

**CITY OF MARCO ISLAND
ORDINANCE 02- 35**

AN ORDINANCE TO ESTABLISH NEW LAND DEVELOPMENT CODE DEFINITIONS TO SUPERCEDE, REPLACE AND/OR SUPPLEMENT DEFINITIONS CURRENTLY FOUND IN THE COLLIER COUNTY LAND DEVELOPMENT CODE (ORDINANCE 91-102, AS AMENDED); ESTABLISHING INTENT AND PURPOSE; PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR DEFINITIONS; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, state law requires municipalities to adopt Land Development Regulations consistent with the adopted Comprehensive Plan; and

WHEREAS, the Marco Island Planning Board, as the Local Planning Agency, has conducted all required public hearings related to this ordinance, and has forwarded this ordinance to City Council with a recommendation of approval.

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

SECTION ONE: PURPOSE AND INTENT.

The purpose of this ordinance is to provide definitions for certain terms and expressions contained in the land development code which expand upon, and/or provide clarity, for application on Marco Island, Florida. In the interpretation and application of any provision of this ordinance, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this ordinance, the land development code, the comprehensive plan, or any other law or regulation in effect in the City of Marco Island, Florida, imposes greater restrictions upon the subject matter than any other provision of this ordinance, the land development code, the comprehensive plan, or any other law or regulation in effect in the City of Marco Island,

Florida, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

It is the intent of the ordinance that in all circumstances, the provisions of these regulations shall be interpreted and construed to be consistent with the comprehensive plan. Where any provision(s) of this ordinance are determined to be in conflict with the comprehensive plan, the comprehensive plan shall control.

Further, all provisions, terms, phrases and expressions contained in this ordinance shall be liberally construed in order that the true intent and meaning of City Council may be fully carried out.

SECTION TWO: GENERAL PROVISIONS.

1. Text. In case of any difference of meaning or implication between the text of this Code and any figure, the text shall control.
2. Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.
3. Day. The word "day" shall mean a calendar day.
4. Gender. Words importing the masculine gender shall be construed to include the feminine and neuter.
5. Month. The word month shall mean 30 calendar days, unless a calendar month is indicated.
6. Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
7. Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing.
8. Shall, may. The word "shall" is mandatory; "may" is permissive.

9. Tense. Words used in the past or present tense include the future as well as the past or present.

10. Week. The word "week" shall be construed to mean seven calendar days.

11. Written or in writing. The term "written" or "in writing" shall be construed to include any representation of words, letters or figures whether by printing or other form or method of writing.

12. Year. The word "year" shall mean 365 calendar days, unless a fiscal year is indicated, or unless a calendar year is indicated.

SECTION THREE: DEFINITIONS.

Abutting property or adjacent property: Properties having a boundary line or a portion of a boundary line in common with no intervening public street or right-of-way.

Access: The principal means of ingress and egress to a lot from a publicly dedicated right-of-way, private right-of-way, or approved vehicular access easement.

Accessory use or structure: A use or structure of a nature customarily incidental and subordinate to the principal use or structure and, unless otherwise provided, on the same premises.

Adult day care center: Any building or buildings or other place, whether operated for profit or not, which undertakes through its ownership or management to provide for a part of the 24-hour day, basic services to three or more adults not related to the owner/operator by blood or marriage, who require such services.

Affordable housing: Means a qualified dwelling unit or project, which is offered for sale or rent and meets specific eligibility criteria as contained in the housing element of the Comprehensive Plan.

Affordable housing density bonus (AHDB): An award of a number of residential dwelling units per gross acre in a development which allows the base density to be increased by density bonuses related to the provision of affordable housing. (See Chapter 30-67).

Affordable housing density bonus (AHDB) program: The program which implements the affordable housing density bonus provisions of the Comprehensive Plan. (See Chapter 30-67).

Affordable housing density bonus (AHDB) rating system: See Chapter 30-67.

Affordable housing owner-occupied unit: See Chapter 30-67.

Affordable housing rental unit: See Chapter 30-67.

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

Alter or alteration (mangrove): To cut, remove, defoliate, or otherwise destroy mangroves, but shall not mean selective trimming of mangroves as defined in Rule 17-321.020(12), F.A.C.

Annual update and inventory report or AUIR: The City report on public facilities. (See Concurrency Management, Chapter 30, Article X).

Applicant: The owner of record of property, or his authorized agent, making a submission to the city pursuant to this Code.

Assisted listing facility (ALF): Any building(s), section of a building, distinct part of a building, residence, private home, boarding home, or other place, whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding 24 hours, housing, food service, and one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services and to provide limited nursing services, when specifically licensed to do so pursuant to F.S. § 400.407. The facility shall be licensed and approved as such by Florida department of health and rehabilitative services. A facility offering personal services or limited nursing services for fewer than four adults is within the meaning of this definition if it formally or informally advertises to or solicits the public for residents or referrals and holds itself out to the public to be an establishment which regularly provides such services.

Authorized agent: Any person authorized in writing by the owner of record to act on the behalf of the owner of record of a particular parcel of land.

Base density: The number of residential dwelling units per gross acre permitted.

Beach: Means the soft sand portion of land lying seaward of a seawall or line of permanent vegetation and landward of the mean high water line.

Bicycle path: That portion of a street, cross-walkway and the like, paved or otherwise, intended for the use of bicycles, and if properly sized, for pedestrians.

Boat dock: (See Chapter 54, Article IV).

Boat yard and ways: A premises or site used as a commercial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, maintenance or sale of boats, marine engines or marine equipment and supplies of all kinds including, but not limited to, rental of covered or uncovered boat slips or dock space or enclosed dry storage space or marine railways or lifting or launching services, and for dredge or barge dockage and storage.

Boatel: A facility offering transient lodging accommodations normally on a daily rate for boat travelers. These accommodations include wet boat slips, where guests may or may not sleep on their boat, that are normally combined with a hotel/motel and its accessory uses, such as a restaurant.

Bottle club: A private establishment where patrons may purchase bottles of liquor or bring their own and keep them for consumption after legal closing hours.

Buildable area: The portion of a lot or parcel remaining after required yards have been provided. Buildings may be placed in any part of the buildable area, but limitations on the percentage of the lot that may be covered by buildings may require open space within the buildable area.

Building: Means any structure, either temporary or permanent, built for the support, shelter, or enclosure of persons, chattels, or property of any kind. This term shall include tents, trailers, mobile homes or any vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a building permit.

Building, height of: The overall height of a building as measured from the required flood elevation or average sidewalk elevation, whichever is higher, to (1) the top of the roof for flat roofs, (2) the deck lines for mansard roofs, or (3) the average height between eaves and ridge for gable, hip and gambrel

roofs. For properties for which there is no FEMA finished floor elevation required, the starting point shall be the greater of the following:

- a. 18 inches above the State Department of Environmental Protection requirement for the first habitable floor structural support.
- b. 18 inches above the elevation of the average crown of the adjacent road(s); or
- c. The average natural grade (the natural contours of a land area generally unaltered by man's intervention).

Bulkhead: A retainer wall or structure designed to prevent erosion of land by water action.

Bulkhead line: A fixed line established in or along the Gulf of Mexico, a river, watercourse, or other body of water, in order to fix and establish the distance from the shoreline within which filling may be permitted and bulkheads constructed.

Care unit: A residential treatment facility, where, for compensation (if applicable), persons under care receive food, lodging and some form of on-site therapeutic care on a daily basis. This type of care may involve psychiatric, psychological, medical, physiological therapies, behavior modification and other such services. This type of facility shall contain 15 or more persons under care, plus resident supervisors as required by subsection 10A-5.019, Florida Administrative Code, and shall permit all of the list of uses as permitted by group care facilities (category I and category II), (i.e., assisted living facilities; foster care facilities; facilities for: aged persons, developmentally disabled persons (as defined in F.S. § 393.063(11), as amended), physically disabled or handicapped persons (as defined in F.S. § 760.22(7)(a), as amended); crisis and attention care; displaced adult care; homeless shelters; mental and emotional health care; offender halfway houses; spouse abuse care; substance abuse care; and youth shelters).

Carport: An accessory structure, consisting of a roof and supporting members, such as columns or beams, not enclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor-driven vehicles.

Certified archaeologist: An archaeologist who meets the professional qualifications standards outlined in the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.

Certified survey: Certified survey, map of survey, sketch of survey, plat of survey, right-of-way survey, or other similar titles shall mean any drawing of

a parcel or tract of real property used for the purpose of depicting the results of a field survey. Each survey drawing shall state the type of survey it depicts as defined in Rule 21 HH-6, Minimum Technical Standards, and be certified by a professional land surveyor.

Change of occupancy: The discontinuance of an existing use and the substitution therefor of a use of a different kind or class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

Child care center: An establishment which provides for the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his individual needs, and for which a payment, fee or grant is made for care. This definition includes such terms as day nurseries, day care service, day care agency, nursery school, or play school. The term does not include summer camps or family day care homes.

Club, private: Those associations and organizations of a civic, fraternal or social character not operated or maintained for profit, and to which there is no unrestricted public access or use.

Coastal construction control line (CCCL): The Collier County coastal construction control line as depicted on the State of Florida department of natural resources, division of beaches and shores, March, 1985, aerial map as adopted in Collier County Ordinance 80-19 (1980), or any subsequent modifications.

Commercial equipment: Any equipment commonly used in a commercial business, regardless if said equipment is actually owned or utilized by a business.

Commercial vehicle: Any vehicle used in conjunction with a commercial or business activity, or possessing the following characteristics: Any motor vehicle not recreational in nature having a rated load capacity of greater than one ton, exceeding seven and one-half feet in height, seven feet in width, and/or 25 feet in length. The display of lettering or a similar sign upon a vehicle shall not in and of itself make a vehicle commercial.

Comprehensive plan: The adopted plan approved in accordance with Chapter 163, F.S, as amended, and Administrative Rule 9J-5, and consisting of two parts (1) Goals, Objectives & Policies; and (2) Supporting Data and Analysis. Said plan is referred to as the City of Marco Island Comprehensive Plan.

Conditional use: A use that would not be appropriate generally or without restriction throughout a zoning district, but which if controlled as to number, area, location, or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare. Such uses may be permissible in a zoning classification or a district as a conditional use if specific provision for such a conditional use is made in this Land Development Code.

Condominium: That form of ownership of real property which is created pursuant to the provisions of F.S. ch. 718.

Conservation area: A parcel containing an archaeological site, a native habitat, either wetland or upland, or a threatened or endangered species, which shall be subject to a limited development compatible with conservation of the natural resources therein.

Conservation easement: An easement granted for limited use purpose maintaining in perpetuity a conservation or preserve area, and for which a dedication shall be granted.

Continuing care retirement community (CCRC): A living environment providing shelter, food, and either nursing care or personal service as defined in § 400.402(16) F.S., whether such nursing care or personal services are provided in the facility or in another setting designated by the agreement for continuing care, to an individual not related by consanguinity or affinity to the provider furnishing such care, upon payment of an entrance fee, which is licensed by the department of insurance of the State of Florida pursuant to § 651 F.S.

dbh (diameter at breast height): The diameter of the trunk, limb, or stem material measured at the point or points of the tree located 4¹/₂ feet from where the tree emerges from the substrate. In the case of multi-trunked trees, the dbh is measured by the sum of diameters of each trunk at the point or points located 4¹/₂ feet from where the tree emerges from the substrate.

Density, residential: The number of residential dwelling units permitted per gross acre of land and determined by dividing the number of units by the total area of residential land within the boundaries of a lot or parcel.

Destination resort hotels: A transient lodging facility where generally patrons stay for several days in order to utilize, enjoy or otherwise participate in certain amenities, natural or man-made, such as frontage on or access to the

Gulf of Mexico, ability to use a golf course or courses, and other recreational amenities all of which serve to encourage occupancy by persons who primarily patronize the destination resort hotels for those specific purposes as opposed to a visitor to the area in general or otherwise conducting a business activity.

Developer: Any person, including a governmental agency, or his designated agents, successors, or assigns, undertaking any development as defined in this Code.

Development: Has the meaning given it in F.S. § 380.04(1).

Development agreement: Has the meaning contemplated in Chapter 38, Article III.

Development order: Any order, permit, determination, or action granting, denying, or granting with conditions an application for any final local development order, building permit, temporary use permit, temporary construction and development permit, sign permit, spot survey, electrical permit, plumbing permit, occupational license, boat dock permit, HVAC permit, right-of-way permit, construction approval for infrastructure (including water, sewer, grading, paving), approved development of regional impact (DRI), zoning ordinance amendment, comprehensive plan amendment, flood variance, coastal construction control line variance, vegetation removal permits, site development plan approval, subdivision approval (including plats, plans, variances, and amendments), rezoning, PUD amendment, certification, conditional use (provisional use), variance, or any other official action of the City having the effect of permitting development as defined in this Code.

Dock facility: (See Chapter 54, Article IV).

Dormitory housing: A room or rooms, partitioned or open, which may or may not provide cooking facilities and provides sleeping quarters for a number of unrelated persons. Dormitory housing shall meet all applicable requirements of the city's building codes.

Drinking establishment: An establishment deriving 51 percent or more of its gross revenue from the sale and on-premise consumption of alcoholic beverages. Drinking establishments may include bars, cocktail lounges, taverns and other similar establishments.

Dwelling: Any building, or part thereof, intended, designed, used or occupied in whole or in part as the residence or living quarters of one or more persons,

permanently or temporarily, continuously or transiently, with cooking and sanitary facilities.

Dwelling, duplex: A single, freestanding, conventional building on a single lot, which contains only two dwelling units and is intended, designed, used and occupied as two dwelling units under single ownership, or where each dwelling unit is separately owned or leased but the lot is held under common ownership.

Dwelling, multiple-family: A group of three or more dwelling units within a single conventional building, attached side by side, or one above another, or both, and wherein each dwelling unit may be individually owned or leased initially on land which is under common or single ownership.

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

- a. Multiple-family dwelling uses may involve dwelling units intended to be rented and maintained under central ownership and management, or cooperative apartments, condominiums, and the like and may include the fee ownership of land beneath each dwelling unit following development from a common base of ownership.
- b. Guesthouses and servants' quarters shall not be considered as dwelling units in the computation of subsection a above.
- c. Any multiple-family dwelling in which dwelling units are available for rental for periods of less than one week shall be considered a tourist home, a motel, motor hotel, or hotel, as the case may be, and shall only be permitted in districts where specifically designated.
- d. For the purpose of this Land Development Code, timeshare estate facilities shall be considered as intended primarily for transient occupancy and shall only be permitted in districts where specifically designated.

Dwelling, single-family or one-family: A building which (1) contains only one dwelling unit; (2) is intended, designed, used and occupied by no more than one family; (3) meets the minimum width across any front, side or rear elevation of 24 feet; and (4) meets the minimum floor area and maximum height requirements of this Code. The following conditions are as much a part of the definitions as the principal definition:

- a. The dwelling shall comply with the minimum square footage requirements for single-family dwellings of this Code for the district in which it is located.
- b. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the county health department.
- c. On-site built as well as manufactured homes must be firmly attached to a permanent foundation constructed on the site in accordance with the Florida building code.
- d. A mobile home shall not be permitted in zoning districts that allow single-family dwellings as permitted uses unless the term mobile home is expressly stated as a permitted or conditional use.

Dwelling, two-family: A single, freestanding, conventional building intended, designed, used and occupied as two dwelling units attached by a common wall or roof, but wherein each unit is located on a separate lot under separate ownership.

Dwelling unit: A room or rooms connected together, constituting a separate, independent housekeeping establishment for no more than one family, and physically separated from any other rooms or dwelling units which may be in the same structure. A dwelling unit must contain sleeping and sanitary facilities and a primary kitchen.

Easement: An interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

Eating establishment: An establishment deriving 51 percent or more of its gross revenue from the retail sale of food and nonalcoholic beverages for on-premise or immediate consumption. Eating establishments may include drive-through restaurants, fast food restaurants, sit-down restaurants, walk-up restaurants, and takeout prepared food stores as defined by this Code.

Endangered species: As listed by the U.S. Department of Interior Fish and Wildlife Service.

Environmentally sensitive area means unique uplands, wetlands, and any natural area that would be adversely impacted by development.

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

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

Family care facility: A residential facility designed to be occupied by not more than six persons under care, plus supervisors as required by subsection 10A-5.019, Florida Administrative Code, and constituting a single dwelling unit (i.e., adult congregate living facility for: aged persons (as defined in F.S. § 400.618(3), as amended); developmentally disabled persons (as defined in F.S. § 393.063(11), as amended); physically disabled or handicapped persons (as defined in F.S. § 760.22(7)(a), as amended); mentally ill persons (as defined in F.S. § 394.455(3), as amended); and persons recovering from alcohol and/or drug abuse. Foster care facilities are also included, but not the uses listed under group care facility (category II). This use shall be applicable to single-family dwelling units and mobile homes.

Family care facilities in residential single-family districts shall not be made available to an individual: (1) whose tenancy would constitute a direct threat to the health or safety of other individuals; (2) whose tenancy would result in substantial physical damage to the property of others; or (3) who is engaged in the current, illegal use of or addiction to a controlled substance, as defined in section 802 of title 21, U.S. Code.

Family day care home: An occupied residence in which child care is regularly provided and for which a payment, fee, or grant is received for any of the children given care, whether or not the facility is operated for profit. A family day care home shall be allowed to provide care for one of the following groups of children:

- a. A family day care home may care for a maximum of five preschool children from more than one unrelated family and a maximum of five elementary school siblings of the preschoolers in care after school hours. The maximum number of five preschool children includes preschool children in the home and preschool children received for

day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten under this paragraph.

- b. When the home is licensed and provisions are made for substitute care, a family day care home may care for a maximum of five preschool children from more than one unrelated family, a maximum of three elementary school siblings of the preschool children receiving care after school hours and a maximum of two elementary school children unrelated to the preschool children in care after school hours. The maximum number of five preschool children includes preschool children in the home and preschool children received for day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten children.
- c. When the home is licensed and provisions are made for substitute care, a family day care home may care for a maximum number of seven elementary school children from more than one unrelated family receiving care after school hours. Preschool children shall not be in care in the home. The total number of elementary school children in the home may not exceed seven under this paragraph.

The family day care home shall be a permitted activity within a residential district. Family day care homes shall be required to receive any required licensing or registration, as applicable by the department of health and rehabilitative services or any other state agency having the authority to regulate such homes.

Final development order: A final local development order or a final DRI development order.

Flags, noncommercial: Any flags as otherwise defined by this Code, displayed with the intent of conveying a literary, artistic, political, philosophical or religious message and not to advertise an establishment, or merchandise, services or entertainment provided by such establishment.

Floor area: The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of common walls separating two buildings, excluding attic areas with a headroom of less than seven feet, enclosed or unenclosed stairs or

fire escapes, elevator structures, cooling towers, areas devoted to air conditioning, ventilating or heating or other building machinery and equipment, parking structures, and crawl space where the ceiling is not more than an average of 48 inches above the general finished grade level of the adjacent portion of the lot, except as may be otherwise indicated in relation to particular districts and uses.

Floor area ratio (FAR): A means of measurement of the intensity of building development on a site. A floor area ratio is the relationship between the gross floor area on a site and the gross land area. The FAR is calculated by adding together the gross floor areas of all buildings on the site and dividing that figure by the gross land area. For example, a floor area ratio of 1.0 means one (1) square foot of building may be constructed for each square foot of lot area. The gross floor area of a building clearly designed for a parking facility shall not be included in the floor area ratio calculation.

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

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

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

Government facilities: Local, state and federally owned or leased and operated government facilities that provide government services, including primary civic or public institutional uses.

Group care facility: A type of facility, which provides a living environment for seven to 14 persons under care who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

- a. *Category 1:* A group care facility designed to accommodate seven to 14 persons under care, plus resident supervisors as required by subsection 10A-5.019, Florida Administrative Code (i.e., adult congregate living facilities for aged persons (as defined

in F.S. § 400.618(3), as amended); developmentally disabled persons (as defined in F.S. § 393.063(11)); physically disabled or handicapped persons, as defined in F.S. § 760.22(7)(a), as amended); mentally ill persons (as defined in F.S. § 394.455(3), as amended); and persons recovering from alcohol and/or drug abuse. Foster care facilities are also included.

- b. *Category II:* A group care facility designed to accommodate seven to 14 persons under care, plus resident supervisors as required by subsection 10A-5.019, Florida Administrative Code. This type of facility offers a higher level of personal and therapeutic care than a category I facility (i.e., crisis and attention care, displaced adult care, homeless shelters, mental and emotional health care, offender halfway houses, spouse abuse care, substance abuse care, and youth shelters).

Category I group facilities in residential single-family districts shall not be made available to an individual: (1) whose tenancy would constitute a direct threat to the health or safety of other individuals; (2) whose tenancy would result in substantial physical damage to the property of others; or (3) who is engaged in the current, illegal use of or addiction to a controlled substance, as defined in section 802 of title 21, U.S. Code.

Group housing: Housing structures designed to meet the special needs (such as housing, health, and socialization) of certain segments of the population, such as youth, the elderly, or the developmentally disabled. Group housing refers to the following types of structures: family care facilities, group care facilities (category I and category II), care units, and nursing homes.

Group housing unit: A room or rooms connected together, constituting a separate, independent housekeeping establishment and physically separated from any other rooms or group housing units, which may be in the same structure, with or without complete kitchen facilities, and containing sleeping facilities and sanitary facilities. A group housing unit is applicable to the following types of structures: family care facilities, group care facilities (category I and category II), care units, and nursing homes and assisted living and continuing care facilities.

Guesthouse or cottage: An accessory dwelling unit which might or might not include cooking facilities, which is incorporated, attached to, or detached from a principal dwelling; and which is used exclusively for the noncommercial (nonrental) accommodation of friends or relatives of the

occupant or owner of the principal dwelling. Guesthouses or cottages are not permitted in development that is receiving an AHDB.

Historical and archaeological survey and assessment: The historic/archaeological survey and assessment to be completed by a certified archaeologist.

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

Home occupation: An occupation conducted entirely in a dwelling unit in accordance with Chapter 30, Article III.

Horizontal condominium parcel: A condominium property, as defined in F.S. § 718.103(11), as amended.

Horizontal cooperative parcel: A cooperative property, as defined in F.S. § 719.103(11), as amended.

Hospital: A building or group of buildings having facilities for overnight care of one or more human patients, providing services to inpatients and medical care to the sick and injured, or medical centers which offer primary and urgent care treatment for all types of injuries and traumas, and which may include as related facilities laboratories, outpatient services, training facilities, central service facilities and staff facilities; provided, however, that any related facility shall be incidental and subordinate to principal hospital or medical center use and operation. A hospital is an institutional use under these zoning regulations.

Hotel: A facility offering transient lodging accommodations normally on a daily rate to the general public and typically providing accessory uses, such as: restaurants, meeting rooms and recreational facilities. Hotels are different from motels, in that each room does not have a separate entry directly from the outside of the building but rather entry is gained through the interior of the building through a lobby. For the purposes of calculating residential density each guestroom shall be considered a dwelling unit.

Hotel or motel unit: A hotel or motel unit is a unit designed for transient occupancy and utilized for rental purposes only. A hotel or motel unit may have cooking or eating facilities. A hotel or motel unit shall contain bathing and sanitary facilities.

Household: The same as *Family*.

Jurisdictional waters: Those surface waters and wetlands to their landward extent within the department of environmental protection's wetland resource jurisdiction, pursuant to Rule 17-312.030, F.A.C., and Rule 17-301.200 or 17-301.400, F.A.C.

kenneling: An establishment licensed to operate a facility housing dogs, cats, or other household pets or the keeping of more than three dogs, six months or older, on premises used for residential purposes, or the keeping of more than two dogs on property used for industrial or commercial security purposes.

Land development regulations or Land Development Code: Ordinances enacted by city council pursuant to Florida Statutes for the regulation of development, and includes any zoning, subdivision, impact fee, building construction, or sign regulations, or any other regulations controlling the development of land, and where appropriate, this Code.

Landscape buffer: An area of land which is required to be set aside along the perimeter of a lot in which landscaping (existing, relocated or introduced) is used to provide a transition between, and to reduce the undesirable or incompatible impacts between differing land uses.

Landscaping, cultivated: Any landscaping that is installed, planted, sown, improved by labor, etc., and that is not naturally occurring.

Level of service (LOS): An indicator of the extent or degree of service provided by, or proposed to be provided by, a public facility based on and related to the operational characteristics of the public facility, as adopted in the comprehensive plan. LOS shall indicate the capacity per unit of demand for each public facility. (See Chapter 30, Article X, Concurrency Management.)

Listed or protected species: Any plant or animal species that is currently listed as endangered, threatened or species of special concern on a State of Florida or federal government protected species list.

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

Lot, corner: A lot located at the intersection of two or more streets. A lot abutting a curved street or streets shall be considered a corner lot if straight

lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot, interior: A lot other than a corner lot, with only one frontage on a street.

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

Lot measurement, width: Width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rearmost points of the side lot lines in the rear, provided however, that the width between the side lines at their foremost points in the front shall not be less than 80 percent of the required lot width, except in the case of lots on the turning circle of a cul-de-sac when the 80 percent requirement shall not apply. The minimum lot width on a cul-de-sac shall be figured by drawing a straight line at the chord, then drawing a straight line parallel to it at the required setback line for that particular zoning district. That new established line shall meet the minimum lot width of that district.

Lot of record: A lot of record is (1) a lot which is part of a subdivision recorded in the public records of Collier County, Florida; or (2) a lot, parcel, or the least fractional unit of land or water under common ownership which has limited fixed boundaries, described by metes and bounds or other specific legal description, the description of which has been so recorded in the public records of Collier County, Florida, on or before the effective date of this Land Development Code; or (3) a lot, parcel, or the least fractional unit of land or water under common ownership which has limited fixed boundaries, for which an agreement for deed was executed prior to October 14, 1974.

Lot, shoulder: A waterfront corner lot which straddles the waterway, has a property line which extends into the water and contains a seawall or bulkhead or shoreline which is indented from the property line thus creating a strip of land which is under water and is usually used for the docking of a boat.

Mangrove or mangrove trees shall be defined as any of the following species: red mangrove (*Rhizophora mangle*), black mangrove (*Avicennia germinans*) white mangrove (*Laguncularia racemosa*) and buttonwood (*Conocarpus erectus*).

Map of areas of historical/archaeological probability: Mapping pursuant to the Department of State, Division of Historical Resources.

Marina: A boating facility, chiefly for recreational boating, located on navigable water frontage, and providing all or any combination of the following: boat slips or dockage, dry boat storage, small boat hauling or launching facilities, marine fuel and lubricants, marine supplies, bait and fishing equipment, restaurants, boat and boat motor sales, and rentals. Minor boat, rigging and motor repair which is incidental to the principal marina use is generally allowed as an accessory use. However, no dredge, barge or other work-dockage or service is permitted, and no boat construction or reconstruction is permitted. A boat sales lot is not a marina.

Mean high-water line: The intersection of the tidal plane of mean high water with the shore as established by the Florida Coastal Mapping Act of 1974, chapter 74-56, Laws of Florida [F.S. § 177.25 et seq.].

Mixed use: Means a development/project consisting of commercial uses on the first floor, commercial and/or residential uses on the second floor, and residential uses on the third and remaining floors. All mixed-use projects shall have a residential component as part of the project. (See Chapter 30, Article VIII).

Model or model home: A structure used on a temporary basis exclusively for the demonstration and sale of dwellings or units within a development under construction. Models shall not be occupied as a dwelling unit and shall be governed by the requirements of a temporary use permit.

Model sales office: A structure used on a temporary basis for the demonstration and sale of dwellings or units which may or may not be within the development in which it is located. Model sales offices shall not be occupied as a dwelling unit. Commercial activities within the model sales office shall be restricted to sales, marketing, and administrative functions of the development in which it is located, or adjacent development under the same control.

Motel (motor hotel, motor lodge, tourist court): A facility offering transient lodging accommodations normally on a daily basis and at a daily rate for automobile travelers and typically providing parking adjacent to each sleeping room. Accessory uses may be provided, such as: restaurants, meeting rooms and recreational facilities. Motels are different from hotels, in that each motel room has a separate entry directly from the outside of the building while hotel guests gain entry to their rooms through the interior of

the building through a lobby. For the purposes of calculating residential density each guestroom shall be considered a dwelling unit.

Native vegetation: Native Southern Floridian species as determined by accepted valid scientific references.

Navigable waterway: Any salt or brackish body of water, whether natural or manmade, which is tidal in nature, and is wide enough, deep enough, or free enough from obstructions to be traveled on by vessels and is connected to another navigable waterway.

NGVD: National Geodetic Vertical Datum, 1929, as established by NOAA, which is adjusted and published from time to time. The most current adjustment shall apply with respect to this Code.

Nightclub: A commercial eating or drinking establishment where a dance floor and music is provided. The term nightclub may include a bar, restaurant, cocktail lounge, cabaret, or similar establishment.

Nonconforming lot of record: Any lawful lot or parcel which was recorded, or for which an agreement for deed was executed, prior to the effective date of this Code, and which lot or parcel does not meet the minimum width or lot area requirements as a result of the passage of this Code shall be considered as a legal nonconforming lot and shall be eligible for the issuance of a building permit provided all the other requirements of this Code and the Florida Statutes are met. This definition also includes any lot or parcel made nonconforming by a rezoning initiated by Collier County to implement the Zoning Reevaluation Ordinance [No.] 90-23 (1990).

Nursing home, rest home or extended care facility: See *Assisted living facility (ALF)*.

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations. It is a characteristic that retail or wholesale goods are not shown to or delivered from the premises to customers or delivered from the premises to a customer.

Open space: Unoccupied space which is not used for buildings or structures and which is open to the sky. On improved lots, open space is the area between and around structures, including recreation areas.

Open space, common: Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed

and intended for the common use or enjoyment of the residents of the development.

Open space, usable: Active or passive recreation areas such as playgrounds, golf courses, beach frontage, waterways, lagoons, floodplains, nature trails and other similar open spaces. Open space areas shall also include those areas set aside for preservation of native vegetation and landscape areas. Open water area beyond the perimeter of the site, street right-of-way except where dedicated or donated for public use, driveways, off-street parking areas, and off-street loading areas shall not be counted in determining usable open space.

Owner of record: The current title holder or owner as reflected on the current Collier County tax rolls.

Parking, stacked: The parking of motor vehicles in such a manner that parked vehicles may not have direct access to the public right-of-way or open and unobstructed internal access drives to and from the public right-of-way without moving one or more adjacent vehicles.

Person: An individual, corporation, governmental agency, business, estate, trust, partnership, firm, joint venture, syndicate, fiduciary, society, organization, association, two or more persons having a joint or common interest, or any other entity, and its designated agents, successors or assigns.

Plat: A map depicting the division or subdivision of land into lots, blocks, parcels, tracts, or other portions thereof, however the same may be designated, prepared in accordance with the provisions of this Code and those of any applicable law, which shall be recorded.

Plat, final subdivision: (Per Chapter 30, Article VII).

Plat of record: A plat which conforms to the requirements of the applicable laws of the State of Florida and the county, which has been accepted by city council and placed in the official records of Collier County.

Plat, preliminary subdivision: (Per Chapter 30, Article VII).

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

Preserve area: A parcel containing an archaeological site, or native habitat, either wetland or upland or threatened or endangered species, which shall be preserved in its natural state in perpetuity, with no alteration, save the removal of exotics.

Principal use: The primary use existing or permitted upon a parcel of land.

Private club: See *Club, private*.

Property owners' association: An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants for maintenance and ownership agreements through which each owner of a portion of a subdivision, be it a lot, property or any other interest, is automatically a member as a condition of ownership, and each such member is subject to charge or assessment for a prorated share of expenses of the association which may become a lien against the lot, property or other interest of the member. As used within this Code, the term "property owners' association" includes a "community association" as defined in F.S. § 468.431(1), as amended, as well as any other organization or association which would fall within the statutory definition of "community association" but for the fact that what the property operates or serves is not residential.

Public facilities: Capital drainage facilities, capital park facilities, capital potable water facilities, capital road facilities, capital sanitary sewer facilities, and capital solid waste facilities.

Public resource: Land, air, water and wildlife which is part of the public domain or which is within the realm embracing inherent rights that belong to the community at large and in which the community shares the rights and benefits of such resources.

Record improvement plans: Plans revised and corrected during or after project construction to display as-built conditions, revision or changes to the approved plans which occurred during the construction period, and all final constructed conditions, elevations, grades, slopes, and the like for the improvements constructed.

Recreational equipment: Vehicles or equipment primarily designed as temporary living quarters for recreational, camping, or travel use, or used in the pursuit of other recreational activities such as boating or fishing, or vehicles or equipment designed or modified expressly for competition and operated primarily on a track or course. Said vehicles or equipment must be maintained in an operational condition.

Replatted parent parcel: The resubdivision of a recorded parcel of land through a replat, to divide the original platted parcel into multiple parcels of land.

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

- a. A limited menu, usually posted on a sign rather than printed on individual sheets or booklets;
- b. Self-service rather than table service by restaurant employees;
- c. Disposable containers and utensils; or
- d. A kitchen area in excess of 50 percent of the total floor area;
- e. A cafeteria or delicatessen shall not be deemed a fast food restaurant for the purpose of this Land Development Code.

Restaurant, sit-down: A restaurant where food is ordered from a menu normally while seated at a table, and where table service is provided. Cafeterias are deemed sit-down restaurants for the purpose of this Land Development Code.

Restaurant, walk-up: A fast food facility with one or more walk-up windows. This type of facility has no indoor seating or drive-through windows, but may have outdoor seating.

Right-of-way: A strip of land, public or private, occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, storm drainageway, water main, sanitary or storm sewer main, or for similar special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way, whether public or private, hereafter established and shown on a plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

Riparian line: (See Chapter 54, Article IV).

Screening: Method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, berms, landscaping or a combination.

Sea turtle: Any adult, juvenile, or egg of any species of reptile belonging to the genera *Caretta*, *Chelonia*, *Dermochelys*, *Lepidochelys*, and *Eretmochelys*.

Sea turtle (flagging): The clear delineation of a sea turtle nest by placing three or more stakes in the ground around, but not in, the nest and connecting the stakes with colored surveyor flagging tape.

Sea turtle (nesting season): The sea turtle nesting period between May 1 and October 31.

Sea turtle (nesting zone): The region extending from the mean high-tide mark to 100 feet landward of the beginning of the dune vegetation line. For beaches without dune vegetation, the nesting zone will extend 300 feet landward of mean high tide.

Seagrass or seagrass bed: Any intertidal or submerged estuarine or marine habitat that is or could be expected to be at least 20 percent covered during the growing season by any combination of the following plants: turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), shoal grass (*Halodule wrightii*), widgeon grass (*Ruppia maritima*), and any species of *Halophila*.

Servants' quarters: Dwelling units located in residential districts and utilized for domestic servants employed on the premises. Such units may be in either a principal or an accessory building, but no such living quarters shall be rented, leased, or otherwise be made available for compensation of any kind except in the form of housing for servants.

Setback line: A line marking the minimum open space distance between a right-of-way line, property line, bulkhead line, shoreline, seawall, mean high water mark, access easement line or other defined location whichever is the most restrictive, and the beginning point of a required yard or the buildable area, as this Land Development Code may require in the particular case. Setback lines may be measured from the legal boundary of a lot and are inclusive of easements with the exception of easements that comprise a road right-of-way.

Shopping center: A group of unified commercial establishments built on a site which is planned, developed, owned or managed as an operating unit and related in its location, size, and type of shops to the trade area that the unit serves. It consists of eight or more retail business or service establishments containing a minimum total of 16,000 square feet of floor area. No more than 20 percent of a shopping center's floor area can be

composed of restaurants without providing additional parking for the area over 20 percent. A marina, hotel, or motel with accessory retail shops is not considered a shopping center.

Shoreline: On tidal waters, that line between water and upland area which follows the general configuration of the mean high-water line. On nontidal waters, the shoreline is determined by the annual average water level or water management system control elevation. Boat slips and other manmade or minor indentations are construed as lying landward of the shoreline and are construed as upland when computing the lot area of the waterfront property.

Sidewalk: That portion of a right-of-way or cross-walkway, paved or otherwise surfaced, intended for pedestrian use and also bicycle use, if properly sized.

Sign, public service: Any sign intended to promote primarily a public purpose including items of general interest to the community welfare. It may also refer to a sign designed to render a public service such as, but not limited to, time and temperature signs.

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

Site development plan: A graphic representation, together with supportive information and data, that clearly depicts the proposed project on a particular lot or parcel of land. A site development plan is further defined for the purpose of this section as including the preliminary (when required) and final SDP.

Site preparation: Any clearing and grading, excavation and vegetation removal activity for which a permit is required.

Special treatment zoning: Overlay district providing for special regulations for areas of environmental sensitivity, and lands and structures of historical and/or archaeological significance.

Storage facility, self-service: A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customer's goods or wares.

Street: A public or approved private thoroughfare, including the right-of-way, which affords the principal means of access to abutting property. Street includes lanes, ways, places, drives, boulevards, roads, avenues, or other means of access, regardless of the descriptive term used, except alleys.

Street, arterial: A street that provides a high degree of mobility and serves long trips. High operating speeds and levels of service are provided. Access management is used to preserve capacity. Arterials connect major developments such as central business districts, large urban commercial centers, large industrial centers, major residential communities and other major activity centers within the urbanized area. Desirable operating speed should be at least 40 to 45 miles per hour.

Street frontage: That portion of the lot which borders on the street; corner lots have two frontages.

Street, local: A street that provides land access and can be local (public or private) residential streets, local downtown streets, and local commercial/industrial streets. Locals involve traveling to and from a collector facility. Trip lengths are short, volumes are low and speeds are low. Average daily trip generation rate ranges from zero to 2,000 vehicle trips per day.

Street, major collector: A street that provides land access and public or private movement within residential, commercial and industrial areas. Major collectors penetrate and may have continuity within residential areas. Operating speed and volumes are in excess of residential standards, 30 m.p.h. Average daily trip generation rate exceeds 4,000 vehicle trips per day. Residential driveway connections are prohibited.

Street, marginal access: A street which is parallel and adjacent to an expressway, arterial street or limited access street or in the immediate vicinity of such streets from [for] local service of abutting property by providing protection from conflicts with through traffic. A marginal access street may also be called a frontage street.

Street, minor collector: A street that provides land access and public or private movement within residential, commercial and industrial areas. Minor collectors penetrate, but should not have continuity through residential areas. Operating speeds and volumes are low. Average daily trip generation rate ranges from 2,000 to 4,000 vehicle trips per day.

Street, private: Any authorized street that has not been dedicated for public use and not accepted for ownership or maintenance by the City Council.

Street, public: Any street designated to serve more than one property owner, which must be dedicated to the public and be accepted by City Council.

Structure: Anything constructed or erected which requires a fixed location on the ground, or in the ground, or attached to something having a fixed location on or in the ground, including buildings, towers, smokestacks, utility poles, and overhead transmission lines. Fences, gates or posts are not intended to be structures.

Subdivide: The act or process of creating a subdivision; the act or process of dividing land if the extension of an existing street or the establishment of a new street is involved; the act or process of resubdividing, or developing residential or nonresidential zoned land, whether by deed, metes and bounds description, devise, inheritance, map, plat or other recorded instrument.

Subdivision: (See Chapter 30, Article).

Substantial improvement: Any repair, reconstruction, or improvement of a sign, the estimated cost of which equals or exceeds 50 percent of the market value of current replacement cost of the sign, whichever is lower, either [sic] before the improvement.

Surface water management system means the collection of facilities, improvements, or natural systems whereby surface waters are collected, controlled, conveyed, impounded, or obstructed. The term includes stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works as defined in F.S. § 373.403(1)--(5).

Surface waters: Those which have been precipitated on the land or forced to the surface in springs, and which have then spread over the surface of the ground. They appear as puddles, sheet or overland flow, rills, streams and lakes, and continue to be surface waters until they disappear by infiltration, evaporation, or discharge into the sea.

Temporary use: A prospective use intended for a limited duration. Temporary uses require a permit pursuant to the conditions set forth in Code and may include the placement of signage, merchandise, temporary structures and equipment.

Threatened species: Those species listed by the U.S. Fish and Wildlife Service.

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

Timeshare estate facility: Any dwelling in which timeshare estates have been created.

Timeshare unit: A dwelling unit in which timeshare estates have been created.

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

Trailer, travel: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation purposes, which: (1) is identified by the manufacturer as a travel trailer; (2) does not exceed 480 square feet in gross floor area.

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

Variance: A relaxation of the terms of this Land Development Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Land Development Code would result in unnecessary and undue hardship on the land. A variance is authorized only for height, area, and size of structure or size of yards and open spaces, landscaping, signs, architectural features, and off-street vehicular facilities and parking. Establishment or expansion of a use otherwise prohibited or not permitted shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformities in the land use district or classification.

Vehicle: The term vehicle, for the purposes of this Code, shall include but not be limited to any truck, bulldozer, tractor, automobile, motorcycle, dune or swamp buggy, motorbike, go-cart, van or trailer of any type, horse-drawn cart or wagon, travel or camping trailer, coach mobile home or any other vehicles of conveyance which are motorized or, if not motorized, which weigh in excess of 150 pounds.

Vehicular access easement: (See Chapter 30, Article VII).

Vehicular use area: Either an area designed or used for off-street parking or an area used for loading, circulation, access, storage, display, or traverse of property by vehicles, boats or construction equipment.

Viable wetland: A wetland system that provides or has a reasonable probability to provide functions (roles or values) relating to environmental quality, fish and wildlife and/or socioeconomic values.

Warehouse: A building or substantial portion of a building where goods, merchandise, products, supplies, or equipment are stored before distribution to manufacturers, retailers, or wholesalers.

Water management plan, master: Generalized but comprehensive engineering drawings, design computations, and written reports outlining the primary and secondary drainage facilities needed for proper development.

Water quality standards means standards comprised of designated most beneficial uses (classification of waters), the numerical and narrative criteria applied to the specific water use or classification, the Florida anti-degradation policy, and the moderating provisions contained in chapters 17-3 and 17-4, F.A.C.

Waterfront: Property where any or all of its lot lines abut on or are contiguous to any body of water at its normal level, including creek, canal, bay, gulf and river, natural or artificial, not including a swimming pool, where water is present, year-round under normal conditions.

Yard: The required open space, unoccupied and obstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided, however, that fences and walls may be permitted in any yard subject to height limitations indicated herein.

Yard, front: The required open space extending across the entire width of the lot between the front building line and street right-of-way line. Where double-frontage lots exist, the required front yard shall be provided on both streets except as otherwise provided for herein.

Where corner lots of record existed prior to August 27, 1997 which do not meet minimum lot width or area requirements established in this Code: (1) only one full depth front yard shall be required, (2) all other front yards shall be not less than 50 percent of the otherwise required front yard depth

exclusive of any right-of-way, and the full depth front yard shall be located along the shorter lot line along the street.

In the case of shoulder lots which conform to the minimum lot width and area requirements of the zoning district, the required front yard adjacent to the longest street may be reduced by five feet providing that in no case may this yard be less than 25 feet.

In the case of through lots, unless the prevailing front yard pattern on the adjoining lots indicates otherwise, a full depth front yard shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the development services director may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

Depth of a required front yard shall be measured so that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel to the front lot line. In the case of irregularly shaped lots, including cul-de-sac, the depth may be measured at right angles to a straight line joining the foremost points of the side lot line, provided the depth at any point along the property line is never less than eighteen feet.

Yard, rear: The required open space extending across the entire width of the rear yard between the inside lines of the side yards and except in corner lots is generally that lot line most opposite the right-of-way line.

When dealing with irregularly shaped lots where a typical rear lot line cannot readily be defined, the community development director will determine the rear lot line for the purposes of establishing yard requirements.

In the case of through lots and corner lots, there will be no rear yards, but only front and side yards. Depth of a required rear yard shall be measured so that the yard established is a strip of the minimum width required by zoning district regulations with its inner edge parallel to the rear lot line.

Yard, side: The required open space extending along each side lot line between the rear lines of the required front yard and the rear lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the rear line of the front yard.

In the case of through lots, side yards shall extend from the rear lines of required front yards. In the case of corner lots, yards remaining after front

yards have been established on both frontages shall be considered side yards.

Yard, special: A yard other than one adjacent to a public right-of-way performing the same functions as a side or rear yard, but so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. The site review development director, or his designee, shall determine which lot line is front, side or rear for purposes of determining yard requirements.

Yard, waterfront: The required open space extending along the entire waterfront property with depth measured from property line, bulkhead, shoreline, seawall, mean high water mark, access easement, whichever is the most restrictive. Waterfront property is hereby defined as property abutting on the Gulf of Mexico, bays, bayous, navigable streams, and on man-created canals, lakes, or impounded reservoirs. For the purpose of this ordinance, the minimum setback for any principal or accessory structure adjacent to the water shall be the same as the setback specified for the side or rear yard, as the case may be, in the particular zoning district. However, these setbacks shall never be less than 10 feet for any structure unless specifically provided for in the Land Development Code.

SECTION FOUR: INCORPORATION, CONFLICT AND SEVERABILITY

- [A] It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word.
- [B] All sections or parts of sections of the Code of Laws and Ordinances of Marco Island, Florida, all Marco Island ordinances or parts of ordinances, and all Marco Island resolutions or parts of resolutions made applicable by the City Charter in conflict herewith are hereby repealed to the extent of such conflict.
- [C] If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid by any court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION FIVE: EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption by the Marco Island City Council.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida this 2nd day of December, 2002.

Attest:

CITY OF MARCO ISLAND, FLORIDA



Laura Litzan
City Clerk

By: 

E. Glenn Tucker, Chairman

Approved as to form and
Legal sufficiency:



Kenneth B. Cuyler
City Attorney