

1 DIVISION 30. - ~~D-DOWNTOWN~~ MIDTOWN DESIGN DISTRICT (MDD)

2  
3 Sec. 58-901. - District purpose.

4 The ~~D-downtown~~Midtown design district (the "district") is intended to contain a mixture of uses  
5 including commercial, medical, office, service, restaurant, cultural, institutional, and residential. The  
6 primary function of the district is:

- 7 (1) To promote the orderly redevelopment of the downtown area;
- 8 (2) To improve the aesthetics and physical appearance of the downtown area;
- 9 (3) To provide for a prosperous, viable downtown;
- 10 (4) To encourage fulltime residential use in the downtown area;
- 11 (5) To recognize and promote the role of the medical community in the area;
- 12 (6) To retain and promote the establishment of a variety of consumer and service businesses so  
13 that the needs of the area's residential and working populations will be satisfied;
- 14 (7) To reinforce the role of the downtown as a community center and a meeting place for residents,  
15 tourists, and visitors;
- 16 (8) To encourage mixed-use, infill development, particularly residential and retail;
- 17 (9) To promote pedestrian-friendly streets.

18 ~~(Code 1994, § 102-842; Ord. No. 03-10093, § 1, 6-18-2003)~~

19 ~~Sec. 58-902. - Definitions. [MOVE TO CHAPTER 44, GENERAL PROVISIONS, SEC 44-8 DEFINITIONS]~~

20 ~~For the purposes of this division, the following definitions apply:~~

21 ~~*Auto repair shop* means a business which provides the service of automobile repair, including but not  
22 limited to the repair of engines, tires, mufflers and accessory parts of automobile and light passenger  
23 pickup trucks, but not including vehicle body repair.~~

24 ~~*Build to line* means an alignment which dictates the front yard setback from a street right of way, to  
25 be followed by buildings or structures fronting thereon, and shall mean that line to which a building facade  
26 must be built, not a minimum distance.~~

27 ~~*Commercial corridor* means U.S. 41, Central Avenue, 10th Street, and Goodlette-Frank Road.~~

28 ~~*Commercial use* means any retail, restaurant, office, convenience service, or personal service use.~~

29 ~~*Façade* means the vertical surface of a building, which is set parallel to a frontage line.~~

30 ~~*Frontage line* means the front property line(s) of a parcel.~~

31 ~~*Ground sign* means any sign other than a pole sign which is placed upon or supported by structures  
32 or footings placed upon the ground and not attached to any building.~~

33 ~~*Parapet* means a low, protective wall at the edge of a terrace, balcony, or roof, especially that part  
34 of an exterior wall that rises above the roof.~~

35 ~~Parking structure means any form of parking elevated over grade.~~

36 ~~Primary frontage line means, for properties which front on more than one street, the "main"~~  
37 ~~frontage. In making this determination, U.S. 41 takes precedence over the avenues, and the avenues take~~  
38 ~~precedence over all streets except U.S. 41.~~

39 ~~Principal pedestrian streets means all frontages in zones A, B and C. Refer to Diagram 1 of downtown~~  
40 ~~district setback zones.~~

41 ~~Public open space means an outdoor, at-grade space of at least 1,000 square feet in contiguous area~~  
42 ~~that is accessible to the public at all times, and may include parks, plazas, squares, courtyards, gardens,~~  
43 ~~and vias. Public open space shall not include water retention/detention or areas within setbacks.~~

44 ~~Setback zone means the required front yard area, and shall be determined to follow the parameters~~  
45 ~~defined for zone A, B, C, D, and G in section 58-909 (building placement) and section 58-912 (standards~~  
46 ~~for building design), and assigned according to Diagrams 1 through 4 of this division.~~

47 ~~Sign band means a continuous horizontal band or area on the facade of a building in which signage~~  
48 ~~shall be located.~~

49 ~~Via means a pedestrian walkway or passageway through or adjacent to a building, which is located~~  
50 ~~either between two buildings or within an individual building.~~

51 ~~(Code 1994, § 102-843; Ord. No. 03-10093, § 1, 6-18-2003; Ord. No. 11-12963, § 1, 10-5-2011)~~

52 ~~Cross reference — Definitions generally, § 1-2.~~

53 Sec. 58-903. - Uses permitted.

54 The following uses are permitted in the downtown midtown design district:

55 (1) ~~(1)~~ Art and photography studios.

56 (2) ~~(2)~~ Auto rental (office only; no lots).

57 (3) ~~(3)~~ Bakery.

58 (4) ~~(4)~~ Child care center.

59 (5) ~~(5)~~ Church.

60 (6) ~~(6)~~ Convenience store.

61 (7) ~~(7)~~ Cultural facilities.

62 (8) ~~(8)~~ Financial institution.

63 (9) ~~(9)~~ Hospital.

64 (10) ~~(10)~~ Laundry/dry cleaning.

65 (11) ~~(11)~~ Locksmith shop.

66 (12) ~~(12)~~ Medical office.

67 (13) ~~(13)~~ Office.

68 (14) ~~(14)~~ Personal service establishment.

- 69 ~~(15)(15)~~ — Pet shop.
- 70 ~~(16)(16)~~ — Plant nursery, as an accessory use.
- 71 ~~(17)(17)~~ — Printing.
- 72 ~~(18)~~ Products and Services
- 73 ~~(19)(18)~~ — Radio/TV studio.
- 74 ~~(20)(19)~~ — Rental business.
- 75 ~~(21)(20)~~ — Residential units above a commercial 1st floor. <sup>(2)</sup>
- 76 ~~(22)(21)~~ — ~~Residential-only building not fronting U.S. 41, Central Ave, 10th Street or~~  
 77 ~~Goodlette-Frank Road.~~ <sup>(2)</sup> Residential-only building not fronting a Priority street.

- 78
- 79 ~~(23)(22)~~ — Restaurant, with or without cocktail lounge.
- 80 ~~(24)(23)~~ — Retail sales including the retail sales of secondhand merchandise.
- 81 ~~(25)(24)~~ — School/college.
- 82 ~~(26)(25)~~ — Small appliance repair.
- 83 ~~(27)(26)~~ — Theater, live or motion picture.
- 84 ~~(28)~~ Transient lodging facilities.
- 85
- 86 ~~(29)(287)~~ — Warehousing, as accessory to permitted use only.
- 87 ~~(30)(298)~~ — Outdoor display of merchandise accessory to a permitted use - see section 58-  
 88 921.

89 <sup>(4)</sup> ~~See specific performance standards.~~

90 <sup>(2)</sup> ~~Minimum size: efficiency or 1 bedroom, 700 square feet; 2 bedroom, 900 square feet.~~

91 ~~{Code 1994, § 102-844; Ord. No. 03-10093, § 1, 6-18-2003; Ord. No. 04-10653, § 1, 11-17-2004; Ord. No.~~  
 92 ~~14-13531, § 1, 10-1-2014}~~

93 Sec. 58-904. - Conditional uses.

94 The following uses are conditional in the downtown district and require city council approval of a  
 95 conditional use petition:

- 96 ~~(1)(1)~~ — Assisted living facilities.
- 97 ~~(2)(2)~~ — Auto repair (east of U.S. 41 only).<sup>(1)</sup>
- 98 ~~(3)(3)~~ — Auto rental (office only; no lots).
- 99 ~~(4)~~ Auto sales (office only; no lots).
- 100 ~~(5)(4)~~ — Boat sales (office only; no lots).
- 101 ~~(6)(5)~~ — Building supplies with outside storage (east of U.S. 41 only).

- 102 ~~(7) (6)~~ — Carwash (not on U.S. 41 frontage and north of 1st Avenue South only).
- 103 ~~(8) (7)~~ — Clothing fabrication.
- 104 ~~(9) (8)~~ — Drive-up windows.
- 105 ~~(10) (9)~~ — Funeral home.
- 106 ~~(11) (10)~~ — Gas station on Goodlette-Frank Road only.
- 107 ~~(12) (11)~~ — Maintenance business.
- 108 ~~(13) (12)~~ — Manufacturing.
- 109 ~~(14) (13)~~ — *Nursing home*. Maximum density shall not apply to nursing homes in ~~D-Downtown~~ MDD  
 110 District, except that, when nursing homes include any units with kitchens or cooking facilities,  
 111 the maximum density for such facilities shall be 18 units per net acre.
- 112 ~~(15) (14)~~ — Parking structures on lots of 30,000 square feet or more, as accessory to a permitted or  
 113 conditional use having materials, design, and architecture consistent with the principal structure,  
 114 or otherwise fully screened from view.
- 115 ~~(16) (15)~~ — Recreational uses.
- 116 ~~(17) (16)~~ — Residential-only building fronting a Priority street. U.S. 41, Central Ave, 10th Street, or  
 117 Goodlette-Frank Road.<sup>(2)</sup> On corner property abutting one of the Priority streets, residential 1st  
 118 floors are permitted beyond a depth of 50 feet from that frontage line without conditional use  
 119 approval.
- 120 ~~(18) (17)~~ — Transient lodging facilities.<sup>(3)</sup>
- 121 ~~(19) (18)~~ — Transportation, excluding vehicle storage and depots.
- 122 ~~(20) (19)~~ — Veterinarians, no animal boarding.
- 123 ~~(21) (20)~~ — Storage, cleaning and maintenance of rental vehicles, provided that the vehicles shall be  
 124 stored, cleaned and maintained in a fully-enclosed facility with vehicle access facing away from  
 125 any adjacent residential areas.

126 <sup>(1)</sup> See specific performance standards.

127 ~~<sup>(2)</sup> Minimum size: efficiency or one bedroom, 700 square feet; two bedroom, 900 square feet.~~

128 ~~<sup>(3)</sup> There is no maximum density for transient lodging facilities in the D-Downtown District.~~

129 (Refer to section 58-907.) The city council may, through the review and approval of a conditional  
 130 use petition, permit other uses which are similar to and no more intense than those enumerated  
 131 in this section.

132 ~~(Code 1994, § 102-844; Ord. No. 03-10093, § 1, 6-18-2003; Ord. No. 04-10653, § 1, 11-17-2004; Ord. No.~~  
 133 ~~11-12963, § 2, 10-5-2011; Ord. No. 12-13094, § 28, 4-4-2012; Ord. No. 13-13265, § 6, 4-3-2013; Ord. No.~~  
 134 ~~14-13531, § 3, 10-1-2-2014; Ord. No. 16-13763, § 1, 2-17-2016)~~

135 Sec. 58-905. - Minimum lot area.

136 (a) ~~Generally~~Minimum. The minimum lot size in the downtown district for newly created lots is 15,000  
137 square feet.

138 (b) *Exception for fee-simple townhomes.* A property may be subdivided for the purpose of creating fee-  
139 simple lots for townhomes of a consistent architectural character constructed as part of a single  
140 development. Each townhome lot shall have a minimum area of 2,000 square feet.

141 ~~(Code 1994, § 102-845; Ord. No. 03-10093, § 1, 6-18-2003)~~

142 Sec. 58-906. - Minimum lot width.

143 (a) ~~Generally~~Minimum. The minimum lot width in the ~~downtown-midtown design~~ district for newly  
144 created lots is 100 feet.

145 (b) *Exception for fee-simple townhomes.* A property may be subdivided for the purpose of creating fee-  
146 simple townhome lots, as provided in section 58-905. Each townhome lot in such cases shall be a  
147 minimum of 20 feet wide.

148 ~~(Code 1994, § 102-846; Ord. No. 03-10093, § 1, 6-18-2003)~~

149 Sec. 58-907. - Maximum ~~residential~~ density.

150 (a) ~~Generally~~Maximum density, residential. The maximum residential density in the ~~downtown-midtown~~  
151 design district is 12 dwelling units per acre, except as provided below.

152 (1) ~~(b)~~ Core Area. The core area contains those parcels bounded by 5th Avenue South, 8th Street,  
153 7th Avenue north, and Goodlette-Frank Road.

154 a. *Density increases.* Residential density may exceed 12 units per acre, but not greater than  
155 30 units per acre, on a specific site ~~by conditional use permit~~ in accordance with this  
156 Division, subject to other conditions stated herein; however, the overall density in the  
157 district may not exceed 12 units per acre. A total pool of 807 units is available for  
158 property in the area on the north side of Central Avenue, and a total pool of 609 units  
159 is available for property in the area on the south side of Central Avenue for a total of  
160 1,416 residential units in the district. In order to exceed 12 units per acre, a project must  
161 either provide public open space through dedication of an easement to the city, or  
162 payment into the open space fund, or a combination of both.

163 b. (1) *Dedication of public open space.* If the project provides public open space, at least  
164 500 square feet of contiguous open space must be provided for every residential unit  
165 above the allowable number. A minimum of 1,000 square feet of contiguous open space  
166 must be provided in order to be eligible for this provision. The public open space shall  
167 remain as private property but an easement or similar instrument shall be granted to  
168 the city for use as public open space prior to issuance of a building permit. The decision  
169 as to whether to accept the dedication of public open space or to require payment in  
170 lieu of public open space shall be made by the city council. The design of the public open  
171 space must be approved by the design review board. Refer to section 58-919 for a  
172 description of the board's responsibilities.

173 c. (2)—*Payment for additional density.* If the developer of the project proposes to make  
174 a payment for the increased density, an open space fee per residential unit above the  
175 allowable number must be paid to the city at the time of issuance of a building permit.

176 d. (3)—*Computation of open space fee.* The city council shall by resolution adopt fees to  
177 be charged for open space and shall be as set forth in appendix A to this Code.

178 e. (4)—*Refunds.* Where a project has not commenced construction after issuance of a  
179 building permit, requests for refunds of open space fees must be made in writing and  
180 will be considered on an individual basis and approved by the city council. After  
181 determination of the city council at a public meeting that the property owner is entitled  
182 to a refund, the city shall return the amount so determined. Any interest that may have  
183 been earned on such amounts shall not be refundable.

184 f. (5)—*Downtown public open space trust fund established.* The Naples Downtown Public  
185 Open Space Trust Fund account is hereby established into which shall be deposited all  
186 payments made by projects pursuant to this section. Money deposited into said account  
187 shall be used by the city for the exclusive purpose of paying the cost of acquiring land  
188 and for the construction or reconstruction of public open space in the district. Said cost  
189 includes the cost of all labor and materials, the cost to acquire all lands, property, rights,  
190 and easements required, the cost of financing charges, the cost of interest prior to and  
191 during construction, and, for one year after completion of construction, discount on the  
192 sale of municipal bonds, the cost of plans and specifications, the cost of engineering and  
193 legal services, and such other costs and expenses necessary or incident to determining  
194 the feasibility or practicability of such construction or reconstruction, administrative  
195 expenses, and such other expense as may be necessary or incident to the construction  
196 or reconstruction of public open space, or its financing.

197 (2). Outside the Core. Areas in the Downtown Mixed Use Land Use Category, but outside the  
198 boundaries of the Core shall not to exceed 12 units per acre from the downtown unit pool.

199 (b) Maximum density, transient lodging. There is no maximum density for transient lodging facilities.

200 ~~(Code 1994, § 102-847; Ord. No. 03-10093, § 1, 6-18-2003; Ord. No. 08-12165, § 1, 9-2-2008; Ord. No.~~  
201 ~~11-12963, § 3, 10-5-2011)~~

202 Sec. 58-908. — Minimum dwelling unit size; multifamily.

203 (a) Minimum dwelling unit size: efficiency, 500 square feet; one-bedroom, 700 square feet; two-  
204 bedroom, 900 square feet; three bedrooms or greater, 200 SF per additional bedroom.

205 (b) Efficiency units may not exceed 25% of the total units

206

207 Illustrations:

208 ~~Illustrations provided in this division are intended to provide a graphic example of a specific provision~~  
209 ~~or provisions set forth herein. Variations from these illustrations, which nonetheless adhere to the~~  
210 ~~provisions of this division, are encouraged.~~

211 ~~(Code 1994, § 102-848; Ord. No. 03-10093, § 1, 6-18-2003)~~

212 Sec. 58-909. - Building ~~placement~~design and streets.

213 ~~See Diagram 1 for setback zones.~~

214 (1) Streets. There are hereby identified streets located within the midtown design district  
215 which are currently accommodating, or are intended to accommodate, increased  
216 pedestrian traffic, or which serve as major pedestrian streets and major vehicular  
217 entryways, or major gateways into the CRA, and which will, therefore, require adjacent  
218 development to accommodate said pedestrian and vehicular usage and aesthetic  
219 considerations. The streets are identified below:

220 a. Priority streets

221 i. US 41 (9<sup>th</sup> Street and 5<sup>th</sup> Avenue)

222 ii. Goodlette-Frank Road

223 iii. Central Avenue

224 iv. 10<sup>th</sup> Street

225 Special regulations for these streets are provided in subsection 2.

226 b. Secondary streets. All streets other than those included as a priority street within the  
227 boundaries of the midtown design district. Special regulations for these streets are  
228 provided in subsection 3.

229 (2) Priority streets. Development of property located abutting priority streets shall meet the  
230 following requirements:

231 a. Building frontage setback requirement.

232 i. A minimum of ninety percent (90%) of the linear frontage of a parcel along the  
233 priority street shall be occupied by a ground floor building wall located ten (10)  
234 feet from the front property line. Support columns may be located in the ten (10)  
235 foot ground floor setback, provided their combined width does not exceed  
236 twenty-five percent (25%) of the linear dimension of the front building wall. The  
237 minimum linear frontage and ten (10) foot ground floor building wall  
238 requirement of this subsection shall not apply to automotive service stations  
239 where allowed, but the requirements of Sec. 58-913 shall apply.

240 b. General setback and setback requirements. Portions of the structure located more than  
241 nine (9) feet above the sidewalk shall be subject to the setbacks as required in  
242 subsection 2.g. Non-load-bearing walls or fences of no greater than forty-two (42) inches  
243 in height may be permitted in the setback or setback areas. An increase in the setbacks  
244 may be required for pedestrian amenities, such as public plazas, pedestrian entries,  
245 outdoor dining areas and similar public use areas, or landscaping.

246 c. First floor uses. A minimum of seventy-five percent (75%) of the building front along a  
247 priority street for a depth of at least twenty (20) feet from the building front shall be  
248 used for retail sales, retail banking, residential uses, food and beverage, commercial  
249 recreation, governmental facility, service use (not including professional office), public



250 museum or art gallery, or other public cultural facility accessible to the public and  
251 occupants of the building in which the use is located.

252 d. *First floor transparency.* A minimum of thirty-five percent (35%) of the first-floor façade  
253 of a building along a priority street shall utilize transparent elements, such as windows,  
254 doors, and other fenestration.

255 e. *Awnings, canopies, arcades.* Awnings, canopies or arcades shall be required over all  
256 doors, windows and other transparent elements provided to satisfy the provisions of  
257 subsection 2.d, along a priority street. The height of the awnings, canopies or arcades  
258 shall be between eight (8) feet and twelve (12) feet, and shall be a minimum of four (4)  
259 feet in depth. Such elements shall not be subject to the ten (10) foot setback  
260 requirement.

261 f. *Cornice.* A cornice shall be provided on the side of a building along a priority street at a  
262 minimum of twelve (12) feet above the sidewalk or at a height similar to the cornice on  
263 an abutting property, but in no case shall the cornice exceed thirty-five (35) feet or two  
264 (2) floor levels, whichever is less, in height.

265 g. *Building step-backs.* Step-backs shall be provided in a building to provide for air and light  
266 at the street level on the side of a building along a priority street as follows:

267 i. *At the cornice required by subsection 2.f (between twelve (12) feet and thirty-*  
268 *five (35) feet, a step-back of at least ten (10) feet.*

269 ii. *Above 35 feet, an additional step-back of at least ten (10) feet, or multiple step-*  
270 *backs which total a minimum of at least ten (10) feet.*

271 iii. *In lieu of strict application of subsections g.i and ii, an applicant may propose an*  
272 *alternative design which satisfies the intent of providing air and light at the street*  
273 *level, subject to review and approval of the DRB.*

274 h. *The provisions of this subsection 2 shall not apply to structures in existence on the*  
275 *effective date (2017) unless such structures are voluntarily demolished by more than fifty*  
276 *percent (50%) of the total gross floor area of the building or more than fifty percent (50%)*  
277 *of its replacement value.*

278 (3) *Secondary Streets.* Development of property located abutting streets other than priority streets  
279 shall meet the following requirements

280 a. *A minimum of seventy-five percent (75%) of the linear frontage of a parcel along the*  
281 *other street shall be occupied by a ground floor building wall located ten (10) feet from*  
282 *the front property line. All other portions of the building shall be located fifteen (15) feet*  
283 *from the property line, except as provided for in subsection 2.e. Support columns may*  
284 *be located in the ground floor setback, provided their combined width does not exceed*  
285 *twenty-five percent (25%) of the linear dimension of the front building wall.*

286 (4) *Building styles not accepted.*

287 a. *1.——Fantasy architecture: ships, castles, animals, etc.*

288 b. *2.——Corporate architecture: predesigned or standardized designs (custom-designed*  
289 *architecture for corporations is allowed).*



290 (5) (4)—Materials. Exterior building materials and colors contribute significantly to the visual  
291 impact of a building on the community. They shall be well-designed and integrated into a  
292 comprehensive design style for the project.

293 a. a.—Exterior walls. The primary exterior finish material on all facades shall be limited  
294 to stucco (including synthetics), masonry, tile, stone and concrete clapboard. Exposed,  
295 nontextured flat masonry block is not accepted.

296 b. b.—Roof. The materials for pitched roofs shall be limited to concrete or clay tile,  
297 metal, asphalt or fiberglass shingles, and slate or synthetic slate. Flat roofs may be any  
298 acceptable membrane system as permitted in the Florida Building Code.

299 c. c.—Accessory materials. Highlight or detail materials shall be limited to metal, stone,  
300 cast concrete, wood or synthetic wood, smooth fiberglass or smooth molded high  
301 density polymer.

302 d. d.—Exterior colors. The exterior of buildings, including trim, shall be compatible with  
303 surrounding buildings. Exterior color schemes that attract undue attention, or that cause  
304 the building to appear as a sign, are not permitted.

305 e. e.—New materials. Additional materials may be permitted by review of the building  
306 official.

307 (6) (5)—Plan preparation. For any project involving a building addition of 500 square feet or more  
308 or a building permit value of \$100,000.00 or greater, the plans must be prepared by a licensed  
309 architect.

310 (7) (6)—Maximum uninterrupted building length requirements. Where a building or a series of  
311 buildings form a continuous street wall that exceeds 150 feet in length, a via shall be provided  
312 at the ground floor. The via shall be not less than 6 feet in width and not less than 10 feet in  
313 height. A via may be roofed. A via shall be open to the public. A via qualifies as public open space  
314 if it is unroofed and open to the sky, at least 1,000 square feet in contiguous area and dedicated  
315 to the city.

316  
317 ~~(1)—Front yard.~~

318 a. ~~Setback zone A: 20-foot minimum, 30-foot maximum, measured from property line. The~~  
319 ~~first ten feet of the setback zone shall contain landscaping only, and shall contain trees as~~  
320 ~~specified in subsection 58-915(b)(8). The existing public sidewalk shall be removed at the~~  
321 ~~time of redevelopment, and the area between the property line and the curbline shall be~~  
322 ~~landscaped in accordance with the city's streetscape master plan.~~

323 b. ~~Setback zone B: Build-to-line 10 feet from property line.~~

324 c. ~~Setback zone C: Ten-foot minimum; 20-foot maximum measured from the property line.~~  
325 ~~The first five feet of the setback zone shall contain landscaping only, and shall contain trees~~  
326 ~~as specified in subsection 58-915(b)(8). Pedestrian hardscape may be placed within the~~  
327 ~~remaining setback area.~~

328 d. ~~Setback zone D: Ten-foot minimum; 25-foot maximum.~~

329 e. ~~Setback zone G: As required by the Goodlette Road corridor management standards found~~  
330 ~~in sections 58-1041 through 58-1051.~~

- 331 (2) ~~Side yard.~~ If adjacent to an alley, a ~~ten~~5-foot setback is required; otherwise, ~~buildings may be~~  
332 ~~placed on the side yard line or a minimum of ten feet from it~~0. ~~If adjacent to single family zoned~~  
333 ~~property, a minimum ten-foot setback, is required inclusive of a five-foot landscaped strip~~
- 334 (3) ~~Rear yard.~~ ~~If adjacent to an alley, a 5-foot setback is required.~~ ~~If adjacent to single family zoned~~  
335 ~~property, a~~ minimum ten-foot setback, ~~i.e., not a build-to-line,~~ is required ~~with~~ inclusive of a  
336 five-foot landscaped strip; otherwise 0.

337 ~~(Code 1994, § 102-849; Ord. No. 03-10093, § 1, 6-18-2003)~~

338

339

340 *Diagram 1. Downtown District Setback Zones*

341 Sec. 58-910. - Maximum building height.

342 (1) Throughout the ~~downtown-midtown~~ district, the maximum height for any building, including  
343 residential, shall be limited to 3 ~~stories-floors with an overall height of and~~ 42 feet, measured  
344 from the 1st-floor FEMA elevation to the peak of the roof or the highest point of any  
345 appurtenance attached to the roof. Mezzanines shall not be counted as a floor.

346 (2) ~~, except w~~here commercial property use is adjacent to, ~~or across the street or alley from,~~  
347 property zoned residential, buildings at the street line to a depth of 50 feet cannot be higher than  
348 the height permitted in the residential zone.

349 ~~(Code 1994, § 102-850; Ord. No. 03-10093, § 1, 6-18-2003)~~

350 Sec. 58-911. - Standards for site design.

351 Sites shall be designed to incorporate safe and convenient vehicular use areas and pedestrian ways,  
352 with landscape, lighting, and signage treatments intended to result in a comprehensive design. Site design  
353 should promote the use of crime prevention through environmental design (CPTED) principles, including:  
354 visibility (visibility for law enforcement and other people in the area), natural surveillance (placing areas  
355 of activity where they can be seen), and defensible space (designing areas which people will take as their  
356 own and not be willing to relinquish this space to undesirable activities). Buildings shall have architectural  
357 features and patterns that provide visual interest from the perspective of the pedestrian, reduce massing,  
358 recognize local character, and are site responsive.

359 (1) Uses along frontage lines:

360 a. Parking structures or buildings elevated over surface parking lots shall have occupiable  
361 ground floor space for a minimum depth of 20 feet from the frontage lines.

362 b. ~~On corner property with a frontage line along one of the 4 commercial corridors (U.S. 41,~~  
363 ~~Central Ave, 10th Street or Goodlette-Frank Road), residential 1st floors are permitted~~  
364 ~~beyond a depth of 50 feet from that frontage line. On corner property fronting 2 or more~~  
365 ~~commercial corridors, residential 1st floors fronting the road require conditional use~~  
366 ~~approval.~~

- 367 (2) Buildings shall have a principal pedestrian entrance on a primary frontage line. For residential-  
368 only property abutting an alley, vehicular ~~access~~ egress shall be provided from the alley rather  
369 than a frontage line.
- 370 (3) Residential 1st floors subject to FEMA elevation requirements shall meet the following criteria:
- 371 a. Between a frontage line and the facade of the building, fill is not to exceed 2 feet above the  
372 crown of the road.
- 373 b. The 1st-floor elevation at the front of the building shall not exceed 1 foot more than the  
374 FEMA elevation requirement. Stemwall construction must be used to connect the 1st-floor  
375 elevation with grade.
- 376 (4) Commercial 1st floors may not be elevated more than 1½ feet above the level of the adjacent  
377 sidewalk. If the FEMA elevation exceeds 1½ feet above the level of the adjacent sidewalk, the  
378 building must be floodproofed. ~~If a property owner is unable to meet the floodproofing  
379 requirement because of a unique circumstance, the city council may grant a waiver to this  
380 provision.~~
- 381 (5) All buildings must address the street at the pedestrian level. Buildings shall be located to front  
382 towards and relate to public streets, both functionally and visually, to the greatest extent  
383 possible. Buildings shall not be oriented to front toward a parking lot.
- 384 (6) ~~If provided,~~ loading docks and service areas ~~may shall~~ not be located on primary frontage lines  
385 but shall be placed to the rear or side of buildings in visually unobtrusive locations and shall be  
386 screened by landscaping or fencing to prevent direct views of the loading area and its driveways  
387 from adjacent properties and from the public right-of-way and to prevent spill-over glare, noise  
388 or exhaust fumes.
- 389 (7) Newspaper vending machines are not permitted on primary frontage lines.
- 390 (8) Outdoor storage areas accessory to permitted uses must be fully screened from offsite view  
391 using solid walls, fences, and/or landscaping.
- 392 (9) Underground and above-ground utilities. The following are applicable to all multi-dwelling and  
393 non-residential properties.
- 394 a. All utilities including telephone, cable, and electrical systems shall be installed underground.
- 395 b. All exterior facilities, including but not limited to electrical raceways and transformers,  
396 permitted above ground shall be fully concealed and screened.
- 397 c. Any new building or ~~change to~~ modification of an existing building where the cost of the  
398 improvements will exceed 50 percent of the appraised value of the improvements, shall be  
399 required to relocate all telephone, electric and other wires of all kinds underground from  
400 the poles of the transmission cables located within platted utility easements to the building  
401 or the connection.
- 402 (10) Mechanical equipment and screening for such equipment must be designed as an integral part  
403 of the building and located away from the frontage line.
- 404 (11) Initial site design must consider the need for dumpsters and their enclosures and required  
405 backflow preventers and fire department connections.
- 406 (12) Service bays, mechanical equipment, garbage and delivery areas, shall be fully enclosed,  
407 screened or located within the interior of the building. These areas shall not be visible from the

right-of-way and shall not be visible from properties with adjacent residential or hotel uses.  
Central air conditioning shall be required for trash rooms.

~~(Code 1994, § 102-851; Ord. No. 03-10093, § 1, 6-18-2003)~~

~~Sec. 58-912. - Standards for building design~~Build-to-line requirements.

~~\_Buildings shall have architectural features and patterns that provide visual interest from the perspective of the pedestrian, reduce massing, recognize local character, and are site responsive. Facades shall be designed to reduce the mass, scale and uniform monolithic appearance of large unadorned walls, while providing visual interest that will be consistent with the community's identity and character through the use of detail and scale.~~

~~(1) (1) — Build-to-line requirements~~Circulation Zone: If the existing sidewalk is less than 8 feet or the established width as part of an approved streetscape plan/design, the appropriate amount of area shall be established through an easement to extend the width of the sidewalk necessary.

~~(2) Amenity Zone: The Amenity Zone is located between the back-of-sidewalk to the edge of the Activity Zone. The Amenity Zone is the section that is reserved for typical streetscape elements, such as street trees, benches, pedestrian lighting, furnishings, and bike racks. The minimum width of any Amenity Zone shall be 5 feet. Tree canopy coverage shall be provided along the sidewalk. Street Trees planted in landscaped areas, tree wells, or tree planters shall be located adjacent to the sidewalk and shall be a minimum of 5 feet in width. Where features such as arcades or entryways are part of the façade, the minimum width of the amenity zone may be reduced.~~

~~(3) Activity Zone: The Activity Zone shall be the area between the building facade to the edge of the amenity zone. The Activity Zone is typically reserved for activities that commonly occurring immediately adjacent to the building façade, such as outdoor seating, outdoor dining, window shopping, and outdoor sales. The minimum width of any Activity Zone shall be 3 feet. Where features such as arcades or entryways are part of the façade, the minimum width of the arcade or gallery is 8 feet.~~

~~— The following requirements shall apply within each setback zone:~~

~~a. In setback zone A, 100 percent of the lot frontage at the 1st floor level, except for the required setback areas and building entry or access conditions, must be addressed either by building facade or referenced by use of porticos, arcades, or decorative walls to a minimum height of the 1st story. A minimum of 1/3 of the length must be building facade. The public sidewalk shall be placed on private property within an easement dedicated to the city, in a form provided by the city, and shall be a minimum of 8 feet wide, located within the zone between 10 feet and 20 feet from the property line. The area between the edge of the sidewalk and the building face shall be either widened sidewalk in matching pavement, or landscaped. No part of porches, stoops, or elevated terraces projecting beyond the building face shall project beyond the setback line. Refer to Diagram 2.~~

- 446 ~~b.—In setback zone B, 100 percent of the lot frontage at the 1st floor level, except for the required~~  
447 ~~setback areas and building entry or access conditions, must be addressed either by building~~  
448 ~~facade or referenced by use of porticos, arcades, or decorative walls to a minimum height of the~~  
449 ~~1st story. The public sidewalk shall be placed on private property within an easement dedicated~~  
450 ~~to the city, in a form provided by the city, and shall occupy the entire 10 feet of required setback.~~  
451 ~~Arcades, awnings or overhangs may shelter the sidewalk. Columns may support these elements~~  
452 ~~so long as they provide a minimum passage width of 8 feet. Refer to Diagram 3.~~
- 453 ~~c.—In setback zone C, no part of porches, stoops, or elevated terraces projecting beyond the~~  
454 ~~building face shall project beyond the setback line. Refer to Diagram 4.~~
- 455 ~~d.—In setback zone D, the sidewalk shall be located in the public right of way, abutting the property~~  
456 ~~line in accordance with the city's streetscape master plan. At least 70 percent of the area~~  
457 ~~between the property line and the building face shall be landscaped. Refer to Diagram 5.~~
- 458 ~~e.—Standards for paving materials shall be recommended by the committee and shall be approved~~  
459 ~~by council.~~
- 460 ~~f.—2nd and 3rd floor: 60 percent maximum of the building's facade length may be on the build to~~  
461 ~~line.~~
- 462 ~~g.—The minimum facade step-back that constitutes a break from the build-to line is 8 feet. Any~~  
463 ~~facade run that steps back less than 8 feet from the build-to line shall be considered as on the~~  
464 ~~build-to line for the percentage calculations listed above. Exception: For properties with less~~  
465 ~~than 50 feet of frontage, at least 4 of the following design features may be incorporated to~~  
466 ~~qualify for the facade step-back:~~
- 467 ~~1.—Recessed porches;~~
  - 468 ~~2.—Balconies with ornamental railing;~~
  - 469 ~~3.—Pilasters;~~
  - 470 ~~4.—Character line, such as a molding detail between stucco, to distinguish a break;~~
  - 471 ~~5.—Raised cornice parapets over doors;~~
  - 472 ~~6.—Peaked roof forms;~~
  - 473 ~~7.—Shutters surrounding windows and doors;~~
  - 474 ~~8.—Ornamental and structural architectural details, other than cornices, which are integrated into~~  
475 ~~the building structure and overall design;~~
  - 476 ~~9.—Quoins on the corners of the building;~~
  - 477 ~~10.—Decorative light fixtures;~~
  - 478 ~~11.—Decorative landscape planters or planting areas, a minimum of 5 feet in width;~~
  - 479 ~~12.—Any other architectural detail approved by the committee.~~
- 480 ~~(2) Roofing and projection requirements.~~
- 481 ~~a.—Sloped roofs must be within a 4:12 to 12:12 slope range.~~

- 482 ~~b. Roof eaves and overhangs may extend no more than 4 feet from the build-to line. Roofs must~~  
483 ~~continue a minimum of 8 feet back from the build-to line. Cantilevered mansard roofs are not~~  
484 ~~permitted.~~
- 485 ~~c. Flat roofs must have parapets of solid construction; such parapets must be a minimum of 2 feet~~  
486 ~~in height.~~
- 487 ~~d. Habitable balconies and other architectural facade elements may project up to 4 feet beyond~~  
488 ~~the build-to line.~~
- 489 ~~(3) Facade design.~~
- 490 ~~a. General standards.~~
- 491 ~~1. Facade elements are to be arranged in an orderly manner.~~
- 492 ~~2. 1st floor window, door, and storefront head heights are to be a minimum of 8 feet for~~  
493 ~~nonresidential applications.~~
- 494 ~~3. Floor to ceiling height for 1st floors shall be 12 feet for all commercial applications. For all~~  
495 ~~residential applications, floor to ceiling height (measured to the structural main ceiling) shall be~~  
496 ~~not less than 9 feet.~~
- 497 ~~4. A transition line shall be provided at the top of the 1st story. The transition shall be expressed~~  
498 ~~by a material change, by a trim line, or by a balcony no more than 4 feet deep.~~
- 499 ~~5. Building facades which do not face frontage lines shall incorporate the same surface materials~~  
500 ~~and similar design elements and shall provide attractive rear entrances and consideration of~~  
501 ~~pedestrian pass-throughs.~~
- 502 ~~b. Windows and doors.~~
- 503 ~~1. Windows and doors, excluding ground level storefront, shall be vertical in proportion or a~~  
504 ~~combination of multiple vertically proportioned windows.~~
- 505 ~~2. The glazed area of a facade, excluding ground level storefront, shall be a minimum of 20 percent~~  
506 ~~of the total facade area for all facades visible from public rights-of-way.~~
- 507 ~~3. Sliding glass doors are not permitted, except in transient lodging or residential applications with~~  
508 ~~the provision that they emulate French doors in appearance.~~
- 509 ~~4. Glass on the 1st floor (ground level) shall be clear or lightly tinted only.~~
- 510 ~~c. Storefronts.~~
- 511 ~~1. 1st floor commercial (ground level) facades on principal pedestrian streets shall be detailed and~~  
512 ~~glazed as storefronts.~~
- 513 ~~2. Retail occupancies shall have glazed storefront areas equal to at least 65 percent of the ground~~  
514 ~~level portion of the facade.~~
- 515 ~~d. Awnings and other shade structures.~~
- 516 ~~1. 1st floor awnings or other shade structures are to be no more than 10 feet high at the lower~~  
517 ~~drip edge.~~

~~2. 1st floor awnings and other shade structures may extend past the 4 foot maximum facade projection requirement into the pedestrian right-of-way. Awnings and other shade structures that extend past this requirement must include column or post supports.~~

~~e. Building styles not accepted:~~

~~1. Fantasy architecture: ships, castles, animals, etc.~~

~~2. Corporate architecture: predesigned or standardized designs (custom designed architecture for corporations is allowed).~~

~~(4) Materials. Exterior building materials and colors contribute significantly to the visual impact of a building on the community. They shall be well designed and integrated into a comprehensive design style for the project.~~

~~a. Exterior walls. The primary exterior finish material on all facades shall be limited to stucco (including synthetics), masonry, tile, stone and concrete clapboard. Exposed, nontextured flat masonry block is not accepted.~~

~~b. Roof. The materials for pitched roofs shall be limited to concrete or clay tile, metal, asphalt or fiberglass shingles, and slate or synthetic slate. Flat roofs may be any acceptable membrane system as permitted in the Florida Building Code.~~

~~c. Accessory materials. Highlight or detail materials shall be limited to metal, stone, cast concrete, wood or synthetic wood, smooth fiberglass or smooth molded high density polymer.~~

~~d. Exterior colors. The exterior of buildings, including trim, shall be compatible with surrounding buildings. Exterior color schemes that attract undue attention, or that cause the building to appear as a sign, are not permitted.~~

~~e. New materials. Additional materials may be permitted by review of the building official.~~

~~(5) Plan preparation. For any project involving a building addition of 500 square feet or more or a building permit value of \$100,000.00 or greater, the plans must be prepared by a licensed architect.~~

~~(6) Maximum uninterrupted building length requirements. Where a building or a series of buildings form a continuous street wall that exceeds 150 feet in length, a via shall be provided at the ground floor. The via shall be not less than 6 feet in width and not less than 10 feet in height. A via may be roofed. A via shall be open to the public. A via qualifies as public open space if it is unroofed and open to the sky, at least 1,000 square feet in contiguous area and dedicated to the city.~~

~~(Code 1994, § 102-852; Ord. No. 03-10093, § 1, 6-18-2003)~~

Sec. 58-913. - Specific requirements for auto repair shops.

The following are specific requirements for auto repair shops:

- (1) Repair bays shall not open onto the street but may open onto an alley.
- (2) All repairs must be performed within an enclosed repair bay.



- 555 (3) Parking areas and bay access areas must be screened from the street by a 3-foot-high hedge and  
556 trees every 50 feet on center.
- 557 (4) No access to auto repair shops from 10th Street or U.S. 41 is permitted.
- 558 (5) Maximum opening onto the street for access purposes is 24 feet.
- 559 (6) Right-of-way parking cannot be credited for building square footage.
- 560 (7) Setbacks shall be as per base district requirements.
- 561 (8) Permitted hours of operation: Monday—Saturday, 7:00 a.m. to 7:00 p.m.
- 562 (9) Storage of vehicles to be repaired cannot be in a fenced or locked yard, but must be in a standard  
563 parking lot configuration.
- 564 (10) Parking lot area must consist of "down lighting" on poles with a maximum height of 12 feet as  
565 measured at the base of the luminaire.
- 566 (11) No storage of cars visible from rights-of-way for more than 7 days is permitted.
- 567 (12) No storage of wrecked or junked cars is permitted.
- 568 (13) The shop shall not be contiguous to or across a street or alley from residential zoning.

569 ~~(Code 1994, § 102-853; Ord. No. 03-10093, § 1, 6-18-2003)~~

570 Sec. 58-914. - Signage.

571 Signs are intended to be designed to complement rather than detract from the visual impact of a  
572 commercial development by utilizing design elements consistent with those employed in the structure's  
573 architecture.

- 574 (1) *Address numbers.* Address numbers, a minimum of 6 inches and a maximum of 8 inches in  
575 height, shall be placed on each building or storefront in such a manner as to be readily visible  
576 and legible from the street. Address numbers must be Arabic-style and reflective.
- 577 (2) *Sign band.* A sign band or zone may be applied to the facade of each building, providing that it  
578 shall not exceed 2½ feet in vertical dimension. The horizontal dimension may be of any length.  
579 The bottom of such sign band shall be located at least 10 feet above sidewalk grade. The sign  
580 band or zone may contain multiple individual signs but all must refer to a tenant of the building.  
581 A maximum of 2 sign bands may be placed on the facade of each building, each on a separate  
582 story. Within each sign band, signs shall be complementary in terms of color, material, lettering  
583 or graphic style, and method of illumination.

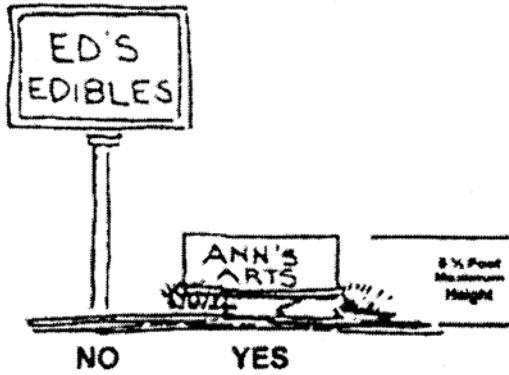


584

585  
586

*Sign Band*

- 587 (3) *Awning signs.* In lieu of a sign band, the vertical drip edge of an awning may be stenciled with  
588 letters no more than 8 inches in vertical dimension by any length. Both awning signs and a sign  
589 band are not permitted on a single building. Individual shop signs in a single building should  
590 relate to each other in design, size, color, lettering style, and method of illumination.
- 591 (4) *Perpendicular signs.* Additional signs or shingles may be attached to a building perpendicular to  
592 the facade, extending up to 6 feet from the facade. The bottom of the sign shall be no less than  
593 8 feet above sidewalk grade. The distance from the building wall to the sign shall not exceed 1  
594 foot. The height of the lettering or numbers shall not exceed 10 inches. Graphics or logos may  
595 be larger. There may be 1 perpendicular sign for each ground floor business. Perpendicular signs  
596 may not exceed 8 square feet in area, with a maximum dimension of 4 feet.
- 597 (5) *Sign illumination.* External signs shall not be translucent but may be externally lit or backlit. Signs  
598 using exposed neon tubes are not permitted.
- 599 (6) *Window signs.* Signs on the interior of a window or painted on the window shall be limited to  
600 no more than 30 percent of a window, up to a maximum of 12 square feet in area.
- 601 (7) *Wall-mounted building directory sign.* One wall-mounted building directory sign for each street  
602 or major pedestrian way upon which the building faces, identifying the occupants of a  
603 commercial building, including upper-story tenants, is permitted. Each such directory sign is  
604 limited to a maximum of 20 square feet.
- 605 (8) *Restaurants/cafes.* In addition to other signage, restaurants and cafes shall be permitted the  
606 following, limited to 1 sign per business:
- 607 a. *Menu case.* A wall-mounted display featuring the actual menu contained within a shallow  
608 glass-fronted case. The display case shall be located next to the main entrance, may be  
609 lighted, and shall not exceed a total area of 2 square feet.
- 610 b. *Sandwich board signs.* No sandwich board signs are permitted in the district.
- 611 (9) *Ground signs/pole signs: U.S. 41 and Goodlette-Frank Road.* Properties which front on U.S. 41 or  
612 Goodlette-Frank Road are permitted 1 60-square-foot ground sign if the property has 150 feet  
613 of frontage on U.S. 41 or Goodlette-Frank Road. Such ground signs are limited to 5½ feet in  
614 height, may be located on the front property line, and, on corner locations, must be a minimum  
615 distance of 50 feet from the intersection of the extended curblines. Ground signs must be  
616 located so as not to present visual hazards for pedestrians. Ground signs are permitted. Pole  
617 signs are not permitted.



618

619

620 *Ground Signs/Pole Signs*

621 (10) *Combination of signs.* A project is permitted a combination of any 2 of the following types of  
 622 signs: sign band, awning sign, ground sign.

623 ~~(Code 1994, § 102-854; Ord. No. 03-10093, § 1, 6-18-2003)~~

624 Sec. 58-915. - Parking facilities generally; landscaping.

625 (a) Commercial buildings shall be designed to provide safe, convenient, and efficient access for  
 626 pedestrians and vehicles. Parking shall be designed in a consistent and coordinated manner for the  
 627 site. The parking area shall be integrated and designed so as to enhance the visual appearance of the  
 628 community. Landscaping is intended to enhance the visual experience of the motoring and  
 629 pedestrian public. Landscaping should be used to enhance and complement the site design and  
 630 building architecture.

631 (b) These requirements shall supersede the requirements of chapter 50 within the downtown district.

632 (1) Number of parking spaces required.

633 a. *Commercial uses:* Three spaces per 1,000 square feet (gross) of commercial building area.

634 b. *Dwelling units as a part of a mixed-use development:* ~~Two~~1.2 spaces per unit except that,  
 635 for every parking space provided by the commercial use, the commercial parking space may  
 636 also count equally as a residential parking space for 50 percent of the required parking for  
 637 the residential use. Restaurants that serve dinner are excluded from the credit.

638 c. *Dwelling units developed as a residential-only project:* ~~Two~~1.5 spaces per unit.

639 d. *Transient lodging units:* One ~~and one-quarter~~ spaces per unit.

640 e. *Places of seated assembly such as churches and theaters:* One space per four seats.

641 f. ~~*Uses not listed:* Parking determined through a parking needs analysis approved by the city~~  
 642 ~~council.~~

643 g. *Existing uses grandfathered:* The above parking requirements shall not apply to existing  
 644 uses on lots smaller than 30,000 square feet. For any such existing use that expands or adds  
 645 on to its total building area after this Code is adopted, the above parking requirements shall

646 be applied to the added area only. Total required parking in such cases shall be the sum of  
647 the existing parking and the added required parking. Also, refer to section 58-918.

648 (2) *Alternatives to providing required number of parking spaces.* Where it is technically not feasible  
649 to provide the required number of parking spaces, the following alternatives may be considered:

650 a. For properties of 100,000 square feet or less, available on-street parking may be allocated  
651 to meet the required minimum parking. Refer to section 58-916.

652 b. Payment may be made into a payment in-lieu-of parking fund. Refer to section 58-920.

653 (3) *Use of parking areas.* Where off-street parking is required, such parking areas shall be used for  
654 vehicular parking only, with no sales, rental, dead storage (including boat and trailer storage),  
655 repair work, dismantling or servicing of any kind.

656 (4) ~~*Parking in yard areas*~~Surface parking. Surface parking shall not be located within fifty (50) feet  
657 of Priority Streets except as provided in subsection 58-915(b)(5). Curbcuts providing access to  
658 parking areas shall be located on streets other than Priority streets or on alleys, except where a  
659 property only has access from a priority street, or it is determined based on a traffic study that  
660 access from a priority street is necessary for safe and efficient vehicular and pedestrian  
661 circulation. Parking is not permitted closer to a front property line than the facade of the building  
662 it serves except in setback G. Side and rear yard areas may be used for parking. Parking fronting  
663 a public street must be completely screened from view by vegetation. For residential-only  
664 property abutting an alley, vehicular access shall be provided from the alley rather than a  
665 frontage line.

666 (5) Surface parking that is either:

667 a. Less than one hundred twenty-five (125) feet in depth; or

668 b. Less than ten thousand (10,000) square feet in area; or

669 c. Is located along 10<sup>th</sup> Street;

670 need only provide a minimum of a twenty (20) foot setback from priority streets.

671 (6) Head-in parking from any ROW shall be prohibited.

672

673

674 *Parking in Yard Areas*

675 (5) *Design of parking facilities.*

676 a. ~~Joint use of commercial and mixed-use parking areas. Where possible, all new off-street~~  
677 ~~parking facilities shall be designed for joint use by abutting properties.~~

678 b. Driveways, accessways, and access aisles of commercial and mixed-use property shall be  
679 interconnected with all existing driveways, accessways, and access aisles in parking areas  
680 already developed on abutting commercial and mixed-use property.

681 c. ~~Where abutting property is not developed, driveways, accessways, and access aisles of~~  
682 ~~commercial and mixed-use property shall be brought to the common property line so that~~  
683 ~~future interconnection is possible.~~

- 684 d. Where existing abutting property is developed in such a manner that interconnection of  
685 driveways, accessways, or access aisles is physically impossible, no connection shall be  
686 required.
- 687 e. All required off-street parking spaces meet the dimensional requirements of section 50-  
688 103(b)(1), the surfacing requirements of section 50-103(c), and the handicapped parking  
689 requirements of section 50-103(d).
- 690 f. Parking lot layout shall take into consideration pedestrian circulation. Pedestrian  
691 crosswalks shall be provided where necessary and appropriate, shall be distinguished by  
692 textured or special paving, and shall be integrated into the wider network of pedestrian  
693 walkways and sidewalks.
- 694 g. Reserved parking is not allowed for commercial uses.
- 695 (6) *Loading spaces.* Loading spaces are not required.
- 696 (7) *Landscaping of parking lots.*
- 697 a. At least 30 square feet of landscaping shall be provided for each on-site parking space.
- 698 b. Landscaping, and on-site water retention as referenced in section 30-342, shall be located  
699 in such a manner as to divide and break up the expanse of paving and provide a measure  
700 of shade and visual relief.
- 701 c. Landscaping shall be located so as to enable the interconnection of parking aisles on  
702 abutting properties.
- 703 d. Each separate landscaping area shall have a minimum dimension of 5 feet and a minimum  
704 area of 30 square feet.
- 705 e. Trees used for parking lot landscaping shall be canopy trees and must be a minimum of 10  
706 feet in height at the time of planting.
- 707 f. All landscaping areas must be irrigated and maintained.
- 708 g. Each separate landscaped area shall include at least 1 tree, with the remaining area  
709 adequately landscaped with shrubs, ground cover, or other approved landscaping material.  
710 The total number of trees shall not be less than 1 for each 100 square feet or fraction  
711 thereof of required landscaping.
- 712 h. The front of a vehicle may encroach upon any landscaped area when the area is at least 5  
713 feet in depth per immediately abutting parking space and protected by wheel stops or  
714 curbing. Two feet of such landscaped area or walkway may be part of the required depth  
715 of each abutting parking space.
- 716 (8) *Landscaping of front yards.* Refer to sections 58-909 and 58-912. Trees required in setback areas  
717 adjacent to streets as required setback zones are as follows:
- 718 a. *General standards.* All materials shall meet grade Florida #1 or better, as prescribed in  
719 Grades and Standards for Nursery Plants, latest edition. Existing trees that are of sufficient  
720 size and health may be retained to meet the provisions of this section. All trees shall be  
721 planted 30 feet on center. Minimum size at time of planting for canopy-type trees shall be  
722 16 to 18 feet overall height with minimum 3½-inch caliper. Minimum size at time of planting  
723 for palm trees shall be 10 feet of grey wood.

- 724 b. *Authorized trees.* The following trees are authorized for the following areas:
- 725 1. U.S. 41: Live oak (*Quercus virginiana*). However, royal palm (*Roystonea leata*) may be
- 726 substituted for live oak to accentuate building main entranceways, for up to 30
- 727 percent of the total trees required under this provision.
- 728 2. 10th Street: Royal palm (*Roystonea leata*).
- 729 3. Central Avenue: Black olive (*Bucida buceras* "Shady Lady").
- 730 4. 8th Street: Mahogany (*Roystonea leata*).
- 731 5. 6th Avenue North: Hong Kong orchid (*Bauhinia blakeana*).
- 732 6. 5th Avenue North: Mahogany (*Roystonea leata*).
- 733 7. 4th Avenue North: Golden rain tree (*Koelreuteria elegans*).
- 734 8. 2nd Avenue North: Silver trumpet tree (*Tabebuia caraiba*).
- 735 9. 1st Avenue South: Mahogany (*Roystonea leata*).
- 736 10. 12th Street: Mahogany (*Roystonea leata*).

737 ~~(Code 1994, § 102-855; Ord. No. 03-10093, § 1, 6-18-2003; Ord. No. 04-10653, § 1, 11-17-2004; Ord. No.~~

738 ~~11-12963, § 4, 10-5-2011)~~

739 Sec. 58-916. - *Parking garage.* The minimum design standards for a parking garage are:

740 (a) Sloped garage ramps facing and within one hundred (100) feet of a priority street shall have

741 ornamental grating or other architectural features which screen the sloped ramp from view

742 from the priority street.

743 (b) Parked vehicles shall be screened from view from abutting public rights-of-way, excluding

744 alleys. Screening may be provided by intervening buildings, architectural detailing such as

745 ornamental grating, or landscaping.

746 (c) Pedestrian walkways shall be provided between a parking garage and any principal or accessory

747 building it serves and to abutting public spaces.

748 (d) A parking garage shall meet the following architectural guidelines:

749 1. When a parking garage is provided for a principal structure on the same plot, the design of

750 the parking garage shall complement and contain architectural features consistent with

751 the principal structure, or

752 2. When a parking garage is the principal use on a plot, it shall be designed so that the

753 uppermost parapet or roof of the parking garage contains elevational changes averaging

754 at least three (3) feet in height and ten (10) feet in length every fifty (50) horizontal feet or

755 less.

756 Sec. 58-917. - Standards for on-street parking.

757 (a) On-street parking may be allocated to meet the required parking for private property that is 100,000

758 square feet or less if the following standards are met:

759 (1) The district is divided into ~~two~~three geographic areas: north of Central Avenue, ~~and~~ south of

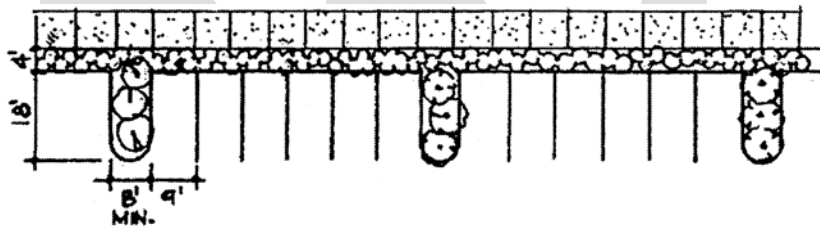
760 Central Avenue, and south of 5<sup>th</sup> Avenue. The on-street parking must be located in the same

761 geographic area as the private property.

762 (2) On-street parking allocation fees are as set forth in Appendix A to this Code.

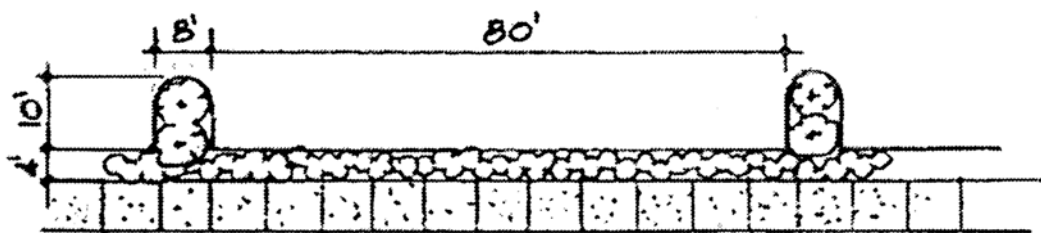
- 763 (3) The payment of the per-space fee shall be made to the city Parking Trust Fund at the time of  
 764 issuance of a building permit.
- 765 (4) Once an allocation of parking to a private property owner for new construction is approved, the  
 766 owner has one year to obtain a building permit. If a building permit is not obtained within that  
 767 timeframe, the allocated parking spaces shall be returned to the parking pool and shall be  
 768 available to any property owner within that geographic area.
- 769 (5) Refunds. Where a project has not commenced construction after issuance of a building permit,  
 770 requests for refunds of on-street parking space fees must be made in writing and will be  
 771 considered on an individual basis and approved by the city council. After determination of the  
 772 city council at a public meeting that the property owner is entitled to a refund, the city shall  
 773 return the amount so determined. Any interest that may have been earned on such amounts  
 774 shall not be refundable.

775 (b) The parking models shown below may be modified due to specific site conditions, including, but not  
 776 limited to, driveway cuts, storefront locations, and utility locations, upon written approval of the city  
 777 manager.



778  
 779  
 780 *Perpendicular Model*

781 6 spaces maximum between landscape islands; minimum 8-foot-wide island, 16-foot island at ends of  
 782 block; minimum 4-foot strip of landscape in front of cars, if possible; best engineering practices.



783  
 784  
 785 *Parallel Model*

786 80 feet maximum between bulb-outs; minimum 8-foot bulb-out, 16-foot at corner locations; best  
 787 engineering practices.

788  
 789



790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825

~~(Code 1994, § 102-856; Ord. No. 03-10093, § 1, 6-18-2003; Ord. No. 04-10653, § 1, 11-17-2004; Ord. No. 11-12963, § 5, 10-5-2011)~~

Sec. 58-91~~87~~. - Waivers.

(a) The city council may waive the requirements of this division for additions, alterations, or rehabilitation of buildings which do not meet the design standards of this division upon finding that the following criteria are met:

- (1) The property does not conform to the standards of this division and the existing nonconformities are such that meeting the requirements of this division are impractical or will not meet the intent of this division.
- (2) The proposed addition, alteration, or rehabilitation is compatible with adjacent buildings, achieves the requirements of this division as closely as is practicable, and is consistent with the intent of this division.

- (b) Waivers shall not be granted for matters relating to use.
- (c) Waivers shall not be granted to increase a building size over what is allowed by this Code.

~~(Code 1994, § 102-857; Ord. No. 03-10093, § 1, 6-18-2003)~~

Sec. 58-91~~98~~. - Nonconformities.

(a) Notwithstanding any other provision of the Code, this division shall not apply to any property unless and until the property or business, or both, is the subject of a petition or application for a substantial renovation or alteration, i.e., more than 50 percent of preapplication value of the structure; or addition, i.e., more than 50 percent of the preapplication square footage of the structure; or for removal and reconstruction.

(b) Specifically, without limiting subsection (a) of this section, a property owner shall not, by virtue of this division:

- (1) Lose permitted uses, parking allocations, setbacks, driveways or sidewalk areas existing at the date of adoption of the ordinance from which this division is derived;
- (2) Be required to remove, or make to conform, existing nonconforming signage unless the sign is more than 50 percent destroyed or must be repaired to the extent of more than 50 percent;
- (3) Be required to remove, or make to conform, existing nonconforming signage when there is merely a change of copy on the sign; or
- (4) Be required to fund additional on-site landscaping improvements than those provided through tax increment financing revenue.

(c) If for any reason a nonconforming use of land, structure or sign ceases for a period of 12 consecutive months, it shall thereafter be made to conform to the requirements of this division. An affected property owner may request the city manager to approve up to 2 6-month extensions of time.

826 ~~(Code 1994, § 102-858; Ord. No. 03-10093, § 1, 6-18-2003)~~

827 Sec. 58-92019. - Improvement and redevelopment review.

828 (a) Community redevelopment agency advisory board. The city community redevelopment agency  
829 advisory board (CRAAB) shall be authorized to administer this division on matters outlined in chapter  
830 2, article V, division 8.

831 (b) Procedures for design review. The city design review board shall determine compliance with this  
832 division and with the provisions of chapter 2, article V, division 4 (design review board) and section  
833 50-241 (architectural and landscape architectural design standards) for any improvements affecting  
834 the exterior of a building or site on private land, except as provided in section 58-918, including  
835 construction, reconstruction, alteration, rehabilitation; changing the color of a building; landscaping;  
836 and demolition of buildings and appurtenances. No building permit shall be issued before the project  
837 receives approval from the design review board.

838 ~~(Code 1994, § 102-859; Ord. No. 03-10093, § 1, 6-18-2003; Ord. No. 04-10654, § 1, 11-17-2004; Ord. No.~~  
839 ~~08-12207, § 6, 10-1-2008)~~

840 Sec. 58-9210. - Parking alternatives for nonresidential uses.

841 (a) *Developer's option.* In lieu of providing up to but not more than 25 percent of the parking spaces  
842 required for nonresidential uses located in the district, a developer may pay into the city payment in-  
843 lieu-of parking trust fund a sum of money that is the product of the number of parking spaces  
844 required but not provided and the current cost to provide a single parking space in the district.

845 (b) *Fees.* The city council shall by resolution adopt fees to be charged for parking spaces and shall be as  
846 set forth in Appendix A to this Code.

847 (c) *Payment in-lieu-of parking trust fund established.* The city payment in-lieu-of parking trust fund  
848 account is hereby established, into which shall be deposited all payments made by developers  
849 pursuant to this section. The city shall use monies deposited into said account for the exclusive  
850 purpose of paying the cost of construction or reconstruction of parking spaces in the district. Said  
851 cost includes the cost of all labor and materials, the cost to acquire all lands, property, rights,  
852 easements, and franchises acquired, the cost of financing charges, the cost of interest prior to and  
853 during construction and, for one year after completion of construction, discount on the sale of  
854 municipal bonds, the cost of plans and specifications, surveys of estimates of costs and of revenues,  
855 the costs of engineering and legal services, and such other costs and expenses necessary or incident  
856 to determining the feasibility or practicability of such construction or reconstruction, administrative  
857 expenses, and such other expense as may be necessary or incident to the construction or  
858 reconstruction of its financing.

859 (d) *Time of payment.* Payments made pursuant to this section shall be made at the issuance of a building  
860 permit for any portion or phase of a development project to which the parking spaces that are  
861 required for a nonresidential use but are not provided relate.

862 (e) *Reimbursement.* For developments that provide dedicated, public parking spaces over and above the  
863 required minimum parking, the developer will be reimbursed from the payment-in-lieu-of parking  
864 trust fund a sum of money equal to the product of the excess spaces and the current reimbursement  
865 cost. The determination of such excess public spaces shall be subject to the following conditions:

- 866 (1) The public parking spaces shall be readily apparent to the public and have direct access to a  
867 public way. At no time shall the use of these spaces be limited by liftgates, traffic cones or other  
868 means.
- 869 (2) A reasonable minimum number of contiguous public spaces, sufficient to be easily interpreted  
870 as a public parking amenity, shall be provided. This reimbursement is not intended for the odd  
871 one or two excess spaces that may result in a particular development layout, but rather, is  
872 intended to reimburse a concerted effort to add to the public parking pool.
- 873 (3) The quantity and suitability of such excess public parking spaces is subject to the review and  
874 determination of the committee.
- 875 (f) *Dedicated ground floor public parking.* For developments that dedicate the entire ground floor of a  
876 parking structure to public parking, the developer, through the conditional use process, may be  
877 permitted to provide supplemental parking on the third floor rooftop. Rooftop parking areas shall be  
878 screened with a parapet. The structure, including the rooftop parking areas, shall be designed,  
879 landscaped and maintained so as to be compatible with surrounding structures and so as to prevent  
880 undue interference with the view from surrounding structures.
- 881 (g) *Fees.* The city council shall by resolution adopt the amount to be reimbursed for a single public  
882 parking space in the district and shall be as set forth in Appendix A to this Code.
- 883 (h) *Excess parking.* A development may construct parking in excess of that which is required by this Code,  
884 including spaces in a parking structure, in its project. The excess spaces may be leased or sold to a  
885 second development within one of the geographic areas defined in section 58-916 in which the  
886 development is located, or to the city. The leased or purchased parking may be used in meeting the  
887 parking requirements under this Code by the second development.
- 888 (i) *Refunds.* Where a project has not commenced construction after issuance of a building permit,  
889 requests for refunds of parking space fees must be made in writing and will be considered on an  
890 individual basis and approved by the city council. After determination of the city council at a public  
891 meeting that the property owner is entitled to a refund, the city shall return the amount so  
892 determined. Any interest that may have been earned on such amounts shall not be refundable.

893 ~~(Code 1994, § 102-860; Ord. No. 03-10093, § 1, 6-18-2003; Ord. No. 11-12963, § 6, 10-5-2011)~~

894 Sec. 58-9221. - Specific requirements for outdoor display of merchandise.

895 The outdoor display of merchandise may be permitted subject to the limitations listed below. A plan  
896 depicting the location of the merchandise shall be submitted to the city for review and approval and the  
897 city manager reserves the right to deny the plan based on safety, aesthetics, or inadequate space.

- 898 (1) All merchandise on display outdoors must be appropriate for outdoor display and weather  
899 resistant. All merchandise must be in good condition. Items on display may include but are not  
900 limited to plants, landscaping supplies, outdoor furniture, and recreational equipment intended  
901 for outdoor use. Motorized vehicles, vending machines, construction equipment and the bulk  
902 storage of construction materials are not permitted for outdoor display unless otherwise  
903 permitted in the district as an allowable use.
- 904 (2) Merchandise displayed outdoors must be also be available for sale inside the adjacent  
905 commercial establishment and the merchandise shall only be displayed outside of the  
906 establishment where the merchandise is sold.

- 907 (3) All merchandise sales transactions must be indoors.
- 908 (4) Outdoor display areas may not be sublet or subleased to a separate business entity.
- 909 (5) Outdoor display of merchandise is not intended to expand retail space or assist in liquidating  
910 clearance or discarded items.
- 911 (6) Displays must be located on private property, immediately adjacent to the commercial business  
912 and conforming to all required setbacks or build-to lines. Displays cannot hinder pedestrian  
913 circulation, extend into the public sidewalk or impede emergency egress.
- 914 (7) No required parking space, parking aisle, loading space or landscaped area shall be used for  
915 display purposes.
- 916 (8) No additional signage is permitted. Merchandise may not be used as signage and may not have  
917 signage attached to it.
- 918 (9) No additional parking is required for outdoor display areas not exceeding 100 square feet.  
919 Display areas exceeding 100 square feet will be required to supply parking at the current  
920 required ratio for the display area that exceeds 100 square feet.
- 921 (10) Outdoor display areas existing as of the effective date of this ordinance and exceeding 100  
922 square feet are exempt from providing required parking provided a plan depicting the location  
923 of the merchandise is submitted for review and approval.

924 Sec. 58-9230. - Midtown Expedited Infill Development

925 (1) Purpose

926 a. To provide incentives to promote infill development, reduce sprawl, increase the availability  
927 of housing and increase economic activity and vitality throughout the CRA, all of which will  
928 improve the local economy and enhance quality of life for the benefit of the residents of  
929 Naples. Insofar as these goals are served by enhancing the value of the local tax base and  
930 increasing economic opportunities, the City of Naples and CRA will give consideration to  
931 provide incentives for infill development.

932 b. The intent is to define the financial or other incentives available to encourage infill  
933 development and/ or provide flexibility in development standards to facilitate infill  
934 development and redevelopment.

935 (2) Eligibility

936 a. Redevelopment projects that encompass an entire block or half block if separated by a platted  
937 alley or ROW.

938 b. Where the designated site or project is subject to multiple ownership, as part of the application  
939 for site plan review, the Planning and Zoning Board may allow the Owners of the property to  
940 submit a Covenant In lieu of Unity of Title in accordance with the provisions of [SEE DRAFT AT  
941 END OF].

942

943 (3) Incentives and Flexible Standards

944 1. Expedited Review

945 a. Midtown Expedited Review Committee (MERC)

- 946 i. Membership – (2) CRAAB [members from district], (2) PAB, (2) DRB & (1) CRA  
947 (Chair); one (1) alternate from each Board; Assistant City Manager/CRA  
948 Manager Ex-Officio
- 949 b. Authority – Grant approval of eligible redevelopment projects within the Midtown  
950 District, including the incentives below.
- 951 c. Review Types:
- 952 i. Level 1 - No variance or waivers requested
- 953 1. Timeframe - 60 days to Hearing from when application deemed  
954 complete
- 955 2. Review and Approval - Midtown Expedited Review Committee
- 956 3. Call-Up – CRA/City Council 10 days
- 957 ii. Level 2 – Variance, Waiver, Conditional Use or similar requests
- 958 1. Conditional Use, variance, waiver, alt standard etc.
- 959 2. Timeframe - 90 days to Hearing from when application deemed  
960 complete
- 961 3. Review and Recommendation – MERC
- 962 4. Approval – CRA/City Council.
- 963
- 964 2. Up to 50% of downtown open space fees paid by CRA (based on 1<sup>st</sup> year increment increase).
- 965 Example:
- 966 • Current TIF generated: \$100,000
- 967 • Projected after redevelopment: \$300,000
- 968 • Increase: \$200,000
- 969 • Write-Down: Up to \$100,000
- 970 3. Parking:
- 971 a. Residential: 1.2 Spaces per unit
- 972 4. Reductions in building setbacks. Setbacks may be reduced subject to the following standards:
- 973 a. A minimum of fifty (50%) percent of the total ground floor square footage received from the  
974 setback reduction is provided as publicly accessible street level covered open space area on  
975 the private property.
- 976 b. Types of open space shall be in the form of courtyards, plazas, arcades/loggias, pedestrian  
977 pass-throughs and open atriums adjacent/contiguous to the adjacent rights-of-way.
- 978 c. Minimum area. Minimum square footage of allowable open space (i.e., plazas) shall be five  
979 hundred (500) square feet.
- 980 d. Include both hard and softscape landscape improvements and pedestrian amenities.
- 981 e. Vertical volume. As a minimum include a vertical volume of space equal from street level to  
982 the first-floor height or a minimum of twelve (12) feet. Additional height may be  
983 recommended.
- 984 f. Restaurant seating. This area may be used for outdoor restaurant seating subject to those  
985 performance standards provided for in these regulations.
- 986
- 987 (4) Limitations
- 988 a. The City Manager or the City Manager’s designee may negotiate and enter into an agreement  
989 with any person eligible to apply for and receive an incentive who develops or redevelops within

990 the boundary of the Midtown District to offset development related fees, charged or levied by  
991 the City.

992 b. Such agreement or any amendment thereto may provide for a grant to offset development  
993 related fees, as estimated by City/CRA staff, as an incentive to develop or redevelop infill areas  
994 as follows:

995 1. For a period, not to exceed 24 months from the date upon which the person enters into an  
996 agreement with the City/CRA, up to and including 50 percent of the development related  
997 fees charged to the person or any contractor or subcontractor as listed in the City's Fee  
998 Schedule.

999 2. The total amount of development related fees offset by an infill development incentive from  
1000 the City/CRA shall not exceed \$25,000 per project submitted by an applicant.

1001 3. The project must receive a building permit for vertical constructions within 12 months, with  
1002 an allowance for a one-time six-month extension for a total of 18 months.

1003  
1004 (5) Agreement required

1005 a. The terms and conditions of any development related incentive granted by the City/CRA shall be  
1006 set forth in a written agreement between the City/CRA and the person that may be approved,  
1007 and executed by the City Manager or the City Manager's designee after a report to the City  
1008 Council subject to a call-up period. The call-up period shall expire after the regular City Council  
1009 meeting following the City Council meeting at which the agreement was reported to City  
1010 Council.

1011 b. At a minimum, any agreement relating to the incentive grant shall be subject to the following  
1012 requirements:

1013 1. The person shall develop or redevelop an infill development parcel within Midtown  
1014 District and maintain the project for such a period of time as determined by the  
1015 agreement;

1016 2. The person shall warrant to the City/CRA that the project shall be in compliance with all  
1017 applicable zoning and other federal, state, county, and city statutes, rules, regulations,  
1018 and ordinances;

1019 3. The terms of the agreement between the city and the person shall provide for sanctions,  
1020 including but not limited to termination of the agreement and reimbursement of fees  
1021 offset through a grant by the city with reasonable interest thereon, if the person fails to  
1022 meet its obligations thereunder. Such agreement shall further provide procedures and  
1023 remedies to enforce all terms and conditions therein, including but not limited to the  
1024 imposition of liens upon real and personal property, the denial of an issuance of a  
1025 certificate of occupancy, or the disconnection of utility services provided by the City;  
1026 and

1027 4. No such agreement shall be entered into by the City/CRA pursuant to this section prior  
1028 to the approval of such agreement by the city attorney as to form.

1029 ~~(Ord. No. 14-13531, § 3, 10-1-2-2014)~~

1030 ~~Secs. 58-922—58-930. Reserved.~~



1031 **UNITY OF TITLE AND DECLARATION OF RESTRICTIVE COVENANT IN LIEU THEREOF**

1032 **Section 1. Purpose and applicability.**

1033 When it is necessary that two (2) or more lots, parcels or portions thereof are added or joined, in whole  
1034 or in part, a Unity of Title or Declaration of Restrictive Covenant in lieu of a Unity of Title shall be filed to  
1035 ensure the properties are planned, developed and maintained as an integral development and/or project  
1036 and are consistent with and satisfy the requirements of these regulations and the City Code of Ordinances.

1037 **Section 2. Unity of Title.**

1038 (a) General requirements. As a prerequisite to the issuance of a building permit, the owner(s) in fee  
1039 simple title shall submit a Unity of Title in recordable form to the Planning Department providing that  
1040 all of the property encompassing the parcel proposed for development upon which the building and  
1041 appurtenances are to be located shall be held together as one (1) tract of land and providing that no  
1042 part or parcel shall be conveyed or mortgaged separate and apart from the parcel proposed for  
1043 development, as set forth under the building permit in the following cases:

1044 (1) Whenever the required off-street parking is located on contiguous lots or parcels or is otherwise  
1045 located off-site, as provided for under \_\_\_\_\_ of these regulations.

1046 (2) Whenever the parcel proposed for development consists of more than one (1) lot or parcel and  
1047 the main building is located on one (1) lot or parcel and accessory buildings or structures are  
1048 located on the remaining lot or parcel comprising the parcel proposed for development.

1049 (3) Whenever the parcel proposed for development consists of more than one (1) lot or parcel and  
1050 the main building is located on one (1) or more of the lots or parcels and the remaining lots or  
1051 parcels encompassing the parcel proposed for development are required to meet the minimum  
1052 standards of these regulations.

1053 (4) Whenever a building is to be constructed or erected upon a lot or parcel which is larger in  
1054 frontage, depth and/or area than the minimum required by these regulations and which lot or  
1055 parcel would be susceptible to resubdivision in accordance with \_\_\_\_\_.

1056 (5) Whenever the Planning Board provides that a Unity of Title shall be executed as a condition for  
1057 the granting of a variance.

1058 (6) Whenever a Unity of Title is specifically required by an ordinance or resolution adopted by the  
1059 City Commission.

1060 (7) Whenever a parcel proposed for development in any residential district consists of more than one  
1061 (1) platted lot.

1062 (b) Approval. The Unity of Title shall be subject to review and approval by the City Attorney as to form  
1063 and content, together with any additional necessary legal instruments to preserve the intent of these  
1064 regulations and to properly enforce these regulations and Code of Ordinances and shall be signed and  
1065 joined by all mortgage holders.

1066 (c) Release. Any Unity of Title required by this section shall not be released except upon approval by  
1067 resolution passed and adopted by the City Commission and executed by the City Manager and City  
1068 Clerk.



1069 (d) Recording. The owner(s) shall pay all fees as required by the City Code of Ordinances for the  
1070 processing and recording of the Unity of Title.

1071 (e) Enforcement. Enforcement of the Unity of Title shall be by action at law or in equity with costs and  
1072 reasonable attorney's fees and City fees payable to the prevailing party.

1073 **Section 3. Declaration of restrictive covenant in lieu of a Unity of Title.**

1074 (a) General Requirements. In the case of separate but contiguous and abutting parcels proposed for  
1075 development located in Commercial, Mixed-Use or Industrial Districts owned by one (1) separate or  
1076 multiple owners wishing to use said property as one (1) parcel, the Planning Director may approve a  
1077 Declaration of Restrictive Covenant in Lieu of a Unity of Title together with a Reciprocal Easement and  
1078 Operating Agreement approved for legal form and sufficiency by the City Attorney. The Declaration  
1079 of Restrictive Covenant shall run with the land and be binding upon the heirs, successors, personal  
1080 representatives and assigns, and upon all mortgagees and lessees and others presently or in the future  
1081 having any interest in the property. In such instances, the property owner(s) shall agree that in the  
1082 event that ownership of the subject properties comes under a single ownership, the applicants,  
1083 successors and assigns, shall file a Declaration of Restrictive Covenant covering the subject properties.

1084 (b) Declaration of restrictive covenant shall comply with the following:

1085 (1) Submit a record of the existing height, existing size and site conditions, to include both plan and  
1086 photographic evidence.

1087 (2) Develop, maintain and operate the property as a single building site.

1088 (3) Develop individual building sites within the subject property in accordance with the provisions of  
1089 the City's Comprehensive Plan and these regulations.

1090 (c) The City shall only release a Declaration of Restrictive Covenant if the individual properties satisfy all  
1091 applicable regulations, Code of Ordinances and Comprehensive Plan requirements and the release  
1092 does not create substandard or nonconforming building sites.

1093 (d) Requests for modification of an existing Declaration of Restrictive Covenant shall be submitted to the  
1094 Planning Director and satisfy the following:

1095 (1) Provide written consent of the current owner(s) of the phase or portion of the property for which  
1096 modification is sought.

1097 (2) The modification shall not create a fire emergency situation or be in conflict with the provisions  
1098 of these regulations, Code of Ordinances and Comprehensive Plan.

1099 (3) The Planning Director may impose conditions within the Declaration of Restrictive Covenant to  
1100 insure the above provisions are satisfied or waive such provisions if not applicable to the parcel  
1101 proposed for development.

1102 (4) Subsequent owners of all parcels shall be bound by the terms, provisions and conditions of the  
1103 Declaration of Restrictive Covenant.

1104 (5) The conveyance of portions of the subject property to third parties shall require a Reciprocal  
1105 Easement and Operating Agreement executed by third parties in recordable form including the  
1106 following:

1107 a. Easements in the common area of each parcel for the following:

1108 1. Ingress to and egress from the other parcels.

- 1109 2. For the passage and parking of vehicles.
- 1110 3. For the passage and accommodation of pedestrians.
- 1111 b. Easements for access roads across the common area of each parcel to public and private
- 1112 roadways.
- 1113 c. Easements for the following on each parcel to permit the following:
- 1114 1. The installation, use, operation, maintenance, repair, replacement, relocation and/or
- 1115 removal of utility facilities in appropriate areas.
- 1116 2. The installation, use, maintenance, repair, replacement and/or removal of common
- 1117 construction improvements such as footings, supports and foundations.
- 1118 3. The attachment and support of buildings or other associated structures and/or
- 1119 improvements.
- 1120 4. For building overhangs and other overhangs and projections encroaching upon such
- 1121 parcel from adjoining parcel such as, by way of example, including but not limited to the
- 1122 following: marquees; signage; canopies; lighting devices; awnings; wing walls; etc.
- 1123 5. Reservation of rights to grant easements to utility companies.
- 1124 6. Reservation of rights to road rights-of-way and curb cuts.
- 1125 7. Pedestrian and vehicular traffic over dedicated private right roads and access roads.
- 1126 (6) Appropriate agreements between the owners of the parcels as to the obligation for maintenance
- 1127 of the property to include but not limited to the following: maintenance and repair of all private
- 1128 roadways; parking facilities; common areas; landscaping; and, common facilities and the like.
- 1129 (7) These provisions of the Reciprocal Easement and Operating Agreement shall not be amended
- 1130 without prior written request and approval of the City Attorney. In addition, such Reciprocal
- 1131 Easement and Operating Agreement shall contain such other provisions with respect to the
- 1132 operation, maintenance and development of the property as to which the City and the parties
- 1133 thereto may agree, all to the end that although the property may have several owners, it will be
- 1134 constructed, conveyed, maintained and operated in accordance with the approved site plan.
- 1135 (f) Requisites.
- 1136 (1) The owner(s) shall provide a Certificate of Ownership by way of an opinion of title from an
- 1137 Attorney-At-Law licensed to practice in the State of Florida or from an abstract of title company
- 1138 licensed to do business in Collier County, Florida; said opinion of title shall be based upon an
- 1139 abstract or certified title information brought up within ten (10) days of the requirement that such
- 1140 Declaration of Restrictive Covenant be recorded.
- 1141 (2) The opinion of title shall include the names and addresses of all mortgagees and lien holders, the
- 1142 description of the mortgages and/or liens and the status of all real estate taxes due and payable.
- 1143 (3) A subordination agreement signed and executed by the mortgagees and/or lien holders shall
- 1144 accompany and be made part of the Declarations of Restrictive Covenants.
- 1145 (4) The Declaration of Restrictive Covenants shall be executed with the same formality and manner
- 1146 as a warranty deed under the laws of the State of Florida.
- 1147 (5) The City may also require that the property owners file additional documents with appropriate
- 1148 state and local agencies to ensure that the properties are treated for the purposes herein as a
- 1149 single building site. Such documents shall include, where appropriate, declaration of

- 1150 condominium, approved by the State of Florida and recorded in the public records of Collier  
1151 County. Copies shall be provided to the City together with the application for Declaration of  
1152 Restrictive Covenant in lieu.
- 1153 (g) Approval. The Declaration of Restrictive Covenant shall be subject to review and approval by the City  
1154 Attorney as to form and content, together with any additional legal instruments to preserve the intent  
1155 of the ordinance to promote single building sites and to properly enforce these regulations, Code of  
1156 Ordinances, and Comprehensive Plan.
- 1157 (h) Appeal. Appeal of the Planning Director's decision shall be to the Planning Advisory Board in  
1158 accordance with the provisions of \_\_\_\_\_.
- 1159 (i) Release. A release of a Declaration of Restrictive Covenant shall require approval from the City  
1160 Commission upon review and recommendation by the Planning Department. Approval shall be via a  
1161 Resolution passed and adopted by the City Commission and release executed by the City Manager  
1162 and City Clerk. The Planning Department and the City Commission must fund that upon demonstration  
1163 and affirmative finding that the same is no longer necessary to preserve and protect the property for  
1164 the purposes herein intended.
- 1165 (j) Recording. The owner(s) shall pay all fees as required by these regulations and/or Code of Ordinances  
1166 for the processing and recording of the Declaration of Restrictive Covenant. The Declaration of  
1167 Restrictive Covenant shall be in effect for a period of thirty (30) years from the date the documents  
1168 are recorded in the public records of Collier County, Florida, after which they shall be extended  
1169 automatically for successive periods of ten (10) years unless released pursuant to the Release  
1170 provisions contained herein.
- 1171 (k) Enforcement. Enforcement of the declaration of restrictive covenant shall be by action at law or in  
1172 equity with costs and reasonable attorney's fees to the prevailing party

1173