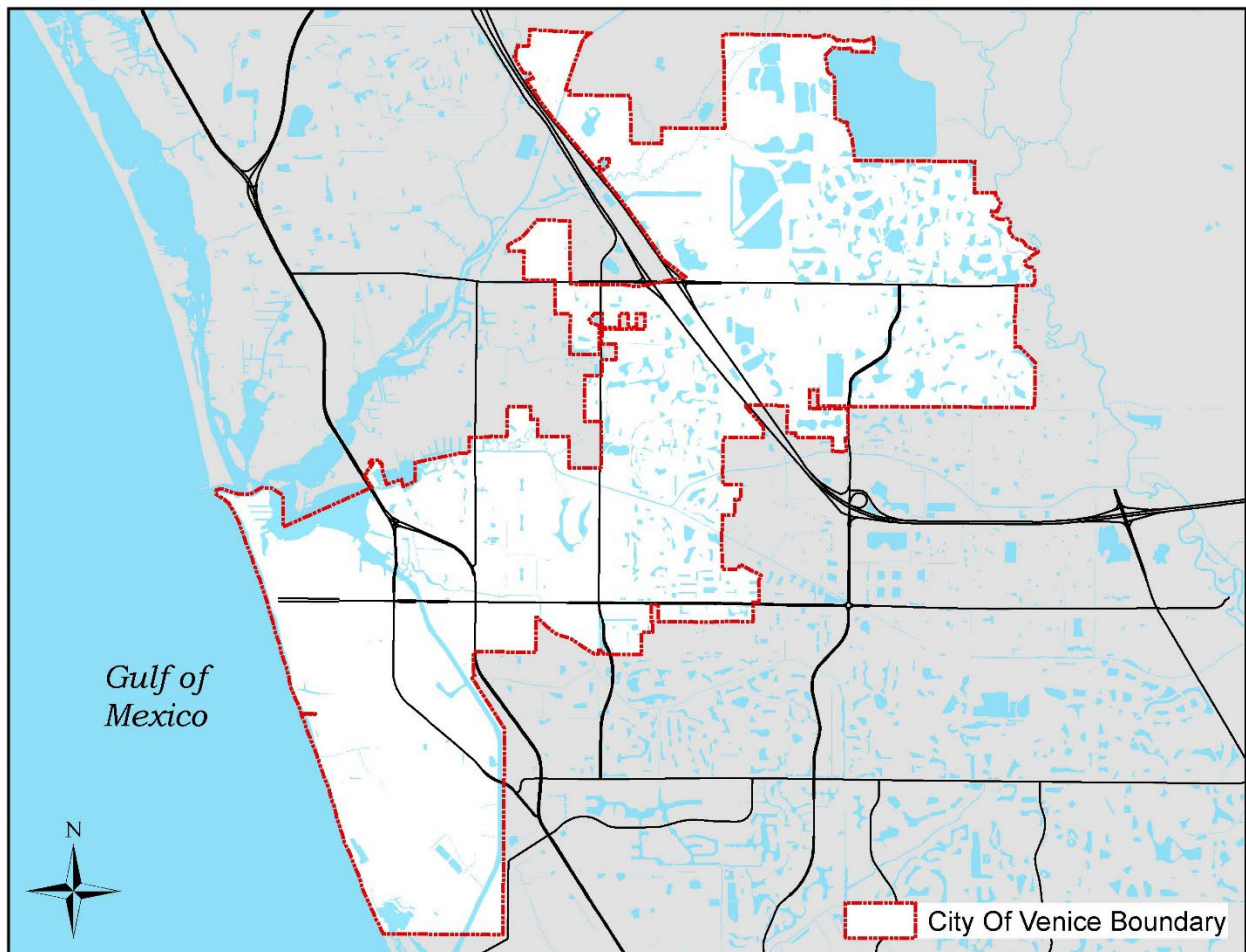


23-22AM – City-Initiated Text Amendments to the Land Development Regulations #3

Staff Report

I. PROJECT DESCRIPTION

Since adoption of Ordinance No. 2022-15, Planning Staff has used the LDRs contained in Chapters 87 and 89 and has uncovered some necessary changes. Some of these are minor clerical errors, including incorrect sequencing and leftover wording from previous drafts. Others are necessary clarifications, such as the addition of open space definition language and revision of mulching requirements. The third category of changes are revisions to items that cause an issue or impose undesirable regulations, such as uses either permitted or prohibited when not appropriate and burdensome regulations for property owners in architectural control districts. The tables in this document will lay out the changes by type and includes the need and/or justification for each. Page numbers in the first column correspond to the strikethrough-underline version of the changes provided with this application.



List of Changes

Errors

Page	Section	Change	Need/Justification
7	Ch. 87, Sec. 2.3.14	Renumber this section to 2.3.13	The numbering was out of sequence.
11-12	Ch. 87, Sec. 3.7.5-3.7.8	Move these items up one level in the list	These items apply to landscaping generally, not only where interior parking spaces are present.
12-14	Ch. 87, Figures 3.7.5.3-3.7.5.4	Edited graphics to add interior islands and renumbered one figure	These graphics did not accurately reflect some of the regulations from the surrounding subsections and could be confusing. There were two figures numbered 3.7.5.4.
15	Ch. 87, Sec. 4.3	Change the reference along the top row from 4.6 to 4.5	This reference was leftover from a previous draft and the former section 4.6 has been removed.

Clarifications

Page	Section	Change	Need/Justification
3	Ch. 87, Sec. 2.2.4.4.D	Add open space language from the definition in the previous code	Some regulatory language about what constitutes open space was dropped from the definition, and because these regulations apply to planned districts, it can be reinserted in this section.
11	Ch. 87, Sec. 3.1.8.C.1(b)	Replace the phrase “at their junction with the street or highway pavement” with “at the property line”	This clarification prevents reading sections (a) and (b) as potentially in conflict. Planning Commission’s authority to permit a driveway width of 40’ relates to the part of (a) describing a 30’ width limit at the property line, not the 50’ limit at the junction with the pavement.
11	Ch. 87, Sec. 3.7.2.A(1)	Add language from previous code clarifying that palms do not count as trees for purposes of meeting landscape code requirements	There was no intention to change this provision, which is based on the scientific classifications of these plants and is important to ensuring canopy trees and appropriate species are used in development projects.

Issues

Page	Section	Change	Need/Justification
1	Ch. 87, Sec. 1.1.2.E & 1.1.3.F	Add a provision allowing board members to remain after their term expires until a successor has been appointed	This is a request from City Council that will prevent empty seats on Planning Commission and HAPB while successors are chosen for members whose terms have expired.
2	Ch. 87, Sec. 1.2.E	Add provision for hearings that are continued to a date certain	This ensures that we will not need to re-notice a petition that has been continued on the record by Commission or Council.
1-2	Ch. 87, Sec. 1.15.7 & Table 1.2	Add a zoning determination process	The zoning determination process is not codified and relies on internal staff procedure; this change would put the process in

Page	Section	Change	Need/Justification
			the code and allow for appeals of the determination letter to Planning Commission.
3-7	Ch. 87, Tables 2.3.4, 2.3.5	Clarify height exception restrictions	The requirement to do mixed uses when requesting a height exception may be reasonable for new projects, but is not a reasonable expectation for smaller (<15% of FAR) additions to existing buildings.
8	Ch. 87, Table 2.3.14	Make rooftop dining a conditional use in the Laurel West zoning district	The use is conditional in six mixed use districts and permitted in one, but prohibited in two. There is no specific reason staff is aware of related to health, safety, public welfare, or aesthetics to prohibit this use in Laurel West, and there is some interest by property owners to have an option to apply for a conditional use.
9	Ch. 87, Sec. 2.3.13	Prohibit Flex in the Seaboard Improvement District	Flex is an industrial use; permitting an industrial use in SBI is inconsistent with the Comprehensive Plan.
16	Ch. 87, Sec. 7.8.1.B	Add the “ordinary maintenance” provision from the COA section to the preceding CAC section	It is burdensome to a property owner to have to seek a variance or to substantially change their building in order to perform ordinary maintenance (such as replacing a roof that has ended its useful life with a new roof using like materials).
16	Ch. 87, Sec. 7.8.1.A.3 & 7.8.1.B.2(a)	Add requirement for Nolen-Era properties on Local Register or in ACDs to undergo review by Historical Resources Manager based on Secretary of the Interior’s standards	HAPB requested this change to strengthen the historical preservation analysis of petitions before the Board.

II. PLANNING ANALYSIS

In this section of the report, analysis of the subject text amendment petition evaluates consistency with the Comprehensive Plan.

Consistency with the Comprehensive Plan

In general, the Land Development Regulations (LDR) implement the Comprehensive Plan and should be kept as up-to-date, correct, and functional as possible to accomplish that purpose. Specifically, the LDR adopted through Ordinance No. 2022-15 fulfills Comprehensive Plan Strategy LU-1.2.12 to adopt a form-based code for context-sensitive design. Several other Comprehensive Plan strategies have been satisfied through the new LDR as well, including Open Space strategies related to wildlife and wetlands, Transportation & Mobility strategies addressing Complete Streets principles, and Housing strategies for affordable housing incentives.

Overall, these proposed amendments do not change the LDR's established consistency with the Comprehensive Plan. Clerical errors and missing wording have no effect on consistency, only readability and usability of the LDR. Clarifications proposed here relate to technical definitions of open space, driveway width, and tree species, none of which are addressed specifically by the Comprehensive Plan, although open space and tree species details may serve to better implement the Open Space element.

Other issues in the new LDR include procedural issues such as expired terms of board members and hearings continued to a date certain, along with use changes in Seaboard and Laurel West and provisions for maintenance and historical review of properties in the architectural control districts. One issue in particular, the allowance of Flex (an industrial use) in the Seaboard Improvement District, was found to be in conflict with the Comprehensive Plan and thus proposed to change. The proposed solutions to these issues have not been found to conflict with any elements or strategies in the Plan.

Conclusions/Findings of Fact (Consistency with the Comprehensive Plan):

Analysis has been provided to determine consistency with all elements and strategies of the Comprehensive Plan. As indicated above, no inconsistencies have been identified. This analysis should be taken into consideration upon determining Comprehensive Plan consistency.

III. CONCLUSION

These revisions come as a result of using the Land Development Code that was adopted on July 12, 2022. Staff has often stated that the Code is a living document, and it will continue to change and evolve as we find errors, oversights, and areas of conflict. Staff finds this list to be mostly minor changes, though we are still working on the more substantive areas of research that interest the City, as directed by Council.

Planning Commission Report and Recommendation

Upon review of the petitions and associated documents, Comprehensive Plan, Land Development Code, staff report and analysis, and testimony provided during the public hearing, there is sufficient information on the record for the Planning Commission to make a recommendation to City Council on Text Amendment petition no. 23-22AM.