



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	C.(1)
Meeting Date:	4/17/2024
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 20-24 Set First Public Hearing for May 1, 2024

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance amending the City of Cape Coral, Florida, Land Development Code, Article 4, Zoning Districts, Chapter 1, General Provisions, Table 4.1.6., Use Table, regarding social services; arcade; commercial recreation, indoor; commercial recreation, outdoor; commercial parking lot or garage; marine fuel pump; craft brewery, distillery, winery; restaurant, no drive-thru; restaurant, drive-thru; distribution center; automotive towing establishment; heliport; helistop; and live/workspace uses; by Amending Article 4, Zoning Districts, Chapter 2, Specific Regulations by District, regarding marine fuel pump; and craft brewery, distillery, winery uses; amending Article 5, Development Standards, Chapter 10, Specific Use Regulations (P* uses in Table 4.4) regarding marine fuel pumps; and by amending Article 11, Definitions, Chapter 1, General Provisions, Section 11.2., Definitions, regarding amusement games or machines, arcades, automotive towing establishments, community centers, distribution centers, junkyards, live/workspaces, marine fuel pumps, professional services, social services, solid waste transfer stations, and yards. (Brought forward by City Management)

City Planning Staff Recommendation: Approval

Planning and Zoning Commission Recommendation: Approval

REQUESTED ACTION:

Introduction

SUMMARY EXPLANATION AND BACKGROUND:

Ordinance 20-24 amends Articles 4, 5, and 11 of the Land Development Code (LDC). In summary, the proposed amendment will add new uses to the LDC, expand existing uses to one or more new zoning districts, and eliminate one existing use from the use table. This amendment also includes formatting changes to Table 4.2.11. that pertains to the Commercial Corridor District and proposes both new and amended definitions to Article 11. The proposed uses will provide new businesses opportunities for property owners and have the potential to increase the mix of goods and services added to the local economy. The majority of these uses are recommended for zoning districts where related uses already exist, and thus compatibility concerns with neighboring zoning districts is expected to be minimal. In limited instances, concerns with incompatible land uses will be further addressed by classifying the use as a special exception or through the adoption of new special regulations. This amendment will provide property owners with greater flexibility, reduce ambiguity and provide needed clarify to the LDC, while promoting the health, safety, and welfare of the community.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision? No
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan? No

RECOMMENDATIONS:

City Planning Staff Recommendation: Approval
Planning and Zoning Commission Recommendation: Approval

SOURCE OF ADDITIONAL INFORMATION:

Matt Grambow, Development Services Director - interim
(239) 574-0446

FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:

1. Will this action result in a Budget Amendment? No

PREPARED BY:

Vanessa Sberna, Division- Planning Department- Development Services
Planning Technician Division Department

ATTACHMENTS:

Description	Type
▣ 1. Ordinance 20-24	Backup Material
▣ 2. Staff Report	Backup Material

ORDINANCE 20 - 24

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL, FLORIDA, LAND DEVELOPMENT CODE, ARTICLE 4, ZONING DISTRICTS, CHAPTER 1, GENERAL PROVISIONS, TABLE 4.1.6., USE TABLE, REGARDING SOCIAL SERVICES; ARCADE; COMMERCIAL RECREATION, INDOOR; COMMERCIAL RECREATION, OUTDOOR; COMMERCIAL PARKING LOT OR GARAGE; MARINE FUEL PUMP; CRAFT BREWERY, DISTILLERY, WINERY; RESTAURANT, NO DRIVE-THRU; RESTAURANT, DRIVE-THRU; DISTRIBUTION CENTER; AUTOMOTIVE TOWING ESTABLISHMENT; HELIPOINT; HELISTOP; AND LIVE/WORKSPACE USES; BY AMENDING ARTICLE 4, ZONING DISTRICTS, CHAPTER 2, SPECIFIC REGULATIONS BY DISTRICT, REGARDING MARINE FUEL PUMP; AND CRAFT BREWERY, DISTILLERY, WINERY USES; AMENDING ARTICLE 5, DEVELOPMENT STANDARDS, CHAPTER 10, SPECIFIC USE REGULATIONS (P* USES IN TABLE 4.4) REGARDING MARINE FUEL PUMPS; AND BY AMENDING ARTICLE 11, DEFINITIONS, CHAPTER 1, GENERAL PROVISIONS, SECTION 11.2., DEFINITIONS, REGARDING AMUSEMENT GAMES OR MACHINES, ARCADES, AUTOMOTIVE TOWING ESTABLISHMENTS, COMMUNITY CENTERS, DISTRIBUTION CENTERS, JUNKYARDS, LIVE/WORKSPACES, MARINE FUEL PUMPS, PROFESSIONAL SERVICES, SOCIAL SERVICES, SOLID WASTE TRANSFER STATIONS, AND YARDS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council hereby finds that this Ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Land Development Code, Article 4, "Zoning Districts," Chapter 1, "General Provisions," Table 4.1.6, "Use Table," is hereby amended as follows:

Table 4.1.6 Use Table

The following table of permitted uses, when read together with the definitions set forth in Article 11 shall be used to determine the zoning district in which a given use may be established.

Use Table																	
P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																	
PUD zoning allows all uses consistent with the Future Land Use Classification																	
Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
	R 1	RML	RMM	RE	A	P	C	I	INST	PV	CC	NC	MX7	MXB	SC		
															PRI	SEC	LO C
Residential	Single-family	P	P		P	P											
	Duplex		P*														
	Multi-family		CU	CU							CU	CU	CU	CU	CU	CU	CU
	Single-family Semi-detached		P*	P*													
	Single-family Attached - 3 or more		CU	P							CU	CU	CU	CU			CU
	Micro-Cottage																
	Assisted Living Facility		SE	P			P	P				P	P			P	
	Family Day Care Home -5 or fewer	P	P	P	P	P											
	Community Residential Home - up to 6 res	P	P	P	P	P											
	Community Residential Home - 7 to 14 residents		P	P													
	Model Home	P*	P*		P*												
	Home-Based Business	CU	CU	CU	CU	CU						CU	CU	CU	CU	CU	CU

Public and Institutional Uses	Animal Shelter					P			SE	SE								
	Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Educational Facilities - Primary and Secondary	P	P	P	P	P				P			P				P	
	Educational Facilities - Vocational Schools			SE				P	P	P		P					P	
	Educational Facilities - Colleges and universities								P	P		P						
	Essential Service Facilities - Major	SE	SE	SE	SE	SE		SE	P	P	P	SE	P	SE	SE	SE	SE	SE
	Essential Service Facilities - Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Government Office Facilities					P	P	P		P		P	P	P	P	P	P	P
	Hospital								P		P		P	P				
	Police and Fire	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Public Parks and Recreational Facilities	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P
Social Services								<u>P</u>		<u>P</u>		<u>P</u>				<u>P</u>	<u>P</u>	
Recreation and Entertainment	Sexually Oriented Business								P									
	Arcade							<u>P</u>				<u>P</u>						
	Commercial Recreation, Indoor							P	<u>P</u>			P	P		P	P	P	
	Commercial Recreation, Outdoor					P		P				P		<u>P</u>				
	Golf Course w/ Ancillary activities	P	P	P	P	P												
	Golf, Driving Range					P												
	Golf, Miniature					P		P				P	P				P	
	Marina							P					P	P	P	P		
	Shooting Range/ Archery - Indoor							P				P						
	Shooting Range/ Archery - Outdoor					SE												
Vehicle-related Commercial	Boat Sales							P	P			P					CU	
	Car Wash							P				P						
	Commercial Parking lot or Garage							P				<u>P</u>		<u>P</u>	P	P	P	
	Heavy Vehicle, Sales & Rental								P			P						
	Light Vehicle, Rental							P				P	P				P	
	Light Vehicle, Sales											P*						
	Vehicle Repair, Major								P			SE						
	Vehicle Repair, Minor								CU	P			P					
	Vehicle Fueling Station								CU	P			P	CU				
	Marine Fuel Pump								<u>P*</u>	<u>P*</u>	<u>P*</u>		<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	
	Vehicle and Boat Storage									P								
Accessory Parking Lot		P*					P*	P*				P*						

Food and Beverage	Bar							P				P	P	P	P	P	P	P	
	Brewpub							P				P	P	P	CU	P	P	P	
	Craft Brewery, Distillery, Winery							P*	<u>P*</u>			P*	P*	P*	P*	P*	P*	P*	
	Mobile Food Courts (MFC)							CU	CU		CU		CU	CU	CU	CU	CU	CU	
	Mobile Food Vendor (MFV)							CU	CU	CU	CU		CU	CU	CU	CU	CU	CU	
	Restaurant, no drive-thru							SE	P	<u>P</u>			P	P	P	P	P	P	P
	Restaurant, drive-thru								P	<u>P</u>			P						P
Lodging	Bed and Breakfast	SE	SE	SE	SE	SE													
	Campground						SE												
	Hotel/Motel											P		P	P	P	P	P	
	Resort	P*	P*	P*								P							
	RV Resort						SE*												
Commercial and Professional Services	Animal Kennel, Indoor				P	P		P				P					P	P	
	Animal Kennel, Outdoor					P													
	Day Care Facilities - Adult or Child		P	P		P	P	P		P		P	P		P		P	P	
	Banks and Finance - no drive thru						P	P				P	P			P	P	P	
	Banks and Finance w/drive thru						P	P				P						P	
	Building and Construction w/o outdoor storage/display						P	P	P			P	P			P	P	P	
	Building and Construction w/outdoor storage/display							P*	P*			P*							
	Landscaping Services w/o outdoor storage/display						P	P	P			P	P			P	P	P	
	Landscaping Services w/outdoor storage/display							P*	P*			P*							
	Self-Storage Facilities							P*	P*			P*							
	Personal Services						P	P				P	P	P	P	P	P	P	
	Pharmacy - no drive through						P	P				P	P	P	P	P	P	P	
	Pet Services						P	P				P	P			P	P	P	
	Pharmacy with drive through							P				P						P	
	Professional Offices						P	P				P	P	P	P	P	P	P	
	Professional Services						P	P				P	P		P		P	P	
	Radio and TV Station								P	P		P	P				P	P	
	Repair Shops							P	P			P	P				P	P	
	Retail ≤30,000 sq. ft. per tenant							P				P	P	P	P	P	P	P	
	Retail >30,000 sq. ft. per tenant							P				P	SE			SE	SE	SE	
Agriculture	Non-Domestic Animal Boarding					P													
	Community Garden					P			P										
	Farms - Produce & Livestock					P													

	Greenhouse/ Nursery					P					P								
	Stable				P	P													
	Roadside Food and Vegetable Stand					P*													
	<u>Distribution Center</u>								P		P								
Industrial	Automotive Towing Establishment								P										
	Dry Cleaning/ Laundry Plant								P										
	Extraction w/ancillary use					SE			P										
	Industrial, Heavy								P										
	Industrial, Light								P			SE							
	Industrial Business Centers								P			CU							
	Laboratory - medical, research, testing							SE	P	SE		SE							
	Energy Resource Generation					SE				P									
	Storage, Heavy Equipment									P	SE								
	Storage, Outdoor Screened									P	SE		CU						
	Storage, Outdoor									P									
	Solid Waste Transfer Station						SE				SE								
	Warehouse									P		P*							
	Places of Assembly	Amphitheaters/ Arenas					SE				SE						SE	SE	SE
Banquet Hall									P			P	P			P	P	P	
Clubs, Private and Fraternal									P			P	P				P	P	
Community Centers										P				P	P	P	P	P	
Cultural and Civic Facilities									P		P	SE			P		P	P	
Movie Theaters									P				P	P	P	P	P	P	
Religious Institution		CU	CU	CU	CU	P	P	P		P		P	P			P	P	P	
Other	Cemetery/ Mausoleum					P				P									
	Crematory									P		P							
	Funeral Homes								P	P		P	P				P	P	
	<u>Heliport</u>								<u>SE</u>		<u>SE</u>	<u>SE</u>							
	<u>Helistop</u>					<u>SE</u>			<u>SE</u>		<u>SE</u>	<u>SE</u>							
	<u>Live/ Workspace</u>											P	P	P		P	P	P	
	Wireless Communica- tion Facilities					P*	P*	P*	P*	P*		P*	P*					P*	P*
	Solar Arrays					P*			P*	P*									
	Mixed-use Building											P	P	P	P	P	P	P	
	Wildlife Rehabilitation Center					P				P									

SECTION 2. The City of Cape Coral Land Development Code, Article 4, “Zoning Districts,” Chapter 2, “Specific Regulations by District,” is hereby amended as follows:

CHAPTER 2. SPECIFIC REGULATIONS BY DISTRICT

This chapter establishes specific regulations for uses, activities, or structures within a zoning district.

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Section 4.2.6. Commercial (C).

- A. Specific regulations for accessory parking lots; craft brewery, distillery, and wineries; building and construction with outdoor display or storage; self-storage facilities; ~~and~~ wireless communication facilities; and marine fuel pumps are found in Article 5, Chapter 10.
- B. Specific conditions for vehicle repair, minor; vehicle fueling stations; mobile food courts; and mobile food vendors are established in Article 5, Chapter 11.

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Section 4.2.8. Industrial (I).

- A. Specific regulations for craft brewery, distillery, and wineries; building and construction with outdoor display or storage; self-storage facilities; solar arrays; ~~and~~ wireless communication facilities; and marine fuel pumps are found in Article 5, Chapter 10.
- B. Specific conditions for mobile food courts and mobile food vendors are established in Article 5, Chapter 11.

Section 4.2.9. Institutional (INST).

- A. Specific regulations for solar arrays, ~~and~~ wireless communication facilities, and marine fuel pumps are found in Article 5, Chapter ~~11~~ 10.
- B. Specific conditions for mobile food courts and mobile food vendors are established in Article 5, Chapter 11.
- C. Outdoor storage that is accessory to a principal use shall be screened from view from all rights-of-way by an opaque fence or wall.

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Section 4.2.11. Commercial corridor (CC).

Table 4.2.11

Commercial Corridor Development Parameters		
	Development Area	
	0—3.99 acres	4 acres or greater
Free-standing Commercial Development Area Maximum FAR	Up to 100% 4.0 <u>Up to 100%</u> 1.25	
Free-standing Residential Minimum Density	Not allowed	10 du/acre or 50 units
Maximum Density	Not allowed	<u>25 du/acre</u> 10 du/acre or 50 units
Mixed-Use Minimum Density	3 du/acre	10 du/acre or 50 units
Maximum Density	4.0 <u>12 du/acre</u>	25 du/acre 10 du/acre or 50 units
Maximum FAR	<u>1.25</u>	<u>2.0</u> 25 du/acre
Minimum Front Setback	20 ft.	20 ft.
Minimum Side Setback	6 ft.	6 ft.
Min. Rear Setback	10 ft.	10 ft.

- A. Specific regulations for light vehicle, sales; accessory parking lots; craft brewery, distilleries, and wineries; building and construction with outdoor display or storage; self-storage facilities; ~~and~~ wireless communication facilities; and marine fuel pumps are found in Article 5, Chapter 10.
- B. Specific conditions for multi-family residential; single-family attached with 3 units or greater; vehicle repair, minor; industrial business centers; outdoor screened storage; mobile food courts; mobile food vendors; and home-based businesses are established in Article 5, Chapter 11.

Section 4.2.12. Neighborhood commercial (NC).

- A. Specific regulations or conditions for multi-family residences; single family attached 3 units or greater; vehicle fueling stations; craft brewery, distilleries, and wineries; wireless communication facilities; marine fuel pumps; mobile food courts; mobile food vendors; laboratory - medical, research, testing, and development; and home-based businesses are found in Article 5, Chapters 10 and 11.

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Section 4.2.13. Mixed-use bimini (MXB).

- A. Mix of Uses Allowed. Any type of dwelling unit as well as any accessory use is allowed, so long as the location and mix of types is consistent with the Bimini Basin Revitalization and Implementation Plans. A residential use may be intermixed with a nonresidential use or uses in the same block, lot, or building.

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- F. Specific regulations or conditions for multi-family residences; single family attached 3 units or greater; brewpubs; craft brewery, distilleries, and wineries; marine fuel pumps; mobile food courts; mobile food vendors; and home-based businesses are found in Article 5, Chapters 10 and 11.

Section 4.2.14. Mixed-use seven islands district (MX7).

- A. Intent and purpose. It is the intent of this district to implement City Council adopted plans to create a comprehensively planned, mixed-use development for the Seven Islands area. The specific purposes of the Mixed-Use Seven Islands District are:

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- J. Specific regulations or conditions for multi-family residences; single family attached 3 units or greater; craft brewery, distilleries, and wineries; marine fuel pumps; mobile food courts; mobile food vendors; and home-based businesses are found in Article 5, Chapters 10 and 11.

Section 4.2.15. South cape district.

The South Cape District special regulations are intended to act as a stimulus to development through provisions that permit a flexible approach to infill development within the City's Community Redevelopment Area.

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- F. Specific regulations or conditions for multi-family residences; boat sales; vehicle fueling stations; craft brewery, distilleries, and wineries; wireless communication facilities; marine fuel pumps; mobile food courts; mobile food vendors; and home-based businesses are found in Article 5, Chapters 10 and 11.

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SECTION 3. The City of Cape Coral Land Development Code, Article 5, "Development Standards," Chapter 10, "Specific Use Regulations (P* Uses in Table 4.4)," Section 5.10.17., "Marine Fuel Pump," is hereby established as follows:

Section 5.10.17. – Marine fuel pump.

Marine fuel pump uses in the C, I, INST, CC, NC, MX7, MXB, or SC Districts shall meet the following requirements. Properties that are owned by the City of Cape Coral shall be exempt from these requirements.

- A. The minimum parcel area shall be two acres.
- B. The site shall abut a waterway with a minimum width of 150 feet.
- C. The site shall have a minimum of 200 feet of continuous water frontage.

D. A marine fuel pump use shall be an accessory use to a commercial establishment on the site.

E. Except for a use classified as a marina, a marine fuel pump use shall not be used in conjunction with boat repair or boat storage.

SECTION 4. The City of Cape Coral Land Development Code, Article 11, "Definitions," Chapter 1, "General Provisions," Section 11.2., "Definitions," is hereby amended as follows:

Section 11.2. - Definitions.

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Amplified Sound, means sound augmented by any electronic or other means that increases the sound level or volume. Public background sound or amplified sound caused by the police or fire departments of the city in the performance of their official duties shall not be considered amplified sound.

Amusement game or machine. As defined by Florida Statute 546.10 and as may be amended hereafter.

Animal Kennel, is an establishment where more than four dogs or cats (except litters of animals of not more than six months of age) are kept, raised, cared for or boarded, for a fee.

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Arbor, is a structure on which plants and vines can grow.

Arcade. An establishment having amusement games or machines on premises which is operated for the entertainment of the general public as a bona fide amusement facility as its primary use. See definition of amusement game or machine.

Arcade, Architectural, means a success of arche supported by columns or piers, or a covered walkway enclosed by a line of arches on one or both sides.

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Auditorium or Assembly Hall, is a building with facilities to accommodate groups of people.

Automotive Towing Establishment. A premises or portion of a premises occupied by an establishment in which a person, or persons, practice a vocation or occupation that performs a type of labor, act, or work off the premises that result in the towing of motor vehicles. Tow trucks or wreckers may be stored on the premises, but no towed vehicles shall be stored on the premises. This use does not include the disposal, permanent disassembly, salvage, or accessory storage of inoperable vehicles. This use shall not include vehicle repair establishments that have a tow truck and that repair vehicles on-site.

Awning, is a roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door.

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~~**Community Center**, is a building to be used as a place of meeting or social recreation that is open to the public. Community centers may also include areas of outdoor recreation such as playgrounds or athletic courts.~~

Community Center. A development consisting of a building or group of buildings that may include areas of outdoor recreation or open space which are used as a place of meeting or social recreation. Community Centers may be publicly or privately owned; however, Community Centers shall remain open to the public. Community Centers must include a building or group of buildings that is a minimum of 15% of the overall Community Center site.

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Directional Sign, is a sign denoting the business names, location, addresses (real or virtual), and/or occupations of those tenants located upon a subject site or which provides information as to the location of a parking lot, building entrance, or other destination, activity, or facility and contains no commercial message.

Distribution center. An establishment involving one or more buildings specifically designed to receive, store, and redistribute goods and designed for rapid turnaround for e-commerce business product deliveries.

Distribution Line, are the electric lines that deliver medium voltage electricity from the substation to an overhead or underground transformer that ultimately serves the consumer.

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Invasive Species, means a species that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

Junkyard. Any use on private property involving the parking, storage or disassembly of junked vehicles, or wrecked or nonoperable vehicles, storage, baling, or otherwise dealing in wastepaper, rags, scrap metal, used building materials, old household appliances and other similar matter. Such uses shall be considered junkyards whether or not all or part of such operations are conducted within a building or in conjunction with, in addition to, or accessory to, other uses of the premises. This definition shall not include pawn shops and establishments for the sale, purchase, or storage of usable second-hand cars, used furniture or similar household goods and appliances.

Kitchen, an indoor portion of a structure specifically designed and equipped for the preparation, service and storage of food. The kitchen shall be provided with, at a minimum, a functioning sink, range, oven, and refrigerator.

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Lintel, means a horizontal support of timber, stone, concrete, or steel across the top of a door or window.

Live/Workspace. An area within a nonresidential building that is used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work.

Loading Space, is an off-street space, having a minimum width of 10 feet, length of 30 feet, and height clearance of 14 feet, on the same lot with a building or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

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Marina, is a waterfront establishment whose business is offering the rental or lease of slips for boats, the sale or rental of boats and marine sporting equipment, and the servicing, repair, or storage of similar items. Such establishments may also provide gasoline, sanitary pump-out service, and food and drink.

Marine fuel pump. Fuel dispensing pumps providing an accessory use to a commercial establishment in which, except for a marina, no boat repair or boat storage is provided.

Marine Improvement, means a whole, constructed marine structure including, but not limited to, dock, boat lift, mooring posts, walkways, and other interconnecting parts. A boat canopy, its supports, and its frame shall not be considered to be a part of the marine improvement to which they are attached.

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Private Property, is property that is owned, leased, operated, maintained or controlled by one or more individuals or entities other than the city.

Professional services. Work performed for others by someone trained and engaged in such work for a career. By way of example, and without limiting the generality of this definition, professional services include services rendered by architects, attorneys, dentists, engineers, financial planners, life insurance agents, physical therapists, and physicians.

Projected Image Sign, is a sign that uses technology to project an image, logo, or other graphic on buildings, structures, sidewalks, or surfaces. The image itself has no physical structure but is still considered a sign.

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Slope, is the degree of deviation of a surface from the horizontal, usually expressed in percent, degrees, or rise over run.

Social services. An establishment that provides a variety of community-based services, including but not limited to training, counseling, therapy, or the distribution of food or clothing but for which medical care is not a major element. A social service use shall not include overnight or custodial care facilities which provide living quarters for recipients of the service or staff.

Socially-Active Open Space, is open space with a minimum width of 30 feet that is created and designed for year-round active use by the public in the form of active lawn areas, plazas, squares, courtyards, and gardens. Amenities are logically arranged and typically include paths, formal or informal planting areas, and furnishings.

Sod, is the grass-covered surface of the ground and the soil below the surface only to the depth of the roots of the grass.

Solar Photovoltaic (PV) Arrays, is a device or combination of devices or structures that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply

Solid Waste Transfer Station. A facility where received solid waste may undergo one or more of the following: processing, sorting, or storing, before such materials are reused or repurposed, or are sent to a landfill, waste to energy plant, a recycling center, or similar facility.

Snipe Sign, is a sign made of any material when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to or placed on public property such as but not limited to a public utility pole, a public street sign, a public utility box, a public fire hydrant, a public right-of way, public street furniture, or other public property; except for A-frame signs that are temporarily placed on public property under such limitations and constraints as may be set forth in the Land Development Code.

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Yard, is the open space surrounding the principal building on any lot, unoccupied and unobstructed by a portion of that building from the ground to the sky except where specifically permitted by this ordinance. Yards are further defined as follows:

- (a) **Front yard.** That portion of the yard extending the full width of the lot and measured between the front lot line and a parallel line tangent to the nearest part of the principal building, which line shall be designated as the front yard line.
- (b) **Rear yard.** That portion of the yard extending the full width of the lot and measured between the rear lot line and parallel line tangent to the nearest part of the principal building, which line shall be designated as the rear yard line.
- (c) **Side yards.** Those portions of the yard extending from the front yard to the rear yard as measured perpendicular from the side lot line to the nearest parts of the principal building.

SECTION 5. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 6. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2024.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

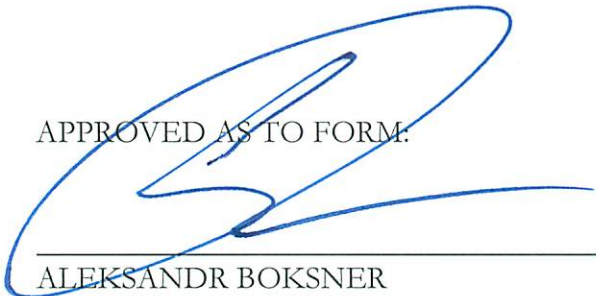
GUNTER _____
STEINKE _____
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WELSH _____
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ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2024.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



ALEKSANDR BOKSNER
CITY ATTORNEY
ord/ Ch4Uses



Review Date:	March 25, 2024
Prepared by:	Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator
Approved by:	Amy Yearsley, AICP, Planning Manager
Recommendation:	Approval
Request:	Amend LDC, Articles 4 (Zoning Districts), 5 (Development Standards), and 11 (Definitions). In summary, the proposed amendment will add new uses to the Land Development Code (LDC), expand existing uses to one or more new zoning districts, and eliminate one existing use from the use table. One table in Article 4 will be reformatted to provide greater clarity. New definitions, along with several revised definitions, in Article 11 are proposed.

BACKGROUND

In 2019 the City repealed the existing Land Use and Development Regulations (LUDRs) and adopted the current Land Development Code (LDC). In so doing, the way in which the City classifies uses changed. Under the LUDRs, the City used a classification system based on the North American Industry Classification System (NAICS). This system while traditionally used by some local governments for the basis of classifying uses, was originally developed to collect, analyze, and publish data on economic development activity at the federal level. NAICS was not developed for zoning purposes, and this classification scheme was not always intuitive or easy to understand. Furthermore, NAICS tended to splinter or “over classify” specific categories of land use activities. For example, the former LUDRs identified at least nine separate retail uses in the Pedestrian Commercial (C-1) District that were later combined into two separate or distinct uses for the Commercial (C) District in the LDC.

This current amendment represents the most comprehensive update of the use table appearing in Article 4 since the adoption of the LDC. However, since the amending of local zoning regulations is a legislative action that reflects community preferences, similar amendments in the future will be required in response to shifts in local values, technological change, and state and federal preemptions and mandates.

SUMMARY OF THE PROPOSED CHANGES

Most changes involving Ordinance 20-24 fall into one of four different categories:

1. Adding new uses to the use table.
2. Expanding or eliminating existing uses from one or more zoning districts.
3. Formatting changes to Table 4.2.11 – Commercial Corridor District
4. Adding new definitions or amending existing definitions to Article 11.

New Uses to the Use Table.

The following terms below identify new uses that are proposed to be added to the LDC. In several instances, uses that were previously permitted in the LUDRs, are now proposed for incorporation into the LDC. Besides expanding business opportunities, the addition of these “new” uses may have the added benefit of eliminating several legal, nonconforming uses in the City, and thus allow for the future expansion of these existing businesses.

Arcade. Arcades were allowed as a permitted use and classified broadly as a commercial recreation-group 1 use in the LUDRs. New arcades have not been permitted by the City since the adoption of the LDC. The re-establishment of this use will eliminate an undetermined number of legal, nonconforming uses. Arcades are proposed as a permitted use in both the C and Commercial Corridor (CC) Districts.

Automotive Towing Establishment. Towing establishments were allowed and broadly classified in the LUDRs as an automotive repair and service, group 1 use. This use, that includes an accompanying definition, is proposed as a permitted use in the Industrial (I) District.

Distribution Center. Distribution centers represent a new use that is tailored for an emerging industry involving the storage and redistribution of e-commerce products. Distribution centers are proposed as a permitted use in the I and CC Districts.

Heliport. This use was allowed as a special exception in several zoning districts in the LUDRs. Heliports are proposed as a special exception in the C, Institutional (INST), and CC Districts.

Helistop. Similar to heliports, but that does not involve fueling, this use was also allowed as a special exception in several zoning districts in the LUDRs. Helistops are proposed as a special exception use in the Agriculture (A), C, INST, and CC Districts

Live/Workspace. Live/workspace is a new use that will allow nonresidential buildings to be used jointly for commercial and residential uses where the residential use of the area is secondary or accessory to the business use. This use is proposed for several mixed-use zoning districts including the CC, Neighborhood Commercial (NC), Mixed-Use Bimini (MXB), and the South Cape (SC).

Marine Fuel Pump. Marine fuel pumps represent a new use that would be restricted to larger waterfront sites with substantial water frontage. A related, but less restrictive use, self-service fuel pumps, existed in the LUDRs that allowed fuel pumps to be permitted as an accessory use in conjunction with a retail trade establishment. Marine fuel pumps are proposed as a permitted use, subject to special regulations proposed for Article 5, in the C, I, INST, CC, NC, Mixed-Use Seven Islands (MX7), MXB, and the SC.

Social Service. Social Services is a newly proposed use that was unintentionally omitted from the use table of the LDC. While the term “social services” encompass a broad array of different uses, the proposed definition excludes shelters or transitional housing. Social service uses are proposed as a permitted use in the C, INST, and CC Districts, and on sites along secondary and local streets in the SC.

Changes to the Use Table Involving Existing Uses.

Changes are summarized below that involve several existing uses appearing in the use table in Article 4.

Add commercial recreation, indoor, to the I District. Staff proposes adding this use in the I District to allow underutilized and vacant buildings to be repurposed as athletic training facilities and to support a variety of indoor recreational uses.

Add commercial parking lot or garage to the CC and MX7 Districts. This use is currently restricted to the C, MXB, and the SC Districts. Staff is currently reviewing two projects in the CC District that include parking garages. Staff anticipates one or more parking garages may be needed for the eventual Seven Islands project. This amendment will add this use to both mixed-use zoning districts.

Add craft brewery, distillery, and winery to the I District. This use is currently allowed in the C, CC, NC, MX7, MXB, and the SC Districts. One craft brewery exists in the I District that was approved in 2014. Small-scale alcohol production uses are appropriate for the I District where similar manufacturing uses are allowed, including full-fledged breweries, distilleries, and wineries.

Add restaurant, no drive-thru to the I District and remove restaurant, drive-thru from the I District. These revisions correct an inadvertent error that dates back to the passage of Ordinance 17-19 that adopted the LDC. Staff had intended to allow restaurants without drive-thru facilities and prohibit restaurants with drive-thru facilities in the I District. These changes will amend these two uses to that which staff had originally intended.

Formatting changes to Table 4.2.11.

Two changes are proposed to Table 4.2.11. This table provides minimum and maximum development parameters for the CC District. One general change involves re-formatting information in the table so specific development parameters are better aligned within the columns of this table and thus are easier to read. Most development parameters, with one exception, remain unchanged. The second revision involves a change to one specific development parameter, floor area ratio (FAR). The maximum FAR is proposed to be increased from 1.0 to 1.25 to bring this parameter into alignment with the maximum FAR of 1.25 that is established for the Pine Island Road District in the Comprehensive Plan.

New and Revised Definitions

New definitions are proposed for Article 11. These terms include amusement game or machine, arcade, automotive towing establishment, distribution center, junkyard, live/workspace, marine fuel pump, professional services, social services, solid waste transfer station, and front, rear, and side yards. Definitions for automotive towing establishment, junkyard, and front, rear, and side yards appeared previously in the LUDRs and definitions for these terms proposed for the LDC are largely unchanged. Two existing definitions in the LDC are proposed to be amended, community center and yard.

COMPREHENSIVE PLAN ANALYSIS

The proposed amendment is consistent with applicable policies appearing below in the Future Land Use and Property Rights Elements.

Future Land Use Element

Policy 1.15.I.: Pine Island Road District: This Land Use designation will encourage mixed-use development at key intersections with major North-South streets along Pine Island Road.

Corridor: Includes such uses as retail, office, office/warehouse, light manufacturing, institutional (schools, colleges), multi-family residential, larger scale commercial retail (big box stores over 50,000 square-feet) and government uses such as parks and public facilities. Multi-family residential uses may be developed at a density of twenty-five units per acre, for sites of four acres or more. Multi-family residential uses may consist of no less than fifty units or have a density no less than ten or more units per acre. No single-family residences and duplexes are permitted. Commercial and light manufacturing uses shall not exceed a floor to lot area ratio (FAR) of 1.25 in accordance with City design standards. Public facilities shall be subject to Policy 1.15.h., of the Future Land Use Element and parks and recreation shall be subject to Policy 1.15.i. of the Future Land Use Element...

Staff analysis. The CC District is the only zoning district consistent with the Pine Island Road District Future Land Use Classification (FLUC). The Pine Island Road District FLUC allows a maximum FAR of 1.25. Changes proposed by staff that include increasing the maximum FAR to 1.25 in Table 4.2.11. for the CC District are consistent with this policy.

Property Rights Element

Policy 1.1.: The following rights shall be considered in local decision-making:

2. The right of a property owner to use, maintain, develop and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Staff analysis. By adding several new uses to the LDC and expanding the number of zoning districts in which several existing uses will be allowed, this amendment will provide more opportunities for owners to develop and redevelop their properties consistent with Policy 1.1.

RATIONALE FOR LDC TEXT AMENDMENTS

LDC, Section 3.5.4. states text amendments shall be considered for the following eight reasons. Each of these reasons along with those applicable to this particular amendment are discussed below.

1. The amendment clarifies the intent of the LDC.
Staff analysis. This reason is not applicable.
2. The amendment corrects an error in the LDC.
Staff analysis. This amendment includes correcting or clarifying several items. These adjustments include eliminating restaurant, with drive-thru, as a permitted use in the I District and adding restaurant, no drive-thru, as a permitted use in the I District. Formatting changes are proposed to Table 4.2.11., and the name of one use is clarified (solid waste transfer is renamed as solid waste transfer station).
3. The amendment addresses changes to state legislation, recent case law, or opinions from the Attorney General of the State of Florida.
Staff analysis. This reason is not applicable.
4. The amendment implements the LDC or the Comprehensive Plan.
Staff analysis. This reason is not applicable.

5. The amendment promotes compliance with changes to other city, state, or federal regulations.
Staff analysis. This reason is not applicable.
6. The amendment adds district uses that are consistent with the character of the current range of allowed uses.
Staff analysis. New uses are proposed that are consistent with the character of the applicable zoning districts. In some instances, either special regulations are recommended, or the uses proposed will only be allowed as a special exception to promote uses that will be compatible with surrounding properties.
7. The amendment results in providing compatible land uses within Cape Coral.
Staff analysis. This reason is not applicable.
8. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assistance.
Staff analysis. One use, distribution center, is a relatively new use that has been incorporated into local government codes in response to the emerging e-commerce industry. While bearing some similarities to warehouses, this use is deserving of its own classification.

REVIEW CRITERIA FOR PROPOSED LDC TEXT AMENDMENTS

LDC, Section 3.5.4. identifies four review criteria for proposed text amendments to the LDC. Each criterion is evaluated below.

1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan.
Staff analysis. The amendment is consistent with two policies appearing in the Comprehensive Plan as outlined earlier within this report.
2. The amendment results in compatible land uses within a zoning designation.
Staff analysis. New uses as well as the expansion of existing uses to new zoning districts will be compatible or appropriate for those respective zoning districts proposed by staff. In most cases, these new or expanded uses will not require special regulations to ensure compatibility for the zoning districts proposed. In some instances, however, the proposed use will be allowed only by special exception (for example, heliports and helistops) that will require a public hearing before the Hearing Examiner, or in conjunction with special regulations (for example, marine fuel pumps) to promote compatibility.
3. The amendment protects the health, safety, and welfare of the community.
Staff analysis. New projects involving uses appearing in the use table are evaluated for compliance with applicable LDC and Florida Building Code provisions. These provisions are administered to protect the health, safety, and welfare of the community. Furthermore, the welfare of the community will be promoted by expanding the number of new uses allowed in several zoning districts, where appropriate. The incorporation of these new uses will provide owners with greater freedom in developing their respective properties and may increase the types of goods and services to City residents over time.
4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.

Staff analysis. This criterion is not applicable as this amendment was not initiated by either the Planning and Zoning Commission or the City Council.

RECOMMENDATION

The proposed amendment will add several new uses to the use table in Article 4. Collectively, these uses will provide new businesses opportunities for property owners and have the potential to increase the mix of goods and services added to the local economy. The majority of these uses are recommended for zoning districts where related uses already exist, and thus compatibility concerns with neighboring zoning districts is expected to be minimal. In limited instances, concerns with incompatible land uses will be further addressed by classifying the use as a special exception or through the adoption of special regulations. In short, the recommended amendments will provide property owners with greater flexibility, reduce ambiguity and provide needed clarify to the LDC, and promote the health, safety, and welfare of the community. Staff recommends **approval** of Ordinance 20-24.

Staff contact information:

Mike Struve, AICP, LEED Green Associate
PH 239-242-3255
mstruve@capecoral.gov