

**ORDINANCE NO. 3727**

AN ORDINANCE  
To Be Entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, AMENDING THE CITY CODE, SUB-PART B, LAND DEVELOPMENT CODE, CHAPTER 118 LAND USE REGULATIONS, ARTICLE 4. OVERLAY DISTRICTS, SECTION 118.4.4 RESERVED FOR DR. MARTIN LUTHER KING JR. BOULEVARD BY RENAMING TO DR. MARTIN LUTHER KING JR. BOULEVARD AND VERONICA S. SHOEMAKER BOULEVARD, AND CREATING OVERLAY DISTRICT REGULATIONS; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS:** The City Council of the City of Fort Myers, Florida, adopted Resolution No. 2006-58 on November 20, 2006, formally approving the Dr. Martin Luther King Jr. and Veronica S. Shoemaker Boulevards Revitalization Plan, and.

**WHEREAS:** The City desires to provide appropriate regulations for the redevelopment of the Dr. Martin Luther King Jr. Boulevard and Veronica S. Shoemaker Boulevard; and

**WHEREAS:** The City held community meetings on January 10, 2013, April 25, 2013, and January 30, 2014, to gather public input on the proposed regulations for Dr. Martin Luther King Jr. Boulevard and Veronica S. Shoemaker Boulevard; and

**WHEREAS:** With the adoption of the Dr. Martin Luther King Jr. and Veronica S. Shoemaker Boulevards Revitalization Plan (the Plan) on November 20, 2006, there is the anticipation of both new development and redevelopment of property occurring along Dr. Martin Luther King Jr. Boulevard and Veronica S. Shoemaker Boulevard corridors (Overlay District); and

**WHEREAS:** The Overlay District character description includes interrelated urban uses working together to provide a collection of distinct yet compatible cultural, shopping, business, employment, and

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residential opportunities within a reasonable walk, bike or transit ride;  
and

**WHEREAS:** It is the intent of the City Council to protect the health, safety, and welfare of its residents.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA,** that:

**SECTION 1.** The City Code of the City of Fort Myers, Florida, Sub-Part B, Land Development Code, Chapter 118, Land Use Regulations, Article 4. Overlay Districts, Section 118.4.4 Reserved for Dr. Martin Luther King Jr. Boulevard is renamed and regulations created to read as follows:

**118.4.4. Dr. Martin Luther King Jr. Boulevard and Veronica S. Shoemaker Boulevard.**

- A. Purpose and Intent: The purpose and intent of the Dr. Martin Luther King, Jr. Boulevard and Veronica S. Shoemaker Boulevard overlay district is to implement the provisions of the Dr. Martin Luther King Jr. and Veronica S. Shoemaker Boulevards Revitalization Plan (the Plan) by creating new regulations and supplementing existing regulations to establish certain physical design criteria for redevelopment and development activity. The overlay district is intended to shape neighborhood areas that will provoke visual interest, promote new economic opportunity, and provide a hierarchy of safe and convenient access for pedestrians and bicyclists. The design criteria centers around the buildings character, its orientation to the streets and other buildings, and

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creates design standards requiring specific details of the building's shape, look, roof line, doors, windows, landscaping, and parking.

- B. Applicability: All new development, redevelopment or renovations of property are subject to these overlay requirements referred to as the Dr. Martin Luther King Jr. Boulevard and Veronica S. Shoemaker Boulevard Overlay District. Such property is generally located abutting Dr. Martin Luther King Jr. Boulevard, east of Evans Avenue and west of Mission Lane; and all property fronting on Veronica S. Shoemaker Boulevard, between Dr. Martin Luther King Jr. Boulevard and Canal Street. A map of the specific area by parcel is on file in the community development department and city clerk's office.
- C. Conflict: The provisions of this section shall take precedence over other codes, ordinances, regulations, and standards except those listed in section 118.4.4.E., superseding regulations. Other requirements of the land development code or other applicable ordinances continue to be applicable to issues not covered by this section, except where those would contradict the intent of this section.
- D. For purposes of this subsection, the term "renovation and redevelopment" shall encompass the meanings as follows:
  - 1. Additions or renovations or redevelopment to existing buildings or properties;

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2. Where the costs of such addition, renovation, or redevelopment exceeds ~~20~~ 50-percent of the assessed value (land and building value) as determined by the Lee county property appraiser's office, of the existing site; or
  3. An existing building's square footage increases by twenty (20) percent.
- E. Superseding Regulations. The provisions of the following regulations take precedence over the provisions of this chapter:
1. Adult entertainment regulations.
  2. Noise regulations.
  3. Flood hazard regulations.
  4. Historic preservation regulations.
  5. Accessibility (Americans with Disabilities Act) standards.
  6. Florida Building Code.
  7. Florida Fire Prevention Codes.
- F. Lot Designation Types:
1. Small lots are lots with less than 10,000 square feet in area
  2. Large lots are lots with a minimum of 10,000 square feet in area and larger, and
  3. Urban node lots are lots designated within areas termed urban nodes.

**118.4.4.1. Applicable to all lot and node designations**

- A. Design standards.
1. Establish a landscape treatment/feature consisting of the required street trees and a

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combination of ground cover and shrubbery along street frontages that shall be a minimum area of at least nine percent (9%) of the actual front yard setback area. Recommended shrubs, ground cover, and planting specifications to be utilized within the actual nine percent (9%) landscape area are found in section 118.4.3., Cleveland Avenue overlay district, Table 1; and the setback area is illustrated following Table 1.

2. A combination of Geiger-Trees or, Glaucous Cassia, or Silver Buttonwoods trees interspaced with Royal Palms are the desired tree species to be planted along the street frontage of Dr. Martin Luther King Jr. Boulevard. A combination of Lavender Tabebuia or Gumbo Limbo trees interspaced with Sable Palms are the desired street trees along the street frontage of Veronica S. Shoemaker Boulevard. The recommended planting height of the Royal Palms shall be a minimum of fourteen (14) feet, spaced approximately 15 to 20 feet on center. Detailed street tree requirements are in section 138-72. Shade trees shall be ten (10) to twelve (12) feet high with three (3) inch to four (4) inch caliper at twelve (12) inches from base of trunk.

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3. Maintenance of the required landscape area shall be the responsibility of the property owner. If the plant materials die, they shall be replaced within sixty (60) days. The landscaping shall be maintained, fertilized, including use of the appropriate pesticide and weed control application, and sprinklered in perpetuity to the extent that healthy plant life is sustained, or, if needed, removed and replaced to keep the area in its condition when first installed.
4. Parking shall be allowed within the front setback area for new developments. Parcels to the rear and contiguous to properties abutting Dr. Martin Luther King Jr. Boulevard and Veronica S. Shoemaker Boulevard may be used to meet the minimum parking requirements. A new car lot may utilize up to fifty (50) percent of the front setback area for the display of vehicles, and the other fifty (50) percent of the front setback area shall be provided with the required landscaping.
5. Pedestrian ways, linkages or paths shall be designed and constructed to provide access between parking areas and building entries and from the building entries to surrounding streets, external sidewalks and out parcels. Pedestrian ways may be incorporated within a required landscape perimeter buffer or

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enhanced landscape areas. Shared pedestrian walkways are encouraged.

6. Lighting shall be designed and installed using cut-off fixtures. Cut-off light fixtures do not allow light dispersion or direct glare to shine above 90-degrees from the base of the fixture. A 270 degree radius/plan view cut-off shall be used on corner lots. A 180 degree radius/plan view cut off shall be used on interior lots or for lights placed within twenty (20) feet from the intersection, road right-of-way, or adjacent property lines. Lighting fixtures may not exceed a maximum of thirty (30) feet in height within the parking lot and a maximum of seventeen (17) feet in height within non-vehicular pedestrian areas.
7. All primary facades shall be designed with consistent architectural style, detail, and trim features. For the purposes of this subsection, the term "primary facade" means any facade abutting a street. Corner lots shall be defined as having two (2) primary facades fronting two (2) streets. The design of the buildings shall contain a minimum of four (4) of the following eight (8) building design treatments and must comprise fifty (50) percent of the facade area:

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- a) Awnings on all windows and door openings facing rights-of-way (use of plastic or vinyl material is prohibited),
  - b) Attached canopies,
  - c) Substantial overhangs (eighteen (18) inches minimum),
  - d) Porticos,
  - e) Arcades,
  - f) Peaked roof forms,
  - g) Display windows along a minimum of twenty (20) percent of the first floor front walls or any other wall alongside a pedestrian walkway, this feature is required of all new development or redevelopment along Dr. Martin Luther King Jr. Boulevard between Cranford Avenue and Ford Street.
  - h) Other architectural features must be approved by the community development department director.
8. Building walls and facades shall avoid large blank wall areas by including at least three (3) of the four (4) design elements listed below, in a repeating pattern. At least one (1) of the design elements must repeat horizontally:
- a) Material change,
  - b) Offsets or projections,
  - c) Bandings,
  - d) Reveals.



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9. Signs should be designed to complement rather than detract from the visual impact of a commercial development by utilizing design elements consistent with those employed in the structure's architecture. A unified sign plan must be utilized when multiple on-premises signs are proposed for a single site or development, or in the case of a shopping center or other multiple-occupancy complex, including out parcels under unified control with the main development. A building permit application must be accompanied by a graphic and narrative representation of the unified sign plan to be utilized on the site. Minimum uniform elements shall be utilized and include colors, construction materials and architectural design.
10. Deviations for an exceptional building design, the number of parking spaces required by chapter 134, and/or the provisions of this section may be sought where a hardship exists due to physical constraints, environmental concerns, or safety issues justifying such deviation. Three (3) complete sets of the required materials meeting all other code provisions shall be submitted to the planning division, with an explanation of hardship to justify deviation from the

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provisions of this section. Within fourteen (14) business days of receipt, the planning manager and public works director, or their designees, shall approve, approve with conditions, or deny the application, or the application shall be deemed automatically approved. Reconsideration shall be given upon receipt of revised applications, or appeals may be taken to the board of adjustments.

**B. Uses permitted/adverse impact uses.**

1. The uses permitted in each land use district shall be as provided in subsection 118.3.2, except as listed in subsection 2 below.
2. Uses not expressly permitted in subsection 118.3.2 or which create an adverse impact are not permitted through the conditional use process. Uses considered to have an adverse impact include:
  - a) Billboards, except as permitted by section 126-105.
  - b) Depots for large-scale storage and distribution.
  - c) Animal husbandry.
  - d) Nurseries.
  - e) Landfills and dumps.
  - f) Mineral extraction areas.
  - g) Prisons, except as accessories to police stations;

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- h) Recycling facility;
  - i) Scrap yards for the processing and storage of waste materials.
3. Uses permitted in subsection 118.3.2 that require approval through the conditional use process include:
- a) Animal boarding, animal shelter, kennels;
  - b) Bar, tavern, cocktail lounge, bottle club, and nightclubs;
  - c) Increase density in the RM-12 zoning district;
  - d) Liquor stores;
  - e) Outdoor storage;
  - f) Public or private surface parking lots (not associated with an on-site business);
  - g) Public or private parking garages without liner buildings on primary street frontages or adjacent to residential uses;
  - h) Vehicle sales, new or used;
  - i) Vehicle service and repair.
- C. Development on properties zoned RM-12.
- 1. All single-family development is permitted in accordance with the section 118.2.1.B.2 building envelope standards.
  - 2. Townhouse development is encouraged, in accordance with section 118.2.1.B.2. except as follows:
    - a. Minimum lot area: 1 acre.
    - b. Maximum height: 35 feet

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- c. Density: 12 units per acre, density may be increased through the conditional use process.

**118.4.4.2 Small Lots in the Overlay District**

A. Improved small lots (less than 10,000 square feet) with existing commercial or residential structures and zoned for commercial uses in the overlay district are subject to the following regulations.

1. The requirements of this section shall apply to new commercial uses or a change in commercial use for lots with an existing principal building occupying the site. With a change in ownership or use triggered by application for a business tax receipt, the business shall receive an inspection and shall be in compliance with the regulations in this section. A certificate of use will not be issued until the property becomes compliant.
2. Permitted commercial uses are listed in the land development code, section 118.3.2, table of uses.
3. All small lots within the overlay district shall be landscaped which shall be maintained in the front yard, both side yards, and the rear yard of the lot. The landscaping shall include one (1) shade tree where the lot abuts sidewalks or where a sidewalk will be located
4. No on-site parking is required. Shared parking with area businesses is encouraged.

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Parking spaces on the street and shared spaces on other sites can fulfill the parking requirements for small lots in the overlay district.

5. On-site retention, construction of public sidewalks, and commercial driveway regulations are waived for small lots.
  6. Sign regulations set forth in chapter 126, signs, shall apply, number, size, and location of signs for small lots shall be in accordance with section 126-103(b).
  7. Contiguous lots under common ownership which total 10,000 square feet or more shall develop in accordance with section 118.4.4.3 or 118.4.4.4, whichever is applicable, pursuant to section 98.4.3.
- B. Vacant small lots less than 10,000 square feet in commercially zoned areas may be developed for commercial uses. Vacant small lots will be considered legal non-conforming lots with regard to lot width and lot area for which no variance shall be required. The following requirements shall apply to all new construction on small lots for commercial uses.
1. Building setbacks:
    - a. Front: 10 feet
    - b. Side (interior): 5 feet
    - c. Side (street): 10 feet

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- d. Rear: 15 feet
- 2. Buffer yards as further detailed in section 138-4
  - a. Front: Type D buffer
  - b. Side (interior): none
  - c. Side (street): Type D buffer
  - d. Rear: Type A buffer
- 3. Driveway and drive aisle width: 22 feet
- 4. Parking:
  - a. Number of space required: three (3) spaces including a required handicap space
  - b. Parking space dimensions: nine (9) feet wide and 18 feet long

**118.4.4.3 Vacant Large Lots in the Overlay District  
between Urban Nodes**

- A. Large lots having a minimum of 10,000 square feet or larger land area located outside or between a delineated urban node in the overlay district may be developed.
- B. Parking Standards
  - 1. One (1) row of parking spaces is allowable in the front of the building(s).
  - 2. New development or redevelopment shall provide a minimum of one (1) parking space per 300 square feet of gross floor area. Medical shall provide a minimum of one (1) parking space per 200 square feet of gross floor area.

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3. On-street parking, if available within two (2) blocks, or within 600 feet, and/or shared parking, within three (3) blocks may count toward twenty-five (25) percent of the required parking.
- C. Cross-Access Easements. New development or redevelopment shall provide a cross-access easement to the adjacent properties and shall be reviewed and approved by the city prior being recorded at the Lee County clerk of courts and shall be at the expense of the developer, prior to receiving a certificate of occupancy.
- D. Signs. Sign standards are set forth in chapter 126, signs.
- E. Landscaping and Buffer Standards. Landscaping and buffer standards are required as provided in section 118.4.4.1 and chapter 138, except as listed below:
  - a. Interior side buffer yards shall not be required between like uses, such as commercial to commercial.
  - b. Native Canopy Trees: In addition to the landscape requirements above, a minimum of one native canopy tree is required for every 6,000 square feet of permeable area or for every 3,000 square feet of impermeable area.
  - c. Heat Island Effect Reduction: All new parking lots shall include tree plantings designed to result in fifty (50) percent shading of the

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parking lot surface areas at maturity. The recommended trees to utilize are as follows:

1. Gumbo Limbo
2. Green Buttonwood
3. Sea Grape
4. Pigeon Plum

Exceptions to the shading calculation include:

1. Single family and two family residential parking areas.
2. Parking structures.
3. Truck loading areas in front of overhead doors.
4. Truck maneuvering and parking areas unconnected to and exclusive of any vehicle parking.
5. Surfaced areas not to be used for vehicle parking, driving or maneuvering, provided they are made inaccessible to vehicles by a barrier such as bollards, curb, or fencing.
6. Vehicle display, sales, service, and storage areas (parking facilities for these uses are subject to shading requirements).
7. Parking areas under covered stalls and in garages.

**118.4.4. Urban Nodes within the Overlay District**

- A. Name and Location of Urban Nodes



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1. Western Gateway Node: Property fronting on the north side of Dr. Martin Luther King Jr. Boulevard, east of Evans Avenue and west of Palm Avenue and includes the redevelopment area known as McCollum Hall, 2701 Dr. Martin Luther King Jr. Boulevard.
2. Clemente-Dunbar Node: Property fronting on the south side of Dr. Martin Luther King Jr. Boulevard from Ford Street to Henderson Avenue; lots south from Dr. Martin Luther King Jr. Boulevard to Thomas Street, and from Ford Street on the west to Henderson Avenue on the east. Includes five blocks of Ford Street, Cuba Street, Carver Avenue, and Henderson Avenue.
3. Mid-town Dunbar Node: All property fronting on Veronica S. Shoemaker Boulevard, from the intersection with Dr. Martin Luther King Jr. Boulevard south to Canal Street; the district is located east to west from Veronica S. Shoemaker Boulevard to Highland Avenue.

A map showing specific parcels is on file in the community development department and the city clerk's office.

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- B. Design Standards. A mix of residential, office and commercial uses are allowable in all urban nodes.
1. Building Height: Building height shall be a maximum of three (3) stories. Apartment type units may be located on the second and third floors of mixed-use buildings.
  2. Setbacks: The required front setback is ten (10) feet from the front property line for property fronting on Dr. Martin Luther King Jr. Boulevard and all other setbacks are as listed for the zoning district in section 118.2.1 building envelope standards.
  3. Parking shall be in the rear or side of the property whenever possible. A limited amount of street parking will be available for use as provided in subsection 7 below.
  4. Sidewalks in Western Gateway Node and Clemente-Dunbar Node:
    - a. Private areas may be allowed to have outdoor dining and seating in the style of First Street.
    - b. A sidewalk shall have a minimum width of eight (8) feet reserved for outdoor dining and seating as measured from the building outward; bordered by a two (2) foot wide planting strip or planters

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facing the right-of-way and shall include a public pedestrian walking area a minimum of four (4) feet wide.

c. A continuous awning between the front property lines shall project at least five (5) feet over the outdoor seating area between the building and the street.

5. Shade Trees: Shade trees shall create a canopy over all parking lots of at least fifty (50) percent coverage. The street trees shall be planted where required by chapter 138.

6. Parking Lots: Parking lots shall be shaded at least fifty (50) percent by canopy trees. Wheel stops shall only be required to protect landscaping. Planting areas shall be required in accordance with chapter 134. On-site parking spaces shall be nine (9) feet wide by eighteen (18) feet long.

7. On-Street Parking: Parallel on-street parking shall be allowed along one (1) side of all streets, except Dr. Martin Luther King, Jr. Boulevard and Veronica S. Shoemaker Boulevard. Signage will be installed by the city designating a fire lane

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to delineate which side of the street is available for on-street parking.

8. Sidewalks. Sidewalks shall be installed by the developer at the time a lot is developed or redeveloped.

C. Cross-Access Easements. New development or redevelopment shall provide a cross-access easement to the adjacent properties and shall be reviewed and approved by the city prior being recorded at the Lee County clerk of courts at the expense of the developer, prior to receiving a certificate of occupancy.

D. Signs. Sign standards are set forth in chapter 126, signs.

E. Landscaping and Buffer Standards. Landscaping and buffer standards are required as provided in section 118.4.4.1 and chapter 138, except as listed below:

1. Interior side buffer yards shall not be required between like uses, such as commercial to commercial.
2. Native Canopy Trees: In addition to the landscape requirements above, a minimum one such tree is required for every 6,000 square feet of permeable area or for every 3,000 square feet of impermeable area.
3. Heat Island Effect Reduction: All new parking lots shall include tree plantings

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designed to result in fifty (50) percent shading of the parking lot surface areas at maturity. The recommended trees to utilize are as follows:

1. Gumbo Limbo
2. Green Buttonwood
3. Sea Grape
4. Pigeon Plum

Exceptions to the shading calculation include:

1. Single family and two family residential parking areas
2. Parking structures
3. Truck loading areas in front of overhead doors
4. Truck maneuvering and parking areas unconnected to and exclusive of any vehicle parking
5. Surfaced areas not to be used for vehicle parking, driving or maneuvering, provided they are made inaccessible to vehicles by a barrier such as bollards, curb, or fencing
6. Vehicle display, sales, service, and storage areas (parking facilities for these uses are subject to shading requirements)
7. Parking areas under covered stalls and in garages


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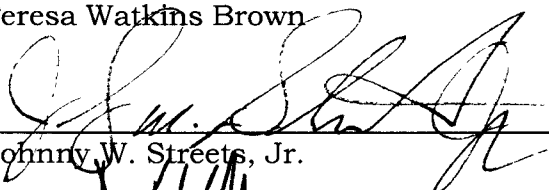
**SECTION 2.** Severability. If for any reason any section, subsection, paragraph, or part of this ordinance shall be held invalid or destroy any other section, subsection, or part of this ordinance then the remaining portions thereof shall remain in full force and effect without regard to the section, subsection, paragraph or invalidated.

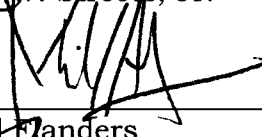
**SECTION 3.** This ordinance shall become effective immediately upon adoption.

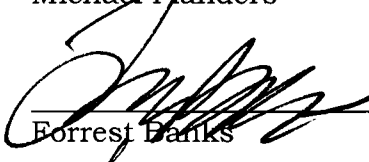
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**PASSED IN PUBLIC SESSION** of the City Council of the City of Fort Myers, Florida, this 5th day of January, A.D., 2015.

Aye   
Teresa Watkins Brown


Aye   
Johnny W. Streets, Jr.

Aye   
Michael Flanders

Aye   
Forrest Banks

Aye   
Thomas C. Leonardo  
Council Members

**APPROVED** this 5th day of January, A.D., 2015, at 6:56 o'clock p.m.

Aye   
Randall P. Henderson, Jr.  
Mayor

**FILED** in the Office of the City Clerk this 5th day of January, A.D., 2015.

  
Marie Adams, MMC  
City Clerk