

## GROUP 2, ITEM 1

### RESTAURANT CLASSIFICATIONS

#### AMENDMENT SUMMARY

- Issue:** The LDC currently provides for five distinct classifications—Restaurants, Groups I, II, III, and IV, and Restaurants, Fast Food. There is significant overlap between restaurant groups, which complicates administration of the LDC with respect to restaurants. In addition, drive-through facilities are becoming more prevalent for restaurants that are not traditionally considered “fast food,” which complicates administration of the LDC with respect to design requirements for these types of establishments.
- Solution:** Amend the LDC to consolidate restaurants into two groups: restaurants, and restaurants with drive-through.
- Outcome:** Clarifies and streamlines the LDC to simplify classification of restaurants, which will simplify administration and clarify the applicable design regulations for restaurant uses depending on classification.

## CHAPTER 10 – DEVELOPMENT STANDARDS

### ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS

#### DIVISION 3. OPEN SPACE, BUFFERING AND LANDSCAPING

##### **Sec. 10-424. Landscape requirements for specific uses.**

**Staff note:** Staff note: This amendment revises the term ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’ consistent with the new definition in LDC Section 34-2.

- (a) The following uses require landscaping or screening beyond the minimum standard requirements:
- (1) Recreational vehicle planned developments, section 34-939(a)(3).
  - (2) Private recreational facilities planned developments, section 34-941.
  - (3) Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment, section 34-1352.
  - (4) Convenience food and beverage stores, automobile service stations, ~~fast food~~ restaurants, with drive-through, and car washes, section 34-1353.
  - (5) Wireless communications facilities, section 34-1447(c)(4)(c).
  - (6) Essential services and facilities, section 34-1616(b).
  - (7) Mining, chapter 12.
  - (8) Residential project walls, section 34-1743(b)(3).
  - (9) Open storage, section 34-3005(b)(1).

(10) San Carlos Island Redevelopment Overlay Districts, chapter 33.

## CHAPTER 33 – PLANNING COMMUNITY REGULATIONS

### ARTICLE IV. – PAGE PARK PLANNING COMMUNITY

#### DIVISION 2. BASIC ELEMENTS

##### SUBDIVISION I. - BASIC ELEMENTS

###### Sec. 33-1261. Permitted uses.

Staff note: Staff note: This amendment revises the term ‘Restaurant, groups I, II, III, and IV to ‘Restaurant’ consistent with the new definition in LDC Section 34-2.

The following uses may be approved through the administrative process set forth in section 33-1202(b) in the stand-alone commercial areas of the Page Park Community Overlay District (as depicted in Appendix I, Map 6). These uses are in addition to uses permitted in the underlying zoning district.

Restaurants. ~~Groups I, II, III, and IV~~

*Remainder of section unchanged.*

### ARTICLE VIII. – NORTH FORT MYERS PLANNING COMMUNITY

#### DIVISION 3. COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS

##### SUBDIVISION IV. – COMMERCIAL CORRIDOR USE REGULATIONS

###### Sec. 33-1596. Use regulations.

Staff note: Staff note: This amendment revises the terms ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’, and ‘Restaurant, groups I, II, III, and IV to ‘Restaurant’ consistent with the new definition in LDC Section 34-2.

The following use regulations apply to property located within the commercial corridor as defined in 33-1537:\*\*\*

USE DESCRIPTION	SPECIAL NOTES OR REGULATIONS	COMMERCIAL CORRIDOR
Restaurant, <del>fast food</del> with drive-through	34-1353	P
Restaurants ( <del>34-622(c)(43)</del> ):	- Note (33)	P
<del>–Group I</del>	<del>Note (33)</del>	<del>P</del>
<del>–Group II</del>	<del>Note (33)</del>	<del>P</del>
<del>–Group III</del>	<del>Note (33)</del>	<del>P</del>
<del>–Group IV</del>	-	<del>P</del>

All references to notes are to those notes found in section 34-844.

- \* Uses allowed by special exception may also be requested through PD zoning.
- \*\* Use must not be located closer than 500 feet, measured in a straight line from any public school or charter school; child care center; park, playground, or public recreation facility; place of worship or religious facility; cultural center, or hospital.
- \*\*\* All planned developments approved prior to adoption of this provision will retain the uses approved.
- \*\*\*\* Bail bonding, escort services, fortune tellers palm readers or card readers, massage parlors are not permitted.

## ARTICLE XII. – SAN CARLOS ISLAND REDEVELOPMENT OVERLAY DISTRICT

### Sec. 33-1744. Modified land development regulations, the master plan.

Staff note: This amendment revises the term 'Restaurant, group I and II' to 'Restaurant' in Table 1 consistent with the new definition in LDC Section 34-2.

The District Master Site Plan (plan or MSP) contains graphic and textual aspects which modify the following specified land development regulations. All other Lee County land development regulations remain in full effect. A reduced copy of the San Carlos Island MSP is adopted by reference and included in reduced form in Appendix I. In general, the SCC and SCF sub-districts retain the uses allowed in the underlying zoning districts. The SCW and SCCE sub-districts alter the uses from those of the underlying zoning district to allow those uses set forth in table 1, below. In addition, the type of approval required for certain uses has been modified, as also set forth in table 1.

(a) and (b) unchanged.

- (c) *Use of table 1.* The following abbreviated terms have the meaning stated and apply to table 1 and its explanatory notes: the letter "SE" means a use only permitted by a special exception approved pursuant to section 34-145(c), approval under section 34-1082(d)(1)a. is required as well; "-" means that the use is not allowed, and the letter "P" means a use is permitted subject to approval by the Director pursuant to section 34-1082.

**TABLE 1  
LAND USES IN THE SCCE AND SCW SUB-DISTRICTS**

Land Uses	Special Notes or Regulations	SCCE	SCW
Restaurants (34-622(c)(43)):		SE*	P
• Group(s) I, II		SE*	P
• With outdoor seating		*Note I	P

Notes:

- A. Limited to marine-oriented operations.
- B. Limited to establishments which are clearly accessory and subordinate to a marina or commercial fishing land support facility.
- C. Mainly the U.S. Coast Guard, Army Corps of Engineers, State Department of Environmental Protection, Marine Patrol and other marine-oriented County facilities.
- D. Limited to marine-oriented schools such as sailing schools.
- E. Limited to seafood markets.
- F. As modified by section 33-1743(e)(6) "Signs".
- G. In addition to the marina accessory uses listed in section 34-2, the following uses are included if clearly accessory and subordinate to a marina: food stores, laundry facilities, rental or leasing facilities, Group I, and specialty retail shop, Group I.
- H. Boat sales and boat part sales which are clearly accessory and subordinate to this use are allowed.

- I. This use is only allowed east of San Carlos Boulevard.
- J. This use is allowed only where the underlying zoning is CM or IM, and the land use category is Urban Community.

*Remainder of section unchanged.*

## CHAPTER 34 – ZONING

### ARTICLE I. – IN GENERAL

#### LDC Section 34-2. – Definitions.

*Staff note: This amendment revises the definitions of ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’, and ‘Restaurant, group I, II, III, and IV’ to ‘restaurant’. The change to restaurant ultimately combines the use groups I through IV for restaurants into a single category. LDC Section 34-622(c)(43) has been removed concurrently with the amendments to the definition of restaurant.*

*Drive-through facility means an establishment where a patron transacts, places orders, or is provided products or services without departing from his or her automotive vehicle or in which the patron may temporarily depart from his or her vehicle in a non-parking space while servicing it, ~~such as a do-it-yourself car wash or fuel pump.~~ The terms "drive-through," "drive-in" and "drive-up" are synonymous. See Pick-up window.*

*Pick-up window means an accessory use consisting of a window where customers may arrive and directly collect items that were ordered prior to arrival. A pickup window may not provide for ordering, call boxes, or payment, typically associated with a drive-through facility.*

*Restaurant, fast food with drive-through means an establishment whose principal business is the sale of food or beverages in a ready-to-consume state primarily for off-site consumption, and that may contain drive-through facilities where customers order and are served food at a counter or in a motor vehicle in packages prepared to leave the premises or are able to be taken to a table or counter to be consumed. See Restaurant.*

*Restaurant, ~~standard~~ means an establishment whose principal business is the sale of food or beverages to customers in a ready-to-consume state. ~~and principal method of operation includes one or both of the following characteristics:~~ This definition includes uses previously classified as Restaurants, Groups I, II, III, and IV. See Restaurant, with drive-through.*

~~(1) Customers are served their foods and beverages by a restaurant employee at the same table or counter where food and beverages are consumed.~~

~~(2) A cafeteria-type operation is conducted where food and beverages generally are consumed within the restaurant building.~~

# ARTICLE VI. – DISTRICT REGULATIONS

## DIVISION 1. - GENERALLY

### LDC Section 34-622 – Use activity groups

Staff note: LDC Section 34-622(c)(43) has been removed concurrently with the amendments to the definition of Restaurant as these use groups have now been combined into 'restaurant' as defined in LDC Section 34-2.

(c) Use activity groups are as follows:

(43) ~~Restaurants. Establishments primarily engaged in the retail sale of prepared food and drinks for consumption on the premises. Reserved.~~

~~GROUP I. Refreshment stands. Establishments that do not normally provide indoor seating, such as:~~

	Box lunch stands
	Dairy bars
	Frozen custard stands
	Hot dog stands
	Ice cream stands
	Soft drink stands

~~GROUP II. Convenience restaurants. Establishments primarily pedestrian-oriented. These facilities are usually located in business or recreational areas for the convenience of walk-in customers.~~

	Automats (eating)
	Bakeries
	Beaneries
	Cafes
	Cafeterias
	Commissaries
	Diners
	Foodstands

	Grills
	Ice cream shops
	Lunch bars
	Lunchcounters
	Luncheonettes
	Lunchrooms
	Oyster bars
	Pizzerias
	Sandwich bars or shops
	Soda fountains
	Tearooms
	Yogurt shops

~~GROUP III. Standard restaurants. Establishments wherein customers usually arrive via automobile and are seated within the establishment. Service may be provided or may be by the customer himself.~~

	Buffets
	Restaurants, standard

~~GROUP IV. Dinner theaters. Establishments that provide paid entertainment, such as singers, dancers, comedians or theater plays, along with food service.~~

## DIVISION 5. – COMMUNITY FACILITIES DISTRICTS

**Sec. 34-813. Use regulations table.**

Staff note: This amendment revises the definition for ‘Restaurant, group II’ to ‘Restaurant’. The change to restaurant definition ultimately combines the use groups I through IV for restaurants into a single category. Additionally, the reference to LDC Section 34-622(c)(43) has been removed as this use group category was replaced with the definition of ‘restaurant’ in LDC Section 34-2.

Use regulations for the community facilities districts are as follows:

**TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS**

		Special Notes or Regulations	CF
	Restaurants, <del>group II</del>	Note (3), <del>34-622(c)(43)</del>	P

Notes:

- (1) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, or which changes the use, must request a special exception.
- (2) Except for government owned and operated parks (section 34-622(c)(32)), facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres or that changes the use, must request a special exception.
- (3) Permitted only when clearly subordinate to the permitted use of the property and when conducted wholly within the principal building.
- (4) Family day care homes are exempt pursuant to F.S. § 125.0109.
- (5) Art galleries are permitted as noncommercial only. Animal or reptile exhibits, aquariums, planetaria, and zoos require approval by special exception.
- (6) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.
- (7) Not permitted in Airport Noise Zone B.
- (8) Temporary use permits are not required when the temporary use is accessory to the principal use of the structure or premises. See Use, accessory definition (section 34-2).
- (9) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1006(b)(2) as applicable.
- (10) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- (11) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (12) Limited to indoor gun range owned or operated by a government agency.

## DIVISION 6. – COMMERCIAL DISTRICTS

**Sec. 34-844. Use regulations table.**

Staff note: Staff note: This amendment revises the terms ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’, and ‘Restaurant, groups I, II, III, and IV to ‘Restaurant’ consistent with the new definitions in LDC Section 34-2. Add clarification to ‘drive-through facility for any permitted use’ item to clarify that restaurants with drive-through are regulated separately.

Use regulations for conventional commercial districts are as follows:

**TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS**

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21,23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Restaurant		P	P	P	P	P	P	P (24)	P	P	P	SE (5)	P	P	P	P	—
Drive-through for facility with any permitted use (except Restaurants with drive-through)		P	P	P	P	—	SE	—	P	P	SE	SE	P	P	P	P	—
Restaurant, fast food with drive-through	34-1353	—	P	P	P	—	—	—	P	P	—	—	P	P	SE	—	—
Restaurants (34-622(c)(43)):																	
Group I		P	P	P	P	—	P	P	P	P	—	SE (5)	P	P	P	—	—
Group II		P	P	P	P	—	P	P (24)	P	P	SE	SE (5)	P	P	—	—	—
Group III		P	P	P	P	—	P	P (24)	P	P	—	SE (5)	P	P	P	—	—
Group IV		—	P	P	P	—	—	—	P	P	—	SE (5)	P	P	—	—	—

Notes:

- (1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.
- (2) No outdoor display of merchandise permitted.
- (3) Permitted only if completely enclosed within a building.
- (4) No installation service permitted.
- (5) Limited to 500 square feet when in conjunction with one dwelling unit on the same premises.
- (6) Use only permitted when clearly incidental to a hotel or motel.
- (7) The following uses may be permissible seaward of the water body setback line only by special exception: boat rentals (inflatables, sailboats, jet skis, windsurfers and the like), foodstands, rental of cabanas and beach furniture, outdoor amusements including boat balloonist, and seaplane rides, water ski tows, parasail tows and similar activities, fishing and sightseeing piers and towers.
- (8) Bail bonding, blood banks, blood donor stations and caterers permitted only by special exception.
- (9) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- (10) The total square footage of the residential uses shall not exceed the total square footage of all existing and proposed commercial uses on the subject property, and the total number of residential units shall not exceed the number of units permitted by the Lee Plan, whichever is less.
- (11) Not permitted within 500 feet of the nearest residence.
- (12) Excluding supermarkets.
- (13) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, requires a special exception.
- (14) Use not permitted on Captiva Island or within the Gasparilla Island conservation district.



- (15) Limited to those commodities and products which are permitted to be sold at retail, provided that parking meets the requirements for retail sales.
- (16) ATM's that are to be available to the public 24 hours a day, must be approved by Special Exception and located so that their uses will not cause a disturbance to adjacent property owners. ATM's located within a building housing a permitted use and available to the public only during normal working hours do not require a Special Exception.
- (17) Limited to rental of passenger cars, vans, and pick-up trucks less than three-quarter ton capacity. Maintenance activities limited to washing, waxing, vacuuming and minor repairs but excluding activities classified as Automotive Repair and Service-Groups I and II. See section 34-622(c)(2).
- (18) Two pumps are permissible as an accessory use to businesses (other than a convenience food and beverage store which is listed separately) to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (19) Limited to eight pumps unless a greater number is approved as part of a special exception or as specifically approved in the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered non-conforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.
- (20) Facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres must request and be approved as a special exception.
- (21) Regular business hours limited to 7:00 a.m. to 9:00 p.m. unless extended hours are approved by Special Exception for a specific use.
- (22) Use may only be approved when clearly incidental to a permitted restaurant.
- (23) Total floor area of a single use building may not exceed 5,000 square feet. A multi-use building may not exceed 7,500 square feet. If more than one building is in a development, there must be a minimum separation between buildings of fifteen feet.
- (24) No outdoor seating.
- (25) Not permitted in Airport Noise Zone B.
- (26) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (27) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- (28) Limited to active recreation only (ball fields and tennis courts, for example) in Airport Noise Zone B.
- (29) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (30) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.
- (31) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (32) For purposes of this use only, grade is the average elevation of the street or streets abutting the property measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage.
- (33) Limited to four pumps, unless a greater number is approved as part of a special exception.
- (34) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352.
- (35) New multiple-family buildings are permitted on properties zoned C-1A only within the mixed use overlay.
- (36) Family day care homes are exempt pursuant to F.S. § 125.0109.

## DIVISION 7. – MARINE-ORIENTED DISTRICTS

**Sec. 34-873. Use regulations table.**

Staff note: This amendment revises the terms ‘Restaurant, fast food’ to ‘Restaurant, with drive-through’, and ‘Restaurant, groups I, II, and III’ to ‘Restaurant’ consistent with the new definition in LDC Section 34-2.

Use regulations for marine-oriented districts are as follows:

**TABLE 34-873. USE REGULATIONS FOR MARINE-ORIENTED DISTRICTS**

	Special Notes or Regulations	CM	IM	PORT
Restaurant ( <del>34-622(c)(43)</del> ):		<u>P</u>	<u>P</u>	<u>P</u>
Group I		<u>P</u>	<u>P</u>	<u>P</u>
Group II		<u>P</u>	<u>SE</u>	—
Group III		<u>P</u>	—	—

Notes:

- (1) Minor boat repair only.
- (2) Limited to yacht or sailing clubs, youth-oriented boating clubs, and U.S. Coast Guard power squadrons.
- (3) Mainly the U.S. Navy, Coast Guard, Army Corps of Engineers, State Department of Environmental Protection and Marine Patrol.
- (4) Limited to marine-oriented schools.
- (5) Not permitted on Captiva Island or within the Gasparilla Island conservation district.
- (6) Limited to caretaker's residence only. This limitation shall not apply to the Boca Bay Project as may be amended, which shall remain a permitted residential development in the PORT district located at Boca Grande.
- (7) In conjunction with approved caretaker's residence only (see note (6)).
- (8) Not permitted in Airport Noise Zone B.
- (9) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (10) Permitted in Airport Noise Zone B only when ancillary to lawful mobile home or single-family residence. See section 34-1004.
- (11) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (12) For purposes of this use only, grade is the average elevation of the street or streets abutting the property. Average elevation of the street is measured along the centerline of the streets, at the points of intersection of the streets with the lot lines (as extended) and the midpoint of the lot frontage.

## DIVISION 8. – INDUSTRIAL DISTRICTS

**Sec. 34-903. Use regulations table.**

Staff note: This amendment revises the terms ‘Restaurant, group I and II’ to ‘Restaurant’ consistent with the new definition in LDC Section 34-2. Include restaurants with drive-through in list of permitted uses.

Use regulations for industrial districts are as follows:

**TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS**

			Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
			Restaurant ( <del>34-622(c)(43)</del> ):	P	P	P
			Group I	P	P	P
			Group II	P	P	—
			34-1261 et seq.			

Notes:

- (1) Excluding asphalt or concrete batch plants that were not lawfully existing as of February 4, 1978.
- (2) New facilities of ten or more acres or expansion of an existing facility to ten or more acres requires a special exception.
- (3) Limited to agricultural products, livestock and equipment.
- (4) Expansion of an existing facility to over 50 beds requires a special exception.
- (5) Limited to manufacturing of cosmetics, perfumes and other toilet preparations only.
- (6) Limited to assembly of the finished product from its component parts.
- (7) Limited to SIC code 265 (Paperboard Containers and Boxes) only.
- (8) Limited to small custom-designed concrete products produced in molds, such as decorative architecture or ornamental features commonly associated with residential uses.
- (9) The use is subject to the special setback regulations as set forth in section 34-2443, minimum required setbacks.
- (10) Family day care homes are exempt pursuant to F.S. § 125.0109.
- (11) Two pumps are permissible as an accessory use to businesses to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (12) Including asphalt batch plants.
- (13) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.
- (14) In the industrial development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.
- (15) Limited to the parking of the following:
  1. A tractor-trailer or semi-trailer truck.
  2. A truck with two or more rear axles.
  3. A truck with a manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 12,000 pounds.
  4. Any truck and trailer combination resulting in a combined manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 12,000 pounds.
  5. Any trailer used in the conduct of a commercial or industrial business.
- (16) Not permitted in Airport Noise Zone B.
- (17) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.

## DIVISION 9. – PLANNED DEVELOPMENT DISTRICTS

### Sec. 34-934. Use regulations table.

Staff note: This amendment revises the terms 'Restaurant, fast food' to 'Restaurant, with drive-through', and 'Restaurant, all groups' to 'Restaurant' consistent with the new definition in LDC Section 34-2.

Use regulations for planned development districts are as follows:

**TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS**

		Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD Note (37)	MPD	MEPD
	Restaurant		P(4)	P(4)	—	P(1)	P	P	P	—
	Restaurant, <del>fast food</del> with drive-through	34-1353	—	—	—	—	P	—	P	—
	<del>Restaurants (34-622(e)(43)):</del>									
	Groups I and III		P(4)	P(4)	—	—	P	P	P	—
	Group II		P(4)	P(4)	—	P(1)	P	P	P	—
	Group IV		—	—	—	—	P	P	P	—

Notes:

- (1) If use or structure is customarily accessory to an approved permitted use it does not need to be shown on the master concept plan.
- (2) Permitted only when accessory to a lawfully permitted single-family dwelling unit.
- (3) If not shown on the master concept plan, but included in the approved list of enumerated uses, this use may be approved administratively, at the Director's discretion, or as a planned development amendment after approval of the master concept plan.
- (4) Subject to limitations for commercial uses set forth in section 34-937.
- (5) If the use or activity does not conform to the criteria set-forth in section 34-938, then it is subject to the setback requirements set forth in sections 34-935(b)(4) and 34-2441 et seq.
- (6) Limited to nontransient parks only.
- (7) Uses anticipated include boat rentals (inflatables, sailboats, jet skis, windsurfers and the like) food stands, rental of cabanas and beach furniture, outdoor amusements including balloonist, seaplane rides, ski tows and similar activities, fishing and sightseeing piers and towers.
- (8) Permitted as an accessory use when designed and intended primarily for use by people staying at the recreational vehicle development.
- (9) Permitted only when accessory to an airport or other transportation facility, hotel or motel, or an office complex of 50,000 or more square feet.
- (10) Permitted only in conjunction with at least 50,000 square feet or more of commercial or industrial uses.
- (11) Not permitted within 500 feet of nearest residence.
- (12) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352.
- (13) Family day care homes are exempt pursuant to F.S. § 125.0109.
- (14) Park-trailers permitted in nontransient parks only.
- (15) Limited to recreational vehicles, trailers, boats, and other vehicles and goods belonging to park residents.
- (16) Reserved.
- (17) Limited to recreational vehicles only.
- (18) Reserved.
- (19) Only when clearly subordinate to a cemetery located on the same premises.
- (20) Recreational vehicle sites in mobile home planned developments (MHPD) must be designated on the approved master concept plan. All recreational vehicles approved as part of a MHPD are subject to the regulations in sections 34-762 through 34-766 and 34-1179.
- (21) In RPDs and residential areas of MPDs, a special exception may be required.
- (22) Wireless communication facilities must be listed on the approved schedule of uses for the planned development; however, approval of a specific facility must be in accordance with section 34-1441 et seq.
- (23) Real estate sales offices in residential areas are limited to sales of lots, homes or units within the development, except as may be permitted in section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding five years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension at the same location.

- (24) Two pumps are permissible as an accessory use to businesses to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (25) Reserved.
- (26) Reserved.
- (27) Limited to eight self service fuel pumps (df) unless a greater number is specifically approved as part of the planned development and depicted on the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered non-conforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.
- (28) Not permitted in Airport Noise Zone B.
- (29) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (30) Reserved.
- (31) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- (32) Indoor theater only in Airport Noise Zone B.
- (33) Reserved.
- (34) Not permitted in Airport Noise Zones unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1006(b)(2) as applicable.
- (35) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (36) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (37) In the Industrial Development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.
- (38) Reserved.
- (39) Reserved.
- (40) Reserved.
- (41) Limited to four pumps, unless a greater number is approved as part of a planned development.
- (42) In an existing planned development, the Director has the discretion to require removal of excess spoil to be reviewed through the public hearing process.
- (43) See sections 34-3107 and 34-3108.
- (44) The rights applicable to mining excavations approved prior to September 1, 2008, are set forth in section 12-121.
- (45) All new or expanded essential services group II uses must be approved as a planned development.
- (46) Reserved.
- (47) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- (48) Planned development rezonings within the future urban areas may not establish new, or expand existing, agricultural uses. Bona fide agricultural uses that exist at the time of rezoning may continue until development commences. The approved existing agricultural uses must not expand beyond the boundaries that existed at the time of rezoning. Existing agricultural uses within any tract or phase must be discontinued upon local development order approval for that tract or phase.

### **Sec. 34-941. Private recreational facilities planned developments.**

**Staff note: This amendment revises the terms 'Restaurant, fast food' to 'Restaurant, with drive-through', and 'Restaurant, all groups' to 'Restaurant' consistent with the new definition in LDC Section 34-2.**

*(a) through (b) unchanged.*

(c) *Uses.*

- (1) *Prohibited uses:* No residential uses are permitted within the PRFPD district, except as delineated in section 34-941(c)(3).
- (2) *Permissible uses:*

*a. through b. unchanged.*

- c. The following commercial uses may be permitted within a private recreation facility planned development only if specifically included in the adopted zoning resolution and the general location of commercial uses are shown on an adopted master concept plan. Commercial intensity is limited as described in Note 1 of this section:

Restaurant, ~~fast food~~with drive-through (section 34-1353).

Restaurants, ~~all groups~~ (section 34-622(c)).

*Remainder of section unchanged.*

## **ARTICLE VII. – SUPPLEMENTARY REGULATIONS**

### **DIVISION 5. – ALCOHOLIC BEVERAGES**

#### **Sec. 34-1264. Sale or service for on-premises consumption.**

*Staff note: This amendment revises the terms 'Restaurant, fast food' to 'Restaurant, with drive-through', and 'Restaurant, all groups' to 'Restaurant' consistent with the new definition in LDC Section 34-2. Additionally, consumption on premises will allow for the sale of alcoholic beverages with restaurants with drive-through facilities.*

- (a) *Approval required.* The sale or service of alcoholic beverages for consumption on-premises is not permitted until the location has been approved by the County as follows:

- (1) *Administrative approval.* An administrative approval for consumption on-premises is required in accordance with section 34-174 when in conjunction with the following uses:

*a. through f. unchanged.*

- g. Restaurants ~~and Restaurants, with drive-through groups II, III and IV,~~ and restaurants with brew pub license requirements, provided the standards set forth in subsections (b)(2)b. and (b)(3) of this section are met. Outdoor seating in conjunction with a group II, III or IV restaurant may be approved administratively provided:

1. The outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership; or
2. The outdoor seating area is within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership but is a tenant of a multi-occupancy complex that is adjacent to an arterial or collector road.

*h. through j. unchanged.*

*(2) through (3) unchanged.*

- (b) *Location; parking.*

*(1) is unchanged.*

- (2) *Exceptions to location standards.* Exceptions to location standards are as follows:

- a. Bowling alleys, provided that:

1. There are no signs, or other indication visible from the outside of the structure concerned, that beer or wine or other malt and vinous beverages are served;

2. The bowling alley is in a fully air conditioned building with at least 10,000 square feet of floor space under one roof and where both uses are owned by the same entity;
  3. The building contains at least 12 alleys available for bowling. The facilities for the service of food and beverages must be in an area separate from the alleys. The facility for the service of food and beverages must contain at least 2,000 square feet of usable floor space and must accommodate at least 60 patrons at tables; and
  4. The building is at least 500 feet, measured as provided in this subsection, from the uses in described in subsections (b)(1)a.1 and 2 of this section.
- b. Restaurants, ~~and Restaurants, with drive-through groups II, III and IV,~~ provided:
1. The restaurant is in full compliance with state requirements;
  2. The restaurant serves cooked, full-course meals, prepared daily on the premises; and
  3. Only a service bar is used and the sale or service of alcoholic beverages is only to patrons ordering meals, or, if the restaurant contains a cocktail lounge for patrons waiting to be seated at dining tables, the lounge must be located so that there is no indication from the outside of the structure that the cocktail lounge is within the building.

*Remainder of section unchanged.*

## **DIVISION 5. – AUTOMOTIVE BUSINESSES; CONVENIENCE FOOD AND BEVERAGE STORES; ~~FAST FOOD RESTAURANTS~~ WITH DRIVE-THROUGHS**

### **SUBDIVISION II. – CONVENIENCE FOOD AND BEVERAGE STORES, AUTOMOTIVE SERVICE STATIONS, ~~FAST FOOD~~ RESTAURANTS WITH DRIVE-THROUGHS, AND CAR WASHES**

#### **Sec. 34-1353. Convenience food and beverage stores, automobile service stations, ~~fast food~~ restaurants with drive-throughs, and car washes.**

*Staff note: This amendment revises the terms 'fast food restaurant' to 'restaurant, with drive-through' consistent with the new definition in LDC Section 34-2.*

- (a) *Purpose and intent.* The purpose and intent of this section is to ensure that establishments such as convenience food and beverage stores with or without gas pumps, automobile service stations with or without gas pumps, ~~fast food~~ restaurants with drive-throughs, and car washes, accessory or stand alone, do not adversely impact adjacent land uses. The hours of operation, high levels of traffic, noise, glare and intensity associated with these uses may be incompatible with surrounding uses, specifically residential uses. In the interest of protecting the health, safety and welfare of the public, the following regulations apply to the location, design, operation, landscaping and related activities.
- (b) *Applicability.* This section applies to all stand alone or accessory convenience food and beverage stores, automobile service stations, ~~fast food~~ restaurants with drive-throughs and car washes. In the event of conflict

between the provisions of this section and the requirements of F.S. § 553.79, the requirements of F.S. § 553.79 shall prevail.

- (c) *Minimum lot area.* All buildings and structures must comply with the following minimum lot dimensions and area:
  - (1) *Minimum frontage:* 150 feet of frontage on a vehicular right-of-way
  - (2) *Minimum depth:* 150 feet
  - (3) *Minimum lot or parcel area:* 25,000 square feet
- (d) *Minimum setbacks.* All buildings and structures must comply with the following setbacks:
  - (1) *Street setback:* 50 feet for arterials and collectors
  - (2) *Side yard setback:* 15 feet
  - (3) *Rear yard setback:* 20 feet
- (e) *Street right-of-way buffer landscaping.* The following landscape requirements are in addition to the requirements set forth in section 10-416.
  - (1) Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer that is a minimum of 25 feet in width; or, 15 feet in width if abutting an internal accessway to a commercial development.
  - (2) For projects with an open drainage system, an undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum height of two feet as measured from the grade of the parking lot.  
  
For projects with a closed drainage system a berm is not required.
  - (3) The required number of trees is five canopy trees per 100 linear feet. Three sabal palm trees may be clustered to meet one canopy tree requirement. Palms are limited to a maximum of 50 percent of the right-of-way tree requirement. Palms must be clustered and planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of four feet on center, with a minimum of a four foot difference in height between each tree.
  - (4) All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a three and one-half inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of three gallon, 24 inches in height at time of planting and maintained at a minimum of 36 inches in height within one year of planting. The shrubs must be planted three feet on center.
  - (5) Landscaping adjacent to the rear and side property lines must comply with the minimum requirements established in section 10-416 dependent on adjacent land uses.
- (f) *Separation.* Uses must be separated from adjacent residentially zoned or developed properties by:
  - (1) An architecturally designed eight-foot high masonry wall or fence a minimum of 25 feet from the property line and landscaped with a minimum of five trees and 18 shrubs per 100 lineal feet; or
  - (2) A 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property.The wall or fence must be constructed of materials similar in color and texture to those utilized for the principal structure. Landscaping must be planted between the wall or fence and the abutting property.
- (g) *Canopies.*
  - (1) Flat-roof canopies are allowed unless prohibited by conditions in a Planned Development. Canopies must be consistent with the architectural design, predominant color and features of the principal structure.
  - (2) Canopy lighting must comply with section 34-625(d)(4)c.



- (3) Canopies must be consistent with the predominant color of the principal structure.
- (h) *Accent banding.* Color accent banding and raised architectural features are permitted unless prohibited by conditions in a Planned Development.
- (i) *Primary facades.* All sides of a building facing adjacent rights-of-way external to the development project must be designed with primary facade features in compliance with section 10-600.

## DIVISION 26. – PARKING

### Sec. 34-2020. Required parking spaces.

**Staff note:** This amendment revises the terms ‘fast food restaurant’ to ‘restaurant, with drive-through’ consistent with the new definition in LDC Section 34-2.

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case, the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional.

Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

(a) *remains unchanged*

(b) *Non-residential uses.* Non-residential uses permitted under this chapter are subject to the following minimum requirements:

**TABLE 34-2020(b). REQUIRED PARKING SPACES FOR NON-RESIDENTIAL USES**

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Restaurants.	Notes (8), (9) & (10)	14 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate	12.5 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate
Restaurants, <del>fast food</del> <u>with drive-through.</u>	Note (9)	13 spaces per 1000 square feet of total floor area; outdoor seating area is calculated at same rate	—
Theaters, auditoriums, stadiums, arenas and	Notes (1) & (14)	1 space per 4 seats	1 space per 4 seats

other similar places of public assembly.			
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Notes:

- (1) Accessory or ancillary uses must be calculated separately and in compliance with this division.
- (2) In addition to the minimum parking requirement for day care centers, adequate and safe provisions for loading and unloading clients must be provided.
- (3) An additional one space for every six seats must be provided when public use of an auditorium or other place of assembly within a school is likely.
- (4) Parking for a clubhouse with a restaurant will be 6 spaces per hole or 12.5 spaces per 1,000 square feet of restaurant whichever is greater.
- (5) Parking space dimensions for boat ramps must be a minimum of 12 feet wide by 40 feet long to accommodate a vehicle and boat trailer.
- (6) Minimum parking requirement is based on the boat manufacturer's specifications related to the maximum passenger capacity and crew capacity of the boat or ship using the dock or loading facility.
- (7) For meeting facilities with fixed seats, refer to Recreational facilities, indoor.
- (8) If over 50 percent of the total floor area of a restaurant is used as a bar or cocktail lounge, then the minimum parking requirement will be: 14 spaces per 1,000 square feet for the floor area used as the restaurant and 21 spaces per 1,000 square feet for the floor area used as the bar or cocktail lounge.
- (9) The minimum required parking requirement for Restaurants classified in the ITE Parking Generation Manual as "Food Hall" (LUC928), "Fast Casual Restaurant" (LUC 930), "Fast Food Restaurant without Drive-Through Window" (LUC 933) and "Coffee/Donut Shop Without Drive-Through Window" (LUC 936) Groups I, II and fast food restaurants with no drive-up facilities located in a multiple-use development is 1 space per 350 square feet of total floor area.
- (10) No additional parking spaces are required when a restaurant is located within the same building as the principal use and is provided primarily for the employees and customers of the principal use.
- (11) Reserved.
- (12) Truck dock/loading bay spaces may be used to satisfy the truck and trailer parking requirement. Truck dock/loading spaces do not have to be striped.
- (13) Parking space dimensions of 15 feet wide by 60 feet long are required to accommodate truck and trailer parking. However, truck and trailer parking spaces located in truck dock/loading bays do not have to meet the parking space dimension requirements.
- (14) Where occupants utilize benches, pews or other similar seating arrangements, each 24 lineal inches of seating facilities will be counted as one seat for the purpose of computing off-street parking requirements.
- (15) If more than 20 percent of the total floor area or 600 square feet, whichever is less, is used for the preparation and/or sale of food or beverages in a ready-to-consume state, parking will be calculated the same as a ~~fast food~~ restaurant, with drive-through.
- (16) Limited to multiple-occupancy complexes that lawfully existed on September 17, 2012. If the complex is enlarged in terms of floor area or if the value of renovation exceeds 50% of the value of the property, additional parking spaces must be provided based on the requirements in 34-2020(b). Parking for the additional floor area will be calculated at the multiple-use development rate required for the specific use.

Remainder of section unchanged.

### **Sec. 34-2021. Drive-through stacking requirements.**

Commercial establishments providing drive-up service windows or stalls must provide separate vehicle stacking for those uses. For the purpose of this section, a stacking unit is defined as 18 feet in length and nine feet in width. The total number of stacking units required will be based on the type of business, as follows:

- (a) *Banks and financial establishments.* Stacking lanes to accommodate five cars per window or point of service, including automatic teller machines, if located in a drive-through lane.
- (b) *Car wash.* Stacking lanes to accommodate one car per service stall or five cars, whichever is greater.
- (c) *Drive-in automotive oil change establishments.* Stacking lanes to accommodate two cars per service bay or five stacking spaces per site, whichever is greater. Each service bay may count as one stacking space.
- (d) *Restaurants with drive-throughs.* Stacking lanes to accommodate ten cars per service lane, with a minimum of five spaces preceding the menu board. Where more than one menu board is provided to accommodate a single service lane, a total of five spaces must precede the menu board locations.
- (e) *Other.* Stacking to accommodate five cars per service lane.

## **DIVISION 37. – SUBORDINATE AND TEMPORARY USES**

### **SUBDIVISION I. – SUBORDINATE USES**

**Sec. 34-3023. Subordinate commercial uses for hotels/motels, multiple-family buildings, social services groups III and IV (section 34-622(c)(46)), health care facilities groups I, II and IV (section 34-622(c)(20)), cultural facilities (section 34-622(c)(10)), and office complexes containing 50,000 square feet or more of floor area on the same premises.**

*Staff note: This amendment revises the term 'restaurant, group II' to 'restaurant' consistent with the new definition in LDC Section 34-2.*

- (1) The uses listed in subsection (2) of this section will be permitted when clearly subordinate to the principal use, subject to the following requirements:
  - a. The retail use must be totally within the building housing the principal use;
  - b. The retail use may not occupy more than ten percent of the total floor area of the principal use; and
  - c. Public access to the commercial uses must not be evident from any abutting street.
- (2) Uses permitted are:
  - a. Personal services groups I and II (section 34-622(c)(33)).
  - b. Pharmacy.
  - c. Specialty retail store groups I and II (section 34-622(c)(47)).
  - d. Restaurant ~~group II (section 34-622(c)(43)).~~
  - e. Rental or leasing establishment group I (section 34-622(c)(39)).