article V, § 5.2, for landscaping requirements.) (Ord. 107-07, 9-21-2009)

(e) A structure built on the lot line shall be designed to the following standards:

1. Water runoff shall be diverted to an approved retention area;
2. The structure shall be built so that there shall be no open compartments or cavities between structures on the property line; and
3. The roof shall be designed and built in such a manner as to prohibit water runoff to the adjacent site.

(f) For properties abutting an alley, a ten-foot side yard from such alley shall be provided. A single row of parallel parking spaces may be permitted adjacent to the side alley.

(g) If a property owner opts to provide a minimum of 30-foot rear a single row of parking may be allowed in the yard, providing, however, that the parking placed directly to the rear of the structure.

(h) Within the Deer Run Commercial Park subdivision, the minimum lot area, the minimum lot depth, and the minimum lot frontage shall be as approved and recorded in the subdivision plat dated May 27, 1988, Plat Book 40, Pages 71 and 72.

- (i) Within the Deer Run Commercial Park subdivision, the minimum front yard shall be 50 feet.
- (j) Up to 15 feet of additional height will be allowed when under-unit parking or garage with a minimum capacity of at least 60% of the required parking spaces are provided within the area to be developed.
- (k) The maximum height of a communication tower shall be 140 feet as stated hereinabove.

3. Dimensional Regulations (Corr District) Multi-Use

Minimum area of the tract under unified control	30 acres
Residential use maximum density	(a)
Non-residential use floor area ratio	1.00
Minimum yards	none within the development (b)
Maximum building height	45 ft. (c) (d) (e)

(a) The following table shall be used to determine the maximum number of dwelling units based on the area dedicated for residential development:

	Maximum Density
Single family	5.5 DU/Acre
Duplex	8 DU/Acre
Multi-family	
Less than 10 acres	16 DU/Acre
10 - 14.99 acres	18 DU/Acre
15 or more acres	20 D/U/Acre
Conjoined residential structure	8 DU/Acre

(b) A minimum yard of 25 feet shall be provided around the perimeter of the entire development. If a masonry wall is provided the minimum yard in the side/front and/or rear of the property, where the wall is provided, can be reduced to 15 feet.

(c) Up to 15 feet of additional height will be allowed when under-unit parking or garage with a minimum capacity of at least 60% of the required parking spaces are provided within the area to be developed.

(d) For residential buildings, one additional foot in height is permitted when one additional foot is added to the minimum 25 feet yard required around the perimeter of the entire development. This condition only applies when the building subject to the additional height allowance is not closer to any other vertical structure than the minimum total yard required to permit the additional height.

(e) The maximum height of a communication tower shall be 140 feet as stated hereinabove.

(Ord. 69-10, 10-18-2010)

F. *Site plan requirements.* Development within the Corridor district shall follow the following guidelines. They are intended to encourage high quality of design, allowing flexibility, and to promote creative design.

1. For multi-use developments within the Corridor zoning district, the plan shall clearly indicate the land area to be used for non-residential and residential use as well as the uses proposed within each of the designated areas

2. All trash collection/recycling receptacle(s) shall comply with the requirements of § 3.3.3.C., except that the opaque visual barrier screening three sides of the area occupied by the collection/recycling receptacle(s) shall not be chain link, chain link with slats, plastic, vinyl, wood or bare concrete block, even if painted.

3. With the exception of driveway entrances, all loading docks and building service areas facing Pine Island Road, Burnt Store Road, Chiquita Boulevard, Santa Barbara Boulevard, Nicholas Parkway, Cultural Park Boulevard, and Del Prado Boulevard, shall be screened from pedestrian view from any sidewalk or public street, excluding alleys, by masonry wall or evergreen landscaping or a combination of the two.

4. All electrical and telecommunication utilities shall be located underground.

5. Structures located on different parcels within the same development that are adjacent to each other must provide for vehicular connection between their respective parking lots.

6. All multiple-occupancy complexes shall provide a covered pedestrian circulation link with a minimum of eight feet clear width, which connects the ground floor public entries of the different tenants that are part of the same building. When integrated to the pedestrian plaza or courtyard required in F.7., the area of the covered pedestrian circulation link will count toward the area requirement for the pedestrian plaza or courtyard.

7. Multiple occupancy complexes with gross floor area of 100,000 s.f. or greater, shall provide a pedestrian plaza or courtyard accessible to the public with a minimum size of 5% of the ground floor building area. This space shall contain a minimum of 500 s.f. of contiguous area and shall include at least three of the following amenities:

- a. Its design shall provide areas for public entertainment or public display of art or cultural exhibits.
- b. Sitting area with four LF of bench per 200 s.f. of pedestrian plaza or courtyard area.
- c. Fountains and waterscapes limited to 50% of the total required area for pedestrian plaza or courtyard.
- d. A minimum of 50 s.f. of pavement per 100 s.f. of area.
- e. A minimum of 30 s.f. of planted beds, grass included, per 100 s.f. of area.

f. Sixty percent shade provided by canopy tree coverage, by architectural canopy, or by a combination of canopy tree and architectural canopy. The shade provided by trees shall be calculated by multiplying the number of trees by the estimated area of its canopy cover at maturity. A list of plants best suited for Cape Coral is as follows:

<i>Plant type</i>	<i>Plant name</i>	<i>Canopy (Diameter)</i>
Large Trees	Black Olive	45'
	Cassia fistula	35'
Height of 50' or more	Gumbo Limbo	45'
	Jacaranda	40'
	Live oak	50+
	Mahogany	50+
	Slash Pine	35'
	Southern Magnolia	40'
	Wild Tamarind	50'
	Yellow Poinciana	50'
Medium Trees	Dahoon Holly	25'
	Drake Elm	35'
Height of 30' - 50'	Green Buttonwood	25'
	Pigeon Plum	30'
	Satin Leaf	25'
	Sea Grape	35'
	Shady lady Black Olive	25'
	Silver Buttonwood	25'
	Tabebuia, pink or yellow	30'
Small Trees	Bottlebrush	20'
	Crape Myrtle	20'

Height of 15' - 30'	Frangi Panni	20'
	Fiddlewood	15'
	Geiger Tree	20'
	Sweet Acacia	15'
	Varnishleaf	15'
	Walter Viburnum	15'
	Wax Myrtle	15'
	Wild Lime	15'

The pedestrian plaza or courtyard shall be open to the general public at least during the normal business hours of the uses in the development.

G. Architectural requirements.

1. No more than 30% of the front surface of any exterior wall facing any public right-of-way except alleys shall be metal.

2. When outparcels are improved after the main development has been already constructed or approved, the outparcel site must employ landscaping elements that are similar and do not conflict with the used on the main development.

3. Buildings that are part of the same development, including buildings located on outparcels, are encouraged to employ consistency within their architectural design by providing at least two of the following design elements that are similar among the buildings that are part of one development:

- a. Color scheme;
- b. Exterior materials on walls;
- c. Exterior roof finishing; and
- d. Roof line.

4. Exterior facades of non-residential buildings facing Pine Island Road, Burnt Store Road, Chiquita Boulevard, Santa Barbara Boulevard, Nicholas Parkway, Cultural Park Boulevard, and Del Prado Boulevard, shall provide a minimum of five of the following building design treatments integrated with the massing and style of the buildings.

a. Overhangs, awnings or attached canopies which conform to a unified plan of compatible colors, shapes and materials;

b. Varying rooflines, pitches and shapes;

c. Arcades, minimum of eight feet clear in width;

d. Recessed or clearly defined entryways;

e. Transparent window or door areas or display windows along a minimum

of 50% of front walls or any other wall alongside a pedestrian walkway;

f. Architectural features such as articulated roof parapets, attached or detached porticos, clock tower or other detail that alter the building height; or

g. Building ornamentation and varying building materials and/or colors that provides relief of otherwise blank walls.

5. All buildings shall have either a sloped roof, a full mansard roof, or a flat roof with a parapet wall which extends at least two feet above the highest level of the roof and which screens any roof top equipment from view from public rights-of-way.

6. Except when in conflict with Building and Fire Code, all buildings shall screen from any public right-of-way, except alleys, utility connections and meter locations with the same material as the building exterior wall or with evergreen landscaping.

H. Large retail projects within the Corridor District.

The following standards are oriented to improve the appearance of otherwise enormous box-like structures with unbroken walls. Good design of large retail single-tenant buildings encourages clearly defined entryways, articulated rooflines to prevent monotony, and concealment of unsightly mechanical structures from public view. The purpose of this section is to ensure that large retail single-tenant buildings, allowed in the Corridor District, are compatible with the surrounding area and contribute to community character.

A large retail single-tenant project is considered any new commercial retail project, whose total gross building area equals or exceeds 50,000 square feet, specifically designed to be occupied by a single tenant.

Large retail single-tenant projects shall meet the following requirements:

1. Building facades and walls must include:

a. A repeating pattern that includes no fewer than three of the following elements:

- (1) Color change;
- (2) Texture change;
- (3) Material module change; and/or
- (4) An expression of architectural or structural bays through a change in plane no less than 12 inches in width, such as an offset, reveal or projecting rib.

b. At least one of the elements identified in 2.7.13.H.1.a shall repeat horizontally.

c. All elements shall repeat at intervals of no more than 30 feet, either horizontally or vertically.

2. Facades facing Pine Island Road, Burnt Store Road, Chiquita Boulevard, Santa Barbara Boulevard, Nicholas Parkway, Cultural Park Boulevard, and Del Prado Boulevard, with a length greater than 100 feet, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3% of facade length and extending at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 100 horizontal feet.

3. Ground floor facades facing Pine Island Road, Burnt Store Road, Chiquita Boulevard, Santa Barbara Boulevard, Nicholas Parkway, Cultural Park Boulevard, and Del Prado Boulevard shall have arcades, entry areas, or other such features along no less than 30% of their horizontal length.

I. Signs.

1. Non-residential (including the non-residential portion of multi-use development) Unless specifically provided in this section, or in § 7.13, Miscellaneous Signs, Subsection 7, Flagpoles and Standards, all provisions of Chapter 7 that apply to signs on properties located in the C-1 district, shall apply in the same manner to sites less than 45,000 sf in area located in the Corridor district. In the same manner, all provisions of Chapter 7 that apply to signs on properties located in the C-3 district, shall apply in the same manner to properties with 45,000 sf and more in area, that are located in the Corridor district.

(Ord. 135-05, 10-31-2005)

In addition, non-residential developments located within the Corridor district shall conform to the following:

a. *Unified sign plan.* Where multiple signs are proposed for a single site or development, or in the case of a shopping center or other multiple-occupancy complex including outparcels under unified control with the main development, a unified sign plan must be employed. An application for a development order (or a building permit if a development order is not required) must be accompanied by a graphic and narrative representation of the unified sign plan to be utilized on the site. The unified sign plan may be amended and resubmitted for approval to reflect style changes or changing tenant needs. Design elements which must be addressed (in both graphic and narrative form) include:

- (1) Colors;
- (2) Construction materials and method;
- (3) Architectural design;
- (4) Illumination method;
- (5) Copy style;
- (6) Sign type(s) and location(s); and

(7) In the case of a shopping center or multiple occupancy complex and developments with multiple structures on-site, including outparcels, the unified sign plan must indicate conformance with the following:

(a) All wall signs for multi-use building must be located at a consistent location on the building facade, except that tenants with bigger street frontage may vary from this requirement in scale with the larger primary facade dimensions. All signs must adhere to the dimensions provided for in the unified signage plan; and

(b) Free-standing signs must include colors and/or materials common to those used in the design of the building to which the sign is accessory. A minimum 100 square foot planting area must be provided around the base of any free standing sign. These landscape areas must include shrubs and ground cover plants with a minimum of 50% coverage of the landscape area at the time of planting. Turfgrass is discouraged and is limited to 10% of the landscape area.

b. *Sign permit requests.* Requests for sign permits for permanent signs must adhere to the unified signage plan, which will be kept on file in the Department of Community Development. Requests to permit a new sign, or to relocate, replace or structurally alter an existing sign must be accompanied by a unified sign plan for the building or project the sign is accessory to. Existing permitted signs may remain in place; however, all future requests for permits, whether for a new sign, or relocation, alteration, or replacement of an existing sign, must adhere to the unified sign plan for the property.

2. *Residential.* All provisions of Article VII that apply to signs on residential properties located in the R-3 district, shall apply in the same manner to residential properties located in the Corridor district

(Ord. 101-03, 10-20-2003)

J. *Commerce Park Overlay (CPO).*

1. *Purpose and intent.* The purpose of the Commerce Park Overlay (CPO) is to expand the uses available in designated geographic areas of the Corridor Zoning district while also relaxing building design criteria and increasing required buffering. The Commerce Park Overlay allows a mix of commercial service and industrial uses. The Commerce Park Overlay is intended to provide for the expansion of existing enterprises that without the CPO are non-conforming uses, but which, nonetheless, are significant contributors to the economy of the city. The CPO provides these uses flexibility, so that they can expand in a manner that allows them to economically comply with the aesthetic vision of the Corridor District. The Commerce Park Overlay shall not be construed to be a separate zoning district, but is an overlay in the Corridor District.

2. *General requirements.* Property within the Commerce Park Overlay may be developed in accordance with all regulations of the Corridor District or, alternatively, with uses allowed within the Commerce Park Overlay in accordance with the provisions of the Commerce Park Overlay. Whenever properties are developed with uses allowed in the Corridor District but not within the Commerce Park Overlay, all requirements of the Corridor District shall govern. Whenever a use is allowed in both the CPO and the Corridor Zoning District, and the use abuts existing uses that are permitted only in the Corridor Zoning District, then the Corridor Zoning District regulations will apply. Whenever the requirements of the Commerce Park Overlay District impose a more restrictive standard than the provisions of the Corridor District, the requirements of the Commerce Park Overlay District shall govern. Except when specifically modified by the provisions of this section, all other requirements of the Corridor District shall apply.

3. *Permitted uses.*

- a. Agricultural or farm equipment and supply establishment;
- b. Aircraft establishments;

c. Animal shelter;

d. Artisan brewery;

(Ord. 31-14, § 4, 10-20-2014)

e. Artisan distillery;

(Ord. 31-14, § 4, 10-20-2014)

f. Artisan winery;

(Ord. 31-14, § 4, 10-20-2014)

g. Auto parts store;

h. Automotive and equipment dealers - Groups II, IV and V;

i. Automotive repair and service - Groups I and II;

j. Automotive service station - full with repair service;

k. Boat parts store;

l. Boat repair and service;

m. Building materials sales - Groups I, II and III;

n. Business Offices - Groups II and III;

o. Carry out-delivery food service;

p. Caretaker/watchman residence;

q. Cleaning and maintenance services;

r. Contractors and builders - Groups I, II, and III;

s. Entrance gate (applicable to private subdivisions with private rights-of-way);

t. Essential services;

u. Essential service facilities - Group I (see special regulations for communication [wireless] towers);

(Ord. 69-10, 10-18-2010)

v. Essential services facilities - Group II - distribution electric substations only (see § 3.27);

w. Gate house;

x. Government use - Group II;

y. Hardware store;

z. Heating and cooking fuel establishment;

aa. Household/office furnishings - Groups I and II;

bb. Landscaping service establishment;

cc. Lawn and garden supply shop;

dd. Manufacturing:

(1) Apparel manufacturing;

(2) Electrical machinery and equipment manufacturing - Groups I, II;

(3) Fabricated metal products - Groups I, II and III;

- (4) Food and kindred products - Group III;
 - (5) Furniture and fixtures;
 - (6) Leather and leather manufacturing - Groups I and II;
 - (7) Lumber and wood products - Groups II, III;
 - (8) Machinery - Groups I, II and III;
 - (9) Measuring, analyzing, and controlling instruments manufacturing;
 - (10) Novelties, jewelry, toys, signs manufacturing - Groups I, II and III;
 - (11) Printing plant;
 - (12) Rubber and plastic products - Group II;
 - (13) Stone, clay, glass and concrete products manufacturing - Groups I, II, III, IV;
 - (14) Transportation equipment Group I, II, III, and IV.
- ee. Mini-warehouse;
- ff. Motor freight terminals;
- gg. Neighborhood storage facility;
- hh. Non-store retailers - Groups I, II, III, and IV;
- ii. Parks - Groups I, II and VI;
- jj. Personal service - Group III;
- kk. Pet services;
- ll. Printing services establishment;
- mm. Private park;
- nn. Radio and television stations;
- oo. Recreation, commercial - Groups II and III;
- pp. Rental establishment - Groups I, II, III;
- qq. Repair shops - Groups I, II, III, IV;
- rr. Research, development and testing laboratories - Groups I, II, III, IV, and V;
- ss. Restaurant - Groups I, II;
- tt. Storage, open;
- uu. Storage, enclosed;
- vv. Studio;
- ww. Transportation services - Groups I, II, III, and IV;
- xx. Used merchandise stores - Groups I, II, III, and IV;
- yy. Veterinary and animal clinics;
- zz. Warehouse, private;
- aaa. Warehouse, public;
- bbb. Wholesale establishments - Groups I and III.

4. *Special exception uses.*

- a. Essential service facility - Group II (other than distribution electric substations);
- b. Laundry and dry cleaning plant;
- c. Manufacturing:
 - (1) Chemical and allied products - Groups I and II;
 - (2) Food and kindred products - Group II;
- d. Paper and allied products - Groups II, and III;
- e. Rubber and plastic products - Group I;
- f. Rental establishment - Group IV;
- g. Repair shops - Group V.

(Ord. 69-10, 10-18-2010)

5. *Special regulations.*

a. No existing or proposed Commerce Park Overlay use shall be established, constructed, enlarged, or expanded on properties located adjacent to a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, except by means of either the Planned Development Project (PDP) process described in § 4.2.

For purposes of this section, a property shall be deemed to be adjacent to a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, only when all or part of a property line of the property abuts a residential future land use classification or abuts a property with Pine Island Road future land use classification not zoned Village or Corridor or when the property is separated from a residential future land use classification or from a property with Pine Island Road future land use classification not zoned Village or Corridor only by an alley, canal, basin, lake, or other waterway,

Development within the Commerce Park Overlay that is entirely separated from a residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor, by any public right-of-way (excluding alleys and canals, basins, lakes or any other waterway) shall not be deemed adjacent to such residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor.

b. If a special exception for a communications tower is approved by the Hearing Examiner as a special exception use, such use shall comply not only with the conditions, if any, imposed by the Hearing Examiner, but also shall maintain a setback equal to the height of the tower from any public street and/or any adjacent residential future land use classification or to a property with Pine Island Road future land use classification not zoned Village or Corridor.

c. Exemption from site plan requirements of the Corridor Zoning District. Commerce Park Overlay development shall be exempt from site plan requirements of the Corridor District (§ 2.7.13.F.) except §§ 2.7.13.F.2 and 2.7.13.F.3.

d. Exemption from architectural requirements of the Corridor Zoning District. Structures within the Commerce Park Overlay that are 35 feet in height or less are exempt from the architectural requirements specified in § 2.7.13.G. except the requirement that no more than 30% of the front surface of any exterior wall facing any public right-of-way except alleys shall be metal. Structures within the Commerce Park Overlay that are more than 35 feet in height are exempt from the regulations in § 2.7.13, but shall comply with the following:

(1) All exterior walls shall include a repeating or varying pattern and shall include no fewer than three of the design elements listed below. At least one of the three design elements shall repeat horizontally at intervals of no more than 50 feet, either horizontally or vertically.

- (a) Building materials that create visual interest by their texture or pattern.
- (b) Building materials that create visual interest through the use of colors or color contrasts.

(c) Architectural features that project such as columns, cornices, pilasters, window awnings.

(d) Architectural features that include but are not limited to building reveals that are a minimum of one inch in depth, recesses or building indentations, building recesses related to entryways.

(e) Upper level building setbacks, offsets, or projections that are a minimum of three feet in width.

(2) Buildings shall have either a sloped roof, a full mansard roof, or a flat roof with a parapet wall which extends at least two feet above the highest level of the roof and which screens any rooftop equipment from view from public rights-of-way. Exterior walls of buildings facing Pine Island Road or Pondella Road shall provide varying rooflines for sloped roofs or architectural features such as articulated roof parapets, attached or detached porticos or other detail that create variation in the building height. As used herein, an exterior wall shall be considered to face Pine Island Road or Pondella Road if the wall is parallel to or is at an angle of less than 90 degrees to a right-of-way regardless of whether it immediately abuts or is separated from such right-of-way features such as parking lots or landscaped areas.

(3) For buildings with an area of greater than 50,000 square feet, any exterior wall with a length exceeding 100 linear feet in a horizontal direction shall incorporate wall plane projections or recesses having a depth of at least 12 inches, with a single wall plane limited to no more than 60% of the total length of any such wall.

e. Exemption from sign requirements of Corridor Zoning District. Commerce Park Overlay development shall be exempt from the unified sign plan requirements of §§ 2.7.13.I.1.a. and 2.7.13.I.1.b.

f. Relief from landscape requirements. Properties buffered by a Commerce Park Buffer, are exempt from requirements specified in §§ 5.2.9.B.1., 5.2.9.C.1., 5.2.9.C.2., and 5.2.9.D. of the Land Use and Development Regulations.

g. Communication [wireless] towers:

(1) *Definitions.*

ANTENNA. A transmitting or receiving device used for services that radiates or captures electromagnetic radio frequencies for the communication of voice, video or data.

ANTENNA SUPPORT STRUCTURE. Any building or other structure, other than a tower, which can be used for location of wireless telecommunications facilities (WTCF).

CO-LOCATION. Erecting antenna(s) of a wireless service provider on a tower or an existing antenna support structure already supporting an antenna.

DESIGNED SERVICE STUDY. A study of the configuration and manner of deployment of wireless services the wireless provider has designed for an area as part of its network that demonstrates whether or not existing towers or tall structures in the search can be utilized for co-location.

MONOPOLE. A style of free-standing tower that is composed of a single shaft, usually composed of two or more hollow sections that are in turn attached to a foundation, with external antennas. This type of tower is designed to support itself without use of guy wires or other stabilization devices.

POLE-MOUNTED. An antenna attached to or upon an electric transmission or distribution pole, a streetlight, a traffic signal or similar facility located within the public right-of-way or a utility easement. A utility pole-mounted facility shall not be considered a tower.

STEALTH OR CAMOUFLAGED FACILITY. Any antenna, tower or wireless telecommunications facility which is designed to blend into the surrounding environment or that camouflages or conceals the presence of the tower or wireless telecommunication facility to the extent that the average person would be unaware of its nature as a tower, antenna, or wireless telecommunications facility. Examples of stealth or camouflaged facilities include, but not limited to, man-made trees, clock towers, bell steeples, flag poles, light poles, and similar alternative- design mounting structures. Examples of stealth or camouflaged antennas include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, and antennas integrated into architectural elements.

STRUCTURE- MOUNTED. A wireless telecommunications facility, tower or antenna which is mounted to an existing building or structure not otherwise meant to support a wireless telecommunication facility, tower or

antenna.

TOWER. A structure which is designed for the purpose of supporting one or more antennas or wireless telecommunication facilities. The term **TOWER** shall not include amateur radio antennas, structure-mounted and pole-mounted wireless telecommunication facilities.

WIRELESS TELECOMMUNICATIONS FACILITY (WTCF). Any cables, wires, lines, wave guides, antennas, and other equipment associated with the transmission or reception of telecommunications installed upon a tower or antenna support structure, including ground-based equipment in direct support of such transmission or reception. However, the term **WIRELESS TELECOMMUNICATION FACILITY** shall not include amateur radio antennas.

(2) An application for a communication tower shall contain adequate documentation that co-location on an existing approved tower, of any type, or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:

(a) The results of a designed service study demonstrating to the satisfaction of the city that the equipment planned for a proposed communication tower cannot be accommodated on an existing or approved and un-built structure.

(b) The designed service study analysis shall be based upon a search area radius of three-quarters of a mile minimum distance from the proposed location of the intended WTCF or tower, including areas lying outside the incorporated area of the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-location opportunities, the city may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WTCF or tower location and identifies all other alternatives in the area. Further information may be required by the city on the ability of the WTCF or tower to be accommodated on specific sites within three-quarters of a mile of the proposed WTCF or tower.

(c) When co-location is determined by staff to be infeasible, the determination shall be based upon the results of the designed service study and other evidence provided by the applicant documenting one or more of the following reasons:

i. *Structural limitation.* The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

ii. *Interference.* The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.

iii. *Insufficient height.* Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed, if applicable, professional.

iv. *Lack of space.* Evidence from the applicant, verified by a licensed professional, of the lack of space on existing towers or other structures within the search radius to accommodate the proposed facility.

v. *Other factors.* Other reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building as documented by a qualified and licensed, if applicable, professional.

(3) *Technical consultants.* The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for wireless telecommunications facilities or towers and to charge reasonable fees as necessary to offset the cost of such evaluations.

(4) *Priority siting conditions.* Any new WTCF or tower shall be subject to a determination of the appropriate siting priority as indicated below. The priorities range from 1 to 4, with the preferred siting conditions found in Priority 1 and the least desirable siting conditions found in Priority 4. In the event that a proposed WTCF or tower cannot be sited to comply with the conditions in Priority 1, the development application shall demonstrate why a lower priority site is necessary.

(a) *Priority 1.* Pole- mounted WTCFs or the co-location of WTCFs on existing towers or antenna support structures located on property that is not adjacent to a residential land use designation, whether or not improved, or with a residential use upon the property, are preferred. If a WTCF cannot be co-located on a site which is not adjacent to a residential land use designation, or with a residential use, co-location on a site located adjacent to a residential land use designation, or that has a residential use on it is the next preference within Priority 1. Only when it can be demonstrated that there are not suitable existing structures, based on the determination made under section g.(2) above, can a lower priority be considered for siting the proposed facility.

(b) *Priority 2.* If a WTCF cannot be located on a site specified in Priority 1, the applicant may propose a new WTCF or new tower on property designated Industrial, Public Facilities, Commercial/Professional, Highway Commercial, or Pine Island Road District on the future land use map.

(c) *Priority 3.* If a proposed WTCF cannot comply with Priorities 1 and 2, the applicant may propose a new WTCF or new tower on property designated Commercial Activity Center, Mixed-Use, Mixed-Use Preserve, Parks and Recreation, or Preservation on the future land use map.

(d) *Priority 4.* If a proposed WTCF cannot comply with Priorities 1, 2, and 3, the applicant may propose a new WTCF or new tower on property designated Downtown Mixed or Residential on the future land use map.

(5) *Tower design standards.* In addition to any other applicable requirements provided elsewhere in the Land Use and Development Regulations, an application for a communication tower shall include the following:

(a) *Fall zone.* In the event of a catastrophic failure or collapse, towers shall be designed to collapse within an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall zone shall be certified by a professional engineer, licensed in the State of Florida.

(b) *Tower design for co-location.* A proposed tower shall be designed, when applicable, to allow for future rearrangement of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate co-location.

(c) *Monopoles or stealth.* All towers shall be monopoles or stealth design.

(d) *Illumination.* A tower shall not be artificially lighted except as may be required by federal or state regulations.

(e) *Surface or finish color.* Regardless of whether designed as a stealth facility, towers shall be painted or have a noncontrasting finish that minimizes the visibility of the facility from public view, except where contrasting color is required by federal or state regulation. In addition, the exterior of support facilities shall be designed to be compatible with the architectural design prevailing among the structures in the surrounding developed area.

(f) *Signage.* The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three feet in size which displays the owner's and/or permittee's name and an emergency telephone number.

(g) *Maximum height.* The maximum height of towers shall be 100 feet if the tower is designed for one service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet if the tower is designed to accommodate three or more service providers.

(Ord. 69-10, 10-18-2010)

h. *Artisan brewery/ distillery/ winery.*

(1) Alcohol production for a calendar year shall not exceed those figures provided within the table immediately below.

<i>Use</i>	<i>Maximum Production per Calendar Year</i>
Artisan brewery	20,000 barrels(a)
Artisan distillery	75,000 proof gallons(b)
Artisan winery	5,000 cases(c)
(a) One barrel is equivalent to 31 gallons of beer.	

(b) A unit of measure defined as one gallon of spirits that is 50% alcohol at 60 degrees Fahrenheit.
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(c) One standard case is equivalent to 12 bottles with each bottle containing 750 ml.

(2) Any artisan brewery, artisan distillery, or artisan winery shall comply with the following requirements:

(a) The business owner shall submit semi-annual production records to the Department of Community Development for all alcohol and nonalcohol products produced within the establishment.

(b) All mechanical equipment used in the alcohol production process shall be located behind a wall or fence that separates the equipment from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. The wall or fence shall be opaque and have a minimum height of six feet.

(c) Loading and unloading areas shall be restricted to the side or rear of the building. Loading and unloading areas shall not be located along the front of the building.

(d) Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:

i. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains on the property and the distance of the stockpiled grains from the property lines and the building containing the artisan brewery, distillery, or winery;

ii. Located only along the side or rear of the building;

iii. Fully enclosed in containers that are located behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet. Cargo containers and tractor trailers shall not be utilized for the temporary stockpiling of spent or used grains even if the cargo containers and tractor trailers are located behind an opaque wall or fence.

(e) To encourage the repurposing of existing buildings within the CPO for the purpose of spurring economic development, provisions(b), (c), and (d) within this subsection may be waived in part or in their entirety by the City Manager or the City Manager's designee. Business owners that plan to construct a new building for supporting an artisan brewery, distillery, or winery shall not be eligible for a waiver from these same requirements. In determining whether to waive one or more of these standards the City Manager or the City Manager's designee, shall utilize the following criteria:

i. The visibility of the mechanical equipment and loading areas from a public street(s).

ii. The proximity and visibility of the mechanical equipment and loading areas from existing residential development.

iii. The existence of site conditions that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship.

iv. The effect other regulations would have on the proposed development or other locational factors that may make compliance with this section impossible or impracticable.

v. The annual production of alcohol anticipated to be produced by the establishment.

vi. The size and extent of the equipment requiring screening.

vii. The total square footage of the loading and unloading areas.

(Ord. 31-14, § 4, 10-20-2014; Ord. 36-15, 8-31-2015)

6. *Commerce Park Buffer.*

a. *Overview.* A primary objective of the Commerce Park Overlay is to ensure that the character and appearance of the Corridor Zoning District is minimally impacted by the presence of uses that are otherwise not permitted in the Corridor District. To such end, a Commerce Park Buffer must be placed between the development and any public rights-of-way (excluding rights-of-way within an approved subdivision) and between the

development and any properties not included in the development. Such Commerce Park Buffer shall meet the following requirements:

(1) Perimeter buffer yards.

(a) Any property developed in the Commerce Park Overlay shall provide buffer yards and screening along all property lines, unless a development with multiple parcels is approved within a PDP. Within a Commerce Park Overlay development of unified control, buffer yards shall be required to separate Commerce Park Overlay uses from other zoning districts and from areas of the Corridor District that are not within the Commerce Park Overlay along its perimeter, but shall not be required to provide buffering along internal property lines, as long as the properties sharing the internal property line are developed with uses allowed within the Commerce Park Overlay.

(b) Properties within a Commerce Park Overlay that request approval for uses allowed only in the Corridor District shall be required to provide landscape buffer yards to separate such Corridor District uses from adjacent Commerce Park Overlay uses.

(c) The type and width of buffer yards required shall be determined by using Table 1: Table of Minimum Buffer Yard Requirements, and Table 2: Table of Buffer Yard Options, respectively.

<i>Table 1: Table of Minimum Buffer Yard Requirements</i>				
<i>Zoning District Adjacent or Across a Public Right-of-Way</i>				
R-1A, R-1B, RE, RD, RX, R-3	P-1, P-2, MR, VILL	C-1, A, C-3, CORR, INST	CPO	I-1
Buffer Z	Buffer Y	Buffer X	Buffer W	None

b. Buffer yard options.

(1) The Table of Buffer Yard Options (Table 2) indicates the specifications of each buffer yard. Buffer yard requirements are stated in terms of the buffer yard's width and number and type of plants required per 100 linear feet, or fraction thereof, and opaque feature. The requirements of a buffer yard may be satisfied by any of the options within a buffer yard type.

(2) To determine the total number of plants required, the length of each side of the property requiring a given type of buffer yard shall be divided by 100 and multiplied by the number of plants shown for a selected option, except as provided for instances where buffer yards overlap, such as would occur at interior corners. If the calculations yield a fractional number, that number will be rounded up to the next highest whole number. Each option contained in Table 2: Table of Buffer Yard Options depicts the total buffer yard required between two zoning districts for that option.

(3) In order to avoid double-counting where buffer yards overlap, such as would occur at interior corners, the width of the more stringent buffer yard can be subtracted from the length of the less stringent buffer yard to determine the total number of plants required for the less stringent buffer yard. If neither buffer yard is more stringent than the other, then the width of either buffer yard can be subtracted from the length of the buffer yard to determine the total number of plants required for that buffer yard. If an opaque feature is required, the opaque feature shall extend the entire length of the property line, unless it connects to another opaque feature required by an overlapping buffer yard or any other fence or wall provided.

(4) Development that provides a Commerce Park Buffer shall not be required to provide landscaping adjacent to roads that would otherwise be necessary.

<i>Table 2. Table of Buffer Yard Options</i>			
<i>Option</i>	<i>Plants per 100 Feet</i>	<i>Buffer Width²</i>	<i>Opaque Feature</i>

Buffer W			
1	5 canopy trees ¹ 4 accent trees 80 shrubs in double staggered rows	15 feet	None
2	3 canopy trees ¹ 30 shrubs	15 feet	Berm and/or opaque fence consisting of PVC, wood, metal, or chain link with slats, or combination thereof
3	4 canopy trees ¹ 30 shrubs	6 feet	Berm and/or opaque fence consisting of PVC, wood, metal, or chain link with slats, or combination thereof
Buffer X			
1	5 canopy trees ¹ 4 accent trees 80 shrubs in double staggered rows	15 feet	None
2	5 canopy trees ¹ 3 accent trees 50 shrubs	15 feet	Berm and/or opaque fence consisting of PVC, wood, metal, or combination thereof
3	5 canopy trees ¹ 3 accent trees 50 shrubs	6 feet	Berm and/or masonry wall, or combination thereof
Buffer Y			
1	5 canopy trees ¹ 5 accent trees 80 shrubs in double staggered rows	25 feet	Berm and/or opaque fence consisting of PVC, wood, metal, or combination thereof
2	5 canopy trees ¹ 4 accent trees 60 shrubs	20 feet	Berm and/or masonry wall, or combination thereof
3	6 canopy trees ¹ 4 accent trees 80 shrubs	15 feet	Berm and/or masonry wall, or combination thereof
Buffer Z			
1	6.4 canopy trees ¹ 4.8 accent trees 64 shrubs	40 feet	Berm and/or opaque fence consisting of PVC, wood, metal, masonry, or chain link with slats, or combination thereof
2	8 canopy trees ¹ 6 accent trees 80 shrubs	30 feet	Masonry wall
¹ 50% of the required canopy trees may be substituted with palm trees, at a rate of three palm trees per each canopy tree substituted. ² The buffer yard width shall be measured perpendicular to the property line.			

c. Buffer yard requirements.

(1) Opaque features required by Table 2 may consist of any combination of materials under the applicable option, including but not limited to combinations of fence or wall materials and combinations of fences or walls with berms. Additionally, walls of a building may be used as an opaque feature, as provided below.

(2) Where an opaque feature is required by Table 2, such feature shall be eight feet in height measured from finished grade of the land excluding the height of any berm.

(3) Berms used to satisfy requirements of Table 2 shall have a maximum slope in excess of 3:1.

(4) Walls or fences required by Table 2 shall be located no closer than six feet from any property line.

(5) Walls of a building may be used as the opaque feature, if it meets the standards provided herein. Any such building wall used as an opaque feature shall be located no less than 15 feet from any property line, however, in no case shall such wall be located in any required yard. If a wall of a building is used in combination with other opaque features, e.g. fences, walls, and/or berms, the opaque features must be connected to the building wall to create a continuous opaque feature. If a wall of a building is used to meet the opaque feature requirement, such wall shall be surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface. Untreated concrete block is not an acceptable finished material. Additionally, building walls used as the opaque feature shall not have doors or windows that open.

(6) Ingress and egress from the public right-of-way through any buffer yard is permitted for parking or other vehicular use areas and may be subtracted from the linear dimension used to determine the number of trees required.

(7) No development within required buffer yards. Required buffer yards shall not contain any development other than ingress and egress from the public right-of-way, drainage structures, sidewalks, walls, or berms. No grading, development, or land-disturbing activities shall occur within the buffer yard unless as part of an approved development or landscape plan. Notwithstanding the foregoing, a buffer yard may be used for passive recreation, including pedestrian and bicycle trails and sitting areas, provided that all other regulations of this section are met.

d. Tree and shrub arrangement. Required trees and shrubs shall be distributed as follows:

(1) Required trees and shrubs shall be arranged in a relatively uniform manner to meet the intent of screening adjacent incompatible uses.

(2) Required shrubs shall be placed between the nearest property line and any required opaque feature.

(3) Required trees may be placed between the nearest property line and any required opaque feature or may be on the interior side of any required opaque feature, but in no case shall be placed within any type of drainage, utility, or access easement.

e. Retention and replacement of existing vegetation.

(1) Retaining existing Florida native trees and vegetation within a buffer yard is strongly encouraged unless a grade change exceeding six inches is necessary for development.

(2) All existing native trees and shrubs within a required buffer yard that meet these requirements may be counted toward the total buffer yard plant material requirements.

(3) If existing trees and plants do not fully meet the standards for the type of buffer yard required, additional vegetation shall be planted.

(4) If trees within the buffer yard are damaged by the removal of exotic vegetation or other construction activities, those trees shall be replaced with similar species equaling the diameter of the damaged trees.

7. Buffer yard exemptions.

a. Even if otherwise required by this section, no fence, hedge, or other growth shall be erected or planted that would obstruct the view of either a pedestrian or driver of a moving vehicle so as to create a hazard to the health and welfare of its citizens. Further, no buffer yard improvements are permitted in required sight triangles as described in Article III, § 3.7, Visibility Triangles, of the Land Use and Development Regulations.

b. No buffer yard improvements are required that would conflict with § 3.9 of the Land Use and Development Regulations.

8. CPO Dimensional regulations.

Minimum lot area	None
Floor area ratio	1.0
Maximum height	45 feet (b)
Minimum lot width (at building line)	None
Minimum yards	
Front	25 feet
Side	0 ft or 10 ft.(a)
Rear	10 ft.
(a) See Article III, §§ 3.7 and 3.8 of the Land Use and Development Regulations for corner lot setbacks.	
(b) The maximum height of a communication tower shall be 140 feet as stated hereinabove.	

(Ord. 133-08, 1-26-2009; Ord. 69-10, 10-18-2010; Ord. 24-16, 6-6-2016)

.18 Marketplace-Residential (MR).

A. *Purpose and intent.* The purpose of this zoning district is to provide a variety of pedestrian-oriented neighborhood retail, specialty retail, office, services, and residential uses within the Commercial Activity Center future land use classification. The intent of the district is to encourage multi-use development at key locations, within close proximity to major corridors throughout the City of Cape Coral. Additionally, the intent is to encourage land assembly, provide a range of uses compatible with surrounding development, and to serve as a receiving zone for transfers of development rights (TDRs).

(Ord. 90-10, 3-14-2011)

B. *Permitted uses.* (See § 2.7.18D.1., special regulations.)

1. Administrative offices;
2. Assisted living facility;
3. Automatic teller machine ATM;
4. Automotive parking establishment;
5. Banks and financial establishments - Groups I and II (see § 2.7.18D.4., special regulations for drive-thru facilities);
6. Bed and breakfast establishment;
7. Business office - Group I;
8. Brewpub;

(Ord. 31-14, § 5, 10-20-2014)

9. Child care facility/preschool/ kindergarten;
10. Clothing store general;
11. Clubs: commercial, country, fraternal, and membership organization;
12. Conjoined residential structures (see § 2.7.18D.3., special regulations);
13. Contractors and builders - Group I;
14. Cultural facilities;
15. Department stores (no greater than 50,000 square feet);
16. Duplex dwellings (see § 2.7.18D.3., special regulations);

17. Drugstore (see special regulations § 2.7.18D.4. for drive-thru facilities);
18. Entrance gates;
19. Essential service facilities - Group II - distribution electric substation only (see § 3.27);
20. Essential services;
21. Family day care home;
22. Florist shop;
23. Food stores - Group I;
24. Government uses - Group I;
25. Hardware store (no greater than 50,000 square feet);
26. Health care facilities - Groups I, II, and III;
27. Hobby, toy, and game shop;
28. Home occupation;
29. Hotel/motels, convention, efficiency, resort, and transient;
30. Household/office furnishings - Group I and II;
31. Insurance companies;
32. Large family child care home;
33. Medical offices;
34. Mortgage broker;
35. Motion picture theater;
36. Multi-family dwellings (see § 2.7.18D.3., special regulations);
37. Nature and wildlife preserve;
38. Newsstand;
39. Package stores (only without drive-thru facilities);
40. Parks - Groups I, II, and IV;
41. Personal services - Groups I, II and III (see § 2.7.18D.4., special regulations);
42. Pet services;
43. Pet shops;
44. Pharmacies (see § 2.7.17D.4., special regulations);
45. Photo finishing laboratory (see § 2.7.18D.4., special regulations);
46. Places of worship;
47. Printing services establishment;
48. Private park;
49. Recreation-commercial - Groups I and III;
50. Religious facility;
51. Rental establishments - Group II (see § 2.7.18D.8., special regulations);

52. Research, development and testing laboratories - Groups II and III;
53. Restaurants - Groups I, II, III, IV (see § 2.7.18D.4., special regulations);
54. Restaurant, fast food (only without drive-thru facilities see special exception uses);
55. Schools, commercial;
56. Schools (non-profit, private, public) - Groups I and II;
57. Single family dwelling (see § 2.7.18D.2. and 3.h., special regulations)
58. Social Services - Group I;
59. Specialty retail shops - Groups I, II and III;
60. Studio;
61. Variety stores; and
62. Veterinary and Animal Clinics.

(Ord. 90-10, 3-14-2011)

C. Special exception uses.

1. Essential service facilities - Group I (see special regulations for communication [wireless] towers);

(Ord. 69-10, 10-18-2010)

2. Government uses - Group II;
3. Model homes (see § 2.7.18D.9, special regulations);
4. Personal services - Group IV;

5. Restaurant, fast food with drive-thru facilities (special exception required only if drive-thru facilities are developed).

(Ord. 90-10, 3-14-2011)

D. Special regulations.

1. *Mix of uses.* The potential to establish any permitted use or special exception use on any individual property may be limited by the proportion of residential and non-residential uses allowed within the specific size of the development project, as described in § 2.7.18D.3.

2. Single family residential dwellings are allowed in the Marketplace- Residential zoning district only as either pre- existing single family residences if they meet the requirements stated herein, or as free-standing residential development if they meet the requirements stated in subsection 2.7.18D.3. below.

a. Pre-existing single family residences allowed. Single family residences may continue to be maintained, remodeled, expanded, or rebuilt, and the owners of such properties may continue to enjoy all the rights, privileges and responsibilities of home ownership, including the ability to sell or rent their homes to other parties, provided that they meet the following criteria:

(1) Residences have been lawfully constructed, or had applied for or received a building permit at their current locations prior to the designation of the property as part of a CAC future land use classification; or

(2) Residences have been lawfully constructed, or had applied for or received a building permit at their current locations under a former CAC future land use classification.

b. If a pre-existing single family residence is used as a model home, it retains its status as a pre-existing single family residence as long as it meets one of the criteria stated in 2.7.18D.2.a. above.

c. If a pre-existing single family residence is used for any non-residential purposes other than a model home, its status as a pre-existing single family residence is terminated and the owners of such property shall no

longer be able to maintain, remodel, expand, or rebuild, or sell or rent their homes to other parties as a single family residence.

d. In and of themselves, pre-existing single family residences do not necessarily constitute free-standing residential development, unless they otherwise meet the criteria for such development, as discussed under subsection 2.7.18D.3. below. If pre-existing single family residences, as defined in this section, are included as part of a larger approved development project, the pre-existing status of the residences is lost, and such residences become subject to the city Land Use and Development Regulations regarding non-conforming structures, unless the single family residence qualifies as free-standing residential development.

(Ord. 71-13, 1-13-2014)

3. *Density, intensity and use area allocations.* The allowable densities, intensities, and use area allocations within the Marketplace- Residential District vary with the land area within the development project. The land area within a development project is determined by the land area encompassed by a single application for development project. A development project can consist of one or more properties that are the subject of a single application for development including, but not limited to, a planned development project or site plan. Amendment of an approved development project to expand or contract the land area does not alter its status as a single application for development project. If an application for development consists of properties that are not contiguous, the application must demonstrate that the properties function as a unified development. If the application for development is a planned development project that includes a request for vacation of right-of- way, then that portion of the vacated area of right- of-way, which would be owned or controlled by the project developer, can be included in the development project size calculation.

a. *Density.* In development projects that qualify for residential uses (see below), the baseline residential density shall be 4.4 dwelling units per acre. The baseline density is the maximum density available to projects that are not eligible to receive density exceeding the baseline density, or to projects that are eligible but that do not participate in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program.

In order to be eligible to receive density exceeding the baseline density through the Transfer of Development Rights (TDR) Program and/or the Development Incentive Program (DIP), or a combination of the two, a development project within the Marketplace- Residential District must consist of at least five acres of contiguous platted lots, or platted or unplatted tract(s), or any combination thereof.

To derive density exceeding the baseline density through the TDR Program or DIP, an applicant must complete the processes identified within the City of Cape Coral Land Use and Development Regulations.

If the applicant for density exceeding the baseline density opts to participate in the City of Cape Coral's Development Incentive Program (DIP), the applicant would be required to contribute to the City of Cape Coral's Public Improvement Fund (PIF) in an amount sufficient to qualify for 25% (or between 25% and 50% for projects that meet the criteria to provide up to 50% of the differential between the baseline and maximum permitted density and/or intensity in any DIP category) of the credit points necessary to attain the density exceeding the baseline density. Such contribution to the PIF category shall be counted as a creditable activity required to support the application for increased density. Administration, collection, and disbursal of monies within the fund are set forth in the Land Use and Development Regulations.

b. *Intensity.* The baseline intensity of non-residential uses shall be a floor area ratio (FAR) of 0.5, regardless of the size of the development. The baseline intensity is the maximum intensity available without participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program. Increases above the baseline intensity may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program. If the project developer is only seeking an intensity increase (and not a density increase), said developer is not subject to the eligibility requirement, as referenced above under subsection 2.7.18D.3.a Density, above, and is neither required to participate or prohibited from participation in the Public Improvement Fund (PIF).

c. *Limitations on density and intensity within the MR District.* In the Urban Services Reserve Area, where central water and sewer are not available, residential uses are restricted to 4.4 dwelling units per acre and non-residential uses are limited to uses that do not generate an estimated flow of more than 1,320 gallons of sewage per acre per day. Estimated flows shall be based on 64E-6.008 Florida Administrative Code, as may be amended.

d. *Use area allocations.* All land areas within developments in the MR District shall be categorized as one of the three following use areas:

(1) Free-standing non-residential. Free-standing non-residential areas include the footprint and land areas associated with buildings that contain no residential units.

(2) Free-standing residential. Free-standing residential areas include the footprint and land areas associated with buildings that contain residential units and buildings that contain non-residential floor area usage that is less than 30% of the building's floor area. In calculating the floor area of the building, the total floor area of the building is the floor area of the building remaining after the area of any structured parking is excluded. Also, any pre-existing single family residences do not necessarily constitute free-standing residential development, unless such residences otherwise meet the criteria for such development.

(3) Compound use. Compound use areas include the footprint and land areas associated with compound use buildings that, for the purposes of this subsection, shall mean buildings with at least 30% of their floor areas allocated to non-residential uses. In calculating the floor area of the building, the total floor area of the building is the floor area of the building remaining after the area of any structured parking is excluded.

The land area that may be allocated to any of the three use area allocations varies with the size of the development project, with generally increasing flexibility as a function of the total land area of the development. Densities and intensities associated with any of the three use area categories apply only to the land area of the project that is allocated to that specific use. In determining the land area within any of the three use area allocations, the area of any common areas, including, but not limited to, areas for surface water management, parking, landscaping, and circulation, shall be apportioned among the three use area allocations in the same proportion as the non-common areas relate to the area of the development, excluding common areas.

e. *Development projects less than five acres in area.*

(1) Free-standing non-residential. Free-standing non-residential areas are not required but may constitute up to 100% of the development project area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program.

(2) Compound use. Compound use areas are not required but may constitute up to 100% of the development project area. No increases above the baseline density of 4.4 units per acre may be permitted through the use of either the DIP or TDR Programs.

(3) Free-standing residential. Free-standing residential areas are not allowed.

f. *Development projects five acres or larger, but less than ten acres in area.*

(1) Free-standing non-residential. Free-standing non-residential areas are not required but may constitute up to 100% of the development project area. Increases above the baseline density of 0.5 may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program.

(2) Compound use. Compound use areas are not required but may constitute up to 100% of the development project area. Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density allowed (ten units per acre), through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program. To be eligible for densities above the baseline density, the development project must meet the requirements contained under subsection 2.7.18D3.a Density, above.

(3) Free-standing residential. Free-standing residential areas are not allowed.

g. *Development projects ten acres or larger, but less than 20 acres in area.*

(1) Free-standing non-residential. Free-standing non-residential areas are not required but may constitute up to 80% of the development project area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program.

(2) Compound use. Compound use areas shall constitute no less than 20% of the land area and may constitute 100% of the land area. Increases above the baseline density of 4.4 units per acre may be permitted, up to

the maximum density of 12 units per acre. To be eligible for densities above the baseline density, the development project must meet the requirements contained under subsection 2.7.18D3.a Density, above.

(3) Free-standing residential. Free-standing residential areas are not allowed.

h. *Development projects 20 acres or larger in area.*

(1) Free-standing non-residential. Free-standing non-residential areas shall constitute no less than 20% of the land area and may constitute a maximum of 80% of the land area. Increases above the baseline intensity of 0.5 may be permitted, up to the maximum floor area ratio (FAR) of 2.0, regardless of the size of development, through participation in the Development Incentive Program (DIP) and/or Transfer of Development Rights (TDR) Program.

(2) Compound use. Compound use areas shall constitute no less than 20% of the land area and may constitute 80% of the land area. Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density of 20 units per acre. To be eligible for densities above the baseline density, the development project must meet the requirements contained under subsection 2.7.18D3.a Density, above.

(3) Free-standing residential. Free-standing residential areas may constitute a maximum of 20% of the land area. Increases above the baseline density of 4.4 units per acre may be permitted, up to the maximum density of eight units per acre. To be eligible for densities above the baseline density, the development project must meet the requirements contained under subsection 2.7.18D.3.a Density, above.

(Ord. 90-10, 3-14-2011)

4. *Drive-thru facilities.* Drive-thru facilities shall comply with the following design criteria:

a. Drive-thru facilities, including service window(s), menu board(s), and vehicle aisles shall not be placed between the front lot line and the associated building.

b. Drive-thru windows for banks, drugstores, and other uses without menu boards shall be located at the rear of a building or within a parking structure, and shall be located in a manner where they cannot be seen from the front lot line.

c. Drive-thru facilities for restaurants and other uses that utilize a menu board shall be required to have the menu board located at the rear of the building and be located or screened in a manner where it cannot be seen from public rights-of-way. The drive-thru window may be located on the side of a building, and the drive-thru window lane exit area shall be screened from the right-of-way with a landscape island at the facility exit to screen the drive-thru lane and window. Drive-thru facilities on either side of a building that are visible to pass-by traffic shall be screened by a five-foot wide landscape buffer of a length to cover the entire drive-thru stacking area. Alternate locations for drive-thru windows or menu boards may be approved by the Director provided the alternate location is compatible with the design and character of the property on which it is proposed to be located, compatible with surrounding neighborhood, whether the proposed drive-thru window or menu board is consistent with the intent and purpose of the Marketplace Residential zoning district, and whether placement of the drive-thru window or menu board would not be detrimental to the health, safety, and welfare of the public.

d. Drive-thru facilities shall be covered with a porte-cochere or other type of permanent, rigid structure that extends the width of the drive-thru lane(s), covering the service window(s), with a minimum length of 20 feet, measured parallel to the drive-thru lane(s). Such structure shall be integrated structurally and architecturally into the design of the building and shall be consistent in color, materials, trim features, and roof design of the building that the drive-thru facilities serve.

(Ord. 90-10, 3-14-2011)

5. *Site plan requirements.* Development within the Marketplace-Residential District shall meet the following requirements, in addition to other requirements of § 4.4. of the Land Use and Development Regulations.

a. For developments within the Marketplace-Residential District that incorporate non-residential and residential uses, the plan shall clearly indicate the land areas (square footage, percentage of development site, and locations) to be used for non-residential, residential, and compound use, as well as the uses proposed within each of the designated areas.

b. With the exception of driveway entrances, all loading docks and building service areas, including, but not limited to, those service areas containing air handling equipment, generators, meters, etc., shall be screened by a

masonry wall from a pedestrian-level view from any adjacent residential future land use category, public sidewalk, or public street, excluding alleys. Such walls shall be designed to appear as an architectural extension of the principal building and incorporate architectural trim and features consistent with the adjacent facade. Walls required for screening loading docks and/or building service areas shall not exceed the height limitations provided within § 3.9 of the Land Use and Development Regulations unless approved by the DCD Director. In determining whether to approve height in excess of that allowed, the DCD Director shall consider whether the requested height is compatible with the design and character of the property on which it is proposed compatible with surrounding neighborhood, whether the proposed wall for screening loading docks and/or building service areas is consistent with the intent and purpose of the Marketplace Residential zoning district, and whether placement of the wall would not be detrimental to the health, safety, and welfare of the public.

c. On sites with an area of 25,000 square feet or greater, building frontage shall adhere to the following standards: The first story of the building's frontage shall be at least 75% of the parcel's width as measured along the front property line. For adjoining parcels that are being developed simultaneously as one site with one or more buildings, this percentage applies to the combination of lots and building frontages.

d. On sites with an area of 25,000 square feet or greater, at least 40% of the building frontage shall be built at the minimum front setback line.

e. Parking spaces, except for parallel parking along a street, shall not be located within the front yard.

f. This section is not intended to inhibit innovation or creativity in design. To this end, deviations from the site plan requirements of this subsection may be approved as provided in subsection 2.7.18F.

(Ord. 90-10, 3-14-2011)

6. *Architectural requirements.* In addition to the non-residential design standards required by § 5.6 of the Land Use and Development regulations, development other than single family residential within the Marketplace-Residential District shall comply with the following requirements:

a. *Scale.* Facades shall incorporate a minimum of two continuous (except for interruptions for doors and windows), horizontal, architectural details, within 15 feet of the finished grade. Such architectural details may consist of belt courses, banding, or any type of three dimensional molding or niches.

b. *Proportion.* The frontage of buildings shall be divided into architecturally distinct sections no more than 60 feet in width, with each section taller than it is wide. Windows and storefront glazing shall be divided to be vertical in proportion so that each section is taller than it is wide.

c. Prohibited treatments. The following architectural treatments are prohibited:

- (1) Corrugated metal panels used as a finish material are prohibited.
- (2) Backlit awnings and backlit canopies are prohibited. This prohibition

shall not be construed to prohibit those portions of awnings or canopies which may have approved backlit sign copy area.

d. This section is not intended to inhibit innovation or creativity in design. To this end, deviations from the architectural requirements of this subsection may be approved, as provided in subsection 2.7.18F.

If any of the architectural requirements of this subsection conflict with any other provision of the City of Cape Coral Code of Ordinances or Land Use and Development Regulations, the provision that establishes the more specific standard or architectural theme governs. If neither conflicting provision establishes a specific standard or architectural theme, then the more restrictive provision governs unless otherwise expressly provided.

(Ord. 90-10, 3-14-2011)

7. *Use of the PDP process.* Every development project, regardless of size or use area allocations, is required to be approved through the PDP process. Pre-existing single family residences, as defined in § 2.7.18D.2, which are being maintained, remodeled, expanded, or rebuilt, are not required to be reviewed through the PDP process.

(Ord. 90-10, 3-14-2011)

8. Outdoor display or storage of merchandise shall not be permitted in Rental Establishments - Group II uses.

(Ord. 90-10, 3-14-2011)

9. Model home sites may be permitted as a special exception, subject to the following requirements:

a. Approval of a model home site shall be for a maximum term of five years. Within 60 days of expiration or abandonment of a model home site, the site and structure shall be modified as necessary for conversion of the site and structure to a permitted use or restoration to a safe and stabilized condition to allow for development of a permitted use.

b. A model home shall be located within a development project of a size that would allow the dwelling unit type after the model is converted to a permanent dwelling unit. For example, a model home for a single family home must be located in a development project that consists of 20 acres or greater, because free-standing residential uses are not allowed within development projects less than 20 acres. This limitation can be waived if the applicant agrees to remove the structure within 60 days from the expiration of the special exception or if the applicant demonstrates that the structure can be converted to a non-residential use meeting all of the requirements of this District.

c. Parking shall be provided in conformity with the following requirements:

(1) Five paved spaces shall be provided for the first model home and two additional paved spaces shall be provided for each additional model.

(2) The required parking shall be provided either on the same site or within an approved permanent off-site parking lot. When parking is on the same site as the model home, the following shall apply:

i. The minimum site area for a model home site shall be 15,000 square feet for the first model home site and a minimum of 10,000 square feet for each additional model home site.

ii. The parking lot for each model home site shall be set back a minimum of five feet from the side property line, and 15 feet from the rear property line. The setback areas shall be as required by § 5.2 of the Land Use and Development Regulations, but in no event shall the buffer be less than five feet.

d. For any model home, a deposit of funds or other financial instruments payable to the City of Cape Coral is required to ensure restoration of the model home site upon termination of the model home special exception use or abandonment of the model home site for more than 30 consecutive days, or upon the sale of the model home site for a use as a residence or other use. Upon the occurrence of abandonment, expiration of use, or sale changing the use under the conditions stated above, the model home site shall either be demolished or converted to a use allowed in the Marketplace-Residential zoning district. Should the owner fail to convert the model home site, the deposit or financial instrument shall be used for the conversion or removal of the model home site.

(1) For model homes that will not be converted, but removed upon expiration or abandonment, the amount of the deposit or other financial instrument shall be no less than 110% of the estimated cost of removal of the model home and associated site improvements, including, but not limited to, re-grading and sodding the site.

(2) For any single family model home that will be converted to an allowable use upon expiration or abandonment, the amount of the deposit payable to the city shall be as follows:

\$5,000 for conversion of the parking lot; and

\$1,500 per model home site if driveway is not installed.

(3) The deposit or financial instrument shall be used by the city for construction or demolition activities, including, but not limited to, removal of pavement, re-grading, sodding, installation of a driveway, remodeling of the structure, or demolition of a structure, as applicable, to convert the site and structure to a permitted use or restore the site and structure to a safe and stabilized condition to allow for development of a permitted use.

(4) Any funds and interest resulting from these funds shall be returned to the party who made the deposit upon removal or conversion of the model home site to a residential or other permitted use if such conversion is done by parties other than the city. Should the city be required to remove the model home or perform the conversion, all unused monies, including interest accrued, shall be refunded to the party making the deposit.

e. Model home sites may be open for business only between 9:00 a.m. and 9:00 p.m. daily.

f. Outside lighting is permitted for security purposes and to illuminate signage, but shall not cause a glare or nuisance to neighboring properties or impede traffic. Signage shall not be internally illuminated.

g. Model home sites must be used exclusively for the display and sale of the model homes. No construction office or other real estate uses shall be permitted.

h. Any structure converted from a model home to another use shall comply with all provisions of this subsection.

(Ord. 90-10, 3-14, 2011)

10. Communication [wireless] towers:

a. *Definitions.*

ANTENNA. A transmitting or receiving device used for services that radiates or captures electromagnetic radio frequencies for the communication of voice, video or data.

ANTENNA SUPPORT STRUCTURE. Any building or other structure, other than a tower, which can be used for location of wireless telecommunications facilities (WTCF).

CO-LOCATION. Erecting antenna(s) of a wireless service provider on a tower or an existing antenna support structure already supporting an antenna.

DESIGNED SERVICE STUDY. A study of the configuration and manner of deployment of wireless services the wireless provider has designed for an area as part of its network that demonstrates whether or not existing towers or tall structures in the search can be utilized for co-location.

MONOPOLE. A style of free-standing tower that is composed of a single shaft, usually composed of two or more hollow sections that are in turn attached to a foundation, with external antennas. This type of tower is designed to support itself without use of guy wires or other stabilization devices.

POLE-MOUNTED. An antenna attached to or upon an electric transmission or distribution pole, a streetlight, a traffic signal or similar facility located within the public right-of-way or a utility easement. A utility pole-mounted facility shall not be considered a tower.

STEALTH OR CAMOUFLAGED FACILITY. Any antenna, tower or wireless telecommunications facility which is designed to blend into the surrounding environment or that camouflages or conceals the presence of the tower or wireless telecommunication facility to the extent that the average person would be unaware of its nature as a tower, antenna, or wireless telecommunications facility. Examples of stealth or camouflaged facilities include, but not limited to, man-made trees, clock towers, bell steeples, flag poles, light poles, and similar alternative-design mounting structures. Examples of stealth or camouflaged antennas include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, and antennas integrated into architectural elements.

STRUCTURE-MOUNTED. A wireless telecommunications facility, tower or antenna which is mounted to an existing building or structure not otherwise meant to support a wireless telecommunication facility, tower or antenna.

TOWER. A structure which is designed for the purpose of supporting one or more antennas or wireless telecommunication facilities. The term **TOWER** shall not include amateur radio antennas, structure-mounted and pole-mounted wireless telecommunication facilities.

WIRELESS TELECOMMUNICATIONS FACILITY (WTCF). Any cables, wires, lines, wave guides, antennas, and other equipment associated with the transmission or reception of telecommunications installed upon a tower or antenna support structure, including ground-based equipment in direct support of such transmission or reception. However, the term **WIRELESS TELECOMMUNICATION FACILITY** shall not include amateur radio antennas.

b. An application for a communication tower shall contain adequate documentation that co-location on an existing approved tower, of any type, or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:

(1) The results of a designed service study demonstrating to the satisfaction of the city that the equipment planned for a proposed communication tower cannot be accommodated on an existing or approved and un-built structure.

(2) The designed service study analysis shall be based upon a search area radius of three-quarters of a mile minimum distance from the proposed location of the intended WTCF or tower, including areas lying outside the incorporated area of the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-location opportunities, the city may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WTCF or tower location and identifies all other alternatives in the area. Further information may be required by the city on the ability of the WTCF or tower to be accommodated on specific sites within three-quarters of a mile of the proposed WTCF or tower.

(3) When co-location is determined by staff to be infeasible, the determination shall be based upon the results of the designed service study and other evidence provided by the applicant documenting one or more of the following reasons:

(a) *Structural limitation.* The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

(b) *Interference.* The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.

(c) *Insufficient height.* Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed, if applicable, professional.

(d) *Lack of space.* Evidence from the applicant, verified by a licensed professional, of the lack of space on existing towers or other structures within the search radius to accommodate the proposed facility.

(e) *Other factors.* Other reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building as documented by a qualified and licensed, if applicable, professional.

c. *Technical consultants.* The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for wireless telecommunications facilities or towers and to charge reasonable fees as necessary to offset the cost of such evaluations.

d. *Priority siting conditions.* Any new WTCF or tower shall be subject to a determination of the appropriate siting priority as indicated below. The priorities range from 1 to 4, with the preferred siting conditions found in Priority 1 and the least desirable siting conditions found in Priority 4. In the event that a proposed WTCF or tower cannot be sited to comply with the conditions in Priority 1, the development application shall demonstrate why a lower priority site is necessary.

(1) *Priority 1.* Pole-mounted WTCFs or the co-location of WTCFs on existing towers or antenna support structures located on property that is not adjacent to a residential land use designation, whether or not improved, or with a residential use upon the property, are preferred. If a WTCF cannot be co-located on a site which is not adjacent to a residential land use designation, or with a residential use, co-location on a site located adjacent to a residential land use designation, or that has a residential use on it is the next preference within Priority 1. Only when it can be demonstrated that there are not suitable existing structures, based on the determination made under section 8.b above, can a lower priority be considered for siting the proposed facility.

(2) *Priority 2.* If a WTCF cannot be located on a site specified in Priority 1, the applicant may propose a new WTCF or new tower on property designated Industrial, Public Facilities, Commercial/Professional, Highway Commercial, or Pine Island Road District on the future land use map.

(3) *Priority 3.* If a proposed WTCF cannot comply with Priorities 1 and 2, the applicant may propose a new WTCF or new tower on property designated Commercial Activity Center, Mixed-Use, Mixed-Use Preserve, Parks and Recreation, or Preservation on the future land use map.

(4) *Priority 4.* If a proposed WTCF cannot comply with Priorities 1, 2, and 3, the applicant may propose a new WTCF or new tower on property designated Downtown Mixed or Residential on the future land use map.

e. *Tower design standards.* In addition to any other applicable requirements provided elsewhere in the Land Use and Development Regulations, an application for a communication tower shall include the following:

(1) *Fall zone.* In the event of a catastrophic failure or collapse, towers shall be designed to collapse within an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall zone shall be certified by a professional engineer, licensed in the State of Florida.

(2) *Tower design for co-location.* A proposed tower shall be designed, when applicable, to allow for future rearrangement of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate co-location.

(3) *Monopoles or stealth.* All towers shall be monopoles or stealth design.

(4) *Illumination.* A tower shall not be artificially lighted except as may be required by federal or state regulations.

(5) *Surface or finish color.* Regardless of whether designed as a stealth facility, towers shall be painted or have a noncontrasting finish that minimizes the visibility of the facility from public view, except where contrasting color is required by federal or state regulation. In addition, the exterior of support facilities shall be designed to be compatible with the architectural design prevailing among the structures in the surrounding developed area.

(6) *Signage.* The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three feet in size which displays the owner's and/or permittee's name and an emergency telephone number.

(7) *Maximum height.* The maximum height of towers shall be 100 feet if the tower is designed for one service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet if the tower is designed to accommodate three or more service providers.

(Ord. 69-10, 10-18-2010)

11. *Brewpub.* Brewpubs are subject to the following requirements.

a. The area used for brewing, bottling, and kegging of all beverages produced by the establishment shall not exceed 40% of the total floor area of the restaurant or exceed a total floor area of 2,500 square feet devoted for brewing, bottling, and kegging, whichever is less.

b. A building plan shall be submitted to the City that clearly shows the area of the building that will be devoted to the brewing, bottling, and kegging component of the establishment.

c. No enclosed storage shall be allowed including the use of portable storage units, cargo containers, and tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:

(1) Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains and the distance of the stockpiled grains from the property lines and the building containing the brewpub;

(2) Located only along the side or rear of the building;

(3) Fully enclosed in containers that are located behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet. Chain link, with or without slats, shall be prohibited as a wall or fence material.

(Ord. 31-14, § 5, 10-20-2014)

E. *Dimensional regulations.*

TABLE MR Dimensional Regulations (MR District)

Development Other than Single Family Residential or Duplex

Minimum lot area	None
Minimum lot width (at building line)	25 feet
Minimum yards	
Front	7 feet
Side (not abutting a right-of way)	0 or 10 feet (a)
Side abutting a right-of-way	7 feet (b)
Rear	20 feet (a)
Maximum building height	65 feet (c)
Minimum height	20 feet (d)
Minimum living area	
Multi-family developments	
Efficiency	500 square feet per unit
One bedroom	650 square feet per unit
Each additional bedroom	150 square feet per unit
Conjoined residential structure	
Development with 3 or more units (each unit)	same as multi-family
<i>Single Family Residential or Duplex</i>	
Minimum lot area	10,000 square feet
Minimum lot width (at building line)	80 feet (e)
Minimum yards	
Front	15 feet
Side (not abutting a right-of-way)	7.5 feet
Side abutting a right-of-way	7 feet
Rear	20 feet
Maximum building height	38 feet
Minimum living area	
Single family	1,100 square feet
Duplex (each unit)	1,000 square feet (plus additional 100 square feet for each bedroom over 2)
Conjoined residential structure with 2 units (each unit)	same as duplex
<p>(a) For properties abutting any parcel with a residential future land use classification, a pre-existing single family residence meeting the criteria of § 2.7.18D.2., or a free-standing residential use not part of the same project, the minimum yard that abuts such parcel shall increase to 30 feet. No parking, vehicular accessways, or commercial trash receptacles are permitted within 30 feet of any property line abutting a parcel with a residential future land use classification, a pre-existing single family residence meeting the criteria of § 2.7.18D.2., or free-standing residential use not part of the same project.</p> <p>(b) In the event compliance with the visibility triangle requirement of § 3.7 requires a greater yard for all or a portion of a property, the yard requirement shall be increased accordingly.</p> <p>(c) That portion of a building or structure within 65 feet of any parcel with a residential future land use classification shall be subject to a height limitation of one foot in height for every one foot in distance from the residential future land use classification, unless the application of this requirement would limit the building height to less than 38 feet.</p> <p>(d) For buildings with frontage along any arterial or collector street, the facade along such arterial or collector street shall be a minimum of 35 feet in height.</p> <p>(e) All lots shall front on a street for a minimum distance of 50 feet, except cul-de-sac lots shall be permitted to front on such cul-de-sac for a minimum distance of 25 feet.</p>	

(Ord. 69-10, 10-18-2010; Ord. 90-10, 3-14-2011)

F. *Deviations.*

1. Deviations from the site plan requirements and/or the architectural requirements of this section may be approved by the Hearing Examiner (or the City Council in PDPs that require the approval of the City Council and as further provided herein) provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:

- a. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or
- b. Literal conformity with the regulations would inhibit innovation or creativity in design.

2. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner (or the City Council, when applicable) shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment and loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. Additionally, the Hearing Examiner (or the City Council, when applicable) shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.

3. In determining whether a particular deviation request should be approved because literal conformity with the regulations would inhibit innovation or creativity in design, the Hearing Examiner (or the City Council, when applicable) may approve the request for deviation(s) if the applicant demonstrates that the design of the building or development for which one or more deviations is sought is unique and innovative and, further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Hearing Examiner (or the City Council, when applicable) shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicia of unique and innovative design may include, but are not limited to, the following:

- a. Architectural details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;
- b. Building forms that evoke exceptional expression through use of angularity, curvature, or other means;
- c. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
- d. Other details that preclude visual monotony and are pleasing in aesthetic character.

4. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including, but not limited to, sample detail drawings, schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the detriment, of the public interest.

5. Subject to these standards and criteria, the Hearing Examiner (or the City Council, when applicable) shall approve only the minimum deviation from the provisions of this section necessary to avoid either the unnecessary or undue hardship or the inhibition of innovation or creativity in design. The Hearing Examiner (or the City Council, when applicable) may impose reasonable conditions of approval in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which a deviation is granted, shall be deemed a violation of this section and shall be enforceable not only by revocation of the deviation, but also by all other remedies available to the city, including, but not limited to, all code enforcement procedures.

6. Deviations shall be heard by either the Hearing Examiner (or the City Council, when applicable) under the following circumstances:

a. When a planned development project (PDP) Development Order is not required for development, is not in effect and no application for a PDP Development Order is pending with the city for a particular development or property, then the Hearing Examiner shall hear and determine the request for deviation(s).

b. In the event a PDP application is pending with the city, and a request for deviation(s) is submitted that would affect all or any part of the property that would be subject to the PDP Development Order, if it were to be approved, then the request for deviations shall be reviewed and heard by the body that would review and hear the PDP application pursuant to the regulations for PDP approval. In the event a request for deviation(s) is pending with the city, and an application for a PDP Development Order is filed with the city that would affect all or any part of the property for which deviation(s) to the requirements of this section are sought, then the request for deviation(s) shall be heard by the body that would review and hear the PDP pursuant to the regulations for PDP approval. The deviation(s), if approved, may or may not, in the discretion of the body approving them, be included in the PDP Development Order.

c. If all or any part of the property for which a deviation is requested is currently regulated by a PDP, an application may be submitted for a deviation without requiring an amendment to the PDP. If the PDP was adopted by the Planning and Zoning Commission or Hearing Examiner, then the deviation must be reviewed and considered for adoption by the Hearing Examiner. If the PDP was adopted by the City Council, then the deviation must be reviewed for recommendation by the Hearing Examiner, then reviewed and considered for adoption by the City Council.

d. If all or any part of the property for which an application for a PDP Development Order is filed has previously been approved for one or more deviation(s) to the requirements of this section, then the previously approved deviation(s) may be reconsidered by the body considering the PDP Development Order, subject to the conditions identified herein. The deviation(s) may be revoked, amended, or remain unchanged by the body hearing the PDP application provided, however, that a deviation shall not be revoked for any building on the site that has either been completed or so substantially constructed that revocation of the deviation at the time the PDP Development Order is considered would be impracticable and would be unduly burdensome on the property owner. The body hearing the application for the PDP Development Order may amend previously approved conditions and may impose additional conditions of approval in consideration of the deviation(s) previously approved, as a condition of the PDP Development Order or the continuation of any previously approved deviation(s).

7. Appeals by any person aggrieved by a decision concerning a requested deviation are governed by § 8.9 of the Land Use and Development Regulations.

(Ord. 90-10, 3-14-2011; Ord. 24-16, 6-6-2016)