NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

# Council Report



**Date:** July 11, 2017

**To:** The Honorable Mayor and City Council Members

**From:** Tanya Wilson-Sejour, Planning Zoning & Development Director

**Re:** **LAND DEVELOPMENT REGULATIONS AND ZONING MAP UPDATE**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, REPEALING IN THEIR ENTIRETY CHAPTER 3, ENTITLED "ALCOHOLIC BEVERAGES", CHAPTER 20, ENTITLED "TREE PRESERVATION AND PROTECTION", AND CHAPTER 29A, ENTITLED "WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS" OF THE CODE OF ORDINANCES IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE, AND RELOCATING THEM TO AN AMENDED CHAPTER 29; AND AMENDING CHAPTER 29, ENTITLED "LAND DEVELOPMENT REGULATIONS" IN THE FORM ATTACHED AS EXHIBIT "A"; PROVIDING FOR AN EXPANDED AND CONSOLIDATED LIST OF DEFINITIONS OF TERMS AND CLARIFICATION OF POWERS AND DUTIES; ESTABLISHING A NEW ZONING APPEALS BOARD, NEW ZONING DISTRICTS AND A NEW OFFICIAL ZONING MAP TO PROVIDE CONSISTENCY WITH AND IMPLEMENT THE CITY'S ADOPTED 2015 EAR-BASED COMPREHENSIVE PLAN AMENDMENTS AND MORE SPECIFICALLY, THE 2036 FUTURE LAND USE MAP OF THE FUTURE LAND USE ELEMENT THEREOF; UPDATING THE CONSOLIDATED TABLE OF PERMITTED USES AND THE CONSOLIDATED TABLE OF DEVELOPMENT STANDARDS; PROVIDING FOR NEW TRANSITION AND SUSTAINABILITY DESIGN STANDARDS AND MORE STREAMLINED, DEVELOPMENT-FRIENDLY PROCEDURAL REQUIREMENTS, IN ACCORDANCE WITH THE APPLICABLE SECTIONS OF CHAPTERS 163 AND 166 OF THE FLORIDA STATUTES (2016), AND SUCH OTHER CHANGES AS ARE CONSISTENT WITH THE CITY'S PUBLIC HEALTH, SAFETY AND WELFARE; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.**

## RECOMMENDATION

Staff requests that, pursuant to the provisions of Article 3, Division 10, Section 3-1006 of the City of North Miami (City) Land Development Regulations (LDRs), the City Council review the proposed update to the current LDRs and to the accompanying Official Zoning Map, as described in the above ordinance title and as attached hereto as composite "Exhibit A," to ensure

consistency with the City's Adopted 2015 EAR-Based Comprehensive Plan Amendments ("2015 Plan Amendments"), consider Planning Commission recommendation (as articulated in attachment 4) and any testimony at the public hearings, and adopt the proposed update by passage of the attached ordinance.

**PLANNING COMMISSION MEETNGS:**

**MAY 17th, 2017 PLANNING COMMISSION MEETING**

The proposed update to the LDRs and the Zoning Map ("Update") was first heard and reviewed by the Planning Commission at a special meeting held on May 17th, 2017. The meeting was called to order at 7:00 pm, and was attended by Commissioners Kevin Seifried (Chair), Charles Ernst (Vice-Chair), Kenny Each, Jason James, Michael McDearmaid, Bob Pechon and Peggy Boule, as well as Deputy City Attorney, Jennifer L. Warren, outside Counsel Gary M. Held, Esquire, Debbie Love from Keith and Schnars, staff from the Community Planning and Development Department, city residents and developers. Following the Pledge of Allegiance, the Chair went on to establish the meeting protocol and a motion was then passed to separately discuss and conduct public hearings on the proposed amendments to the respective Articles, before voting to recommend approval of each amended Article. Afterward, the City Planner provided an introductory statement summarizing purpose, nature and major points of the proposed updates and revisions to the texts of the current LDRs and to the Zoning Map. Following staff's statement, Ms. Debbie Love from Keith and Schnars, was then introduced to provide a very detailed and precise presentation on the substance of the changes proposed for the respective Articles and to answer any question from both the Planning Commission and the audience. During the five-hour-plus meeting, deliberations were held only for the first four (4) Articles of the document and hearings for the first three (3).

- As expected, Article 1 was discussed and unanimously recommended for approval. The motion to approve Article 1, which was made by Commissioner Each and seconded by Commissioner James, passed 7-0 by roll call.
- Discussions on Article 2 were quite lengthy and centered on the new qualification requirements for membership in the Planning Commission and the Board of Adjustment being proposed through the Update, as well as language for the establishment of a Design Review Board, which was proposed by Commissioner Each. Following the hour-plus-long deliberation, a motion was made by Vice-Chair Ernst and seconded by Commissioner McDearmaid to approve Article as amended. The motion passed 7-0 by roll call.
- Following Ms. Love's presentation, Commission discussion and public hearing on Article 3 were rather quick, with really no point of contention. Upon the Chair's request, a

motion to recommend approval for that Article was made by Commissioner Pechon and seconded by Commissioner Boule, which passed 7-0 by roll call.

- Article 4 was the last one discussed by the Commission before the meeting was adjourned on or around 12:43 AM. Following Ms. Love's presentation, a lengthy discussion ensured, at times heated, especially around the new 550-sqaure foot minimum unit size being proposed for multifamily apartments and/or studios. Other topic of interest discussed were the new regulations vis-à-vis self-storage facilities in the C-2BE district. Before a final vote could be cast on the entirety of Article 4, former Mayor Kevin Burns requested that the Chair and Commission consider postponing the meeting to discuss the remainder of the Articles and the Zoning Map amendments at a later date. Subsequently, Chair Seifried asked for a motion to continue the public hearing on May 24th at 7:30 p.m. To that end, a motion made by Vice-Chair Ernst and seconded by Commissioner McDearmaid, passed 6-0, minus the vote of Commissioner James who had left before discussions were held on the Article.

**JUNE 20TH, 2017 PLANNING COMMISSION MEETING (CONTINUED HEARING)**

Contrary to the motion passed by the Planning Commission at the May 17th hearing, the continued hearing on the update took place on June 20th, 2017, due to some unanticipated scheduling conflicts. That meeting was called to order at 7:08 pm, and was attended by Commissioners Kevin Seifried (Chair), Charles Ernst (Vice-Chair), Kenny Each, Jason James, Michael McDearmaid, Bob Pechon and Peggy Boule, as well as Deputy City Attorney, Jennifer L. Warren, outside Counsel Gary M. Held, Esquire, Debbie Love from Keith and Schnars, staff from the Community Planning and Development Department, city residents and developers. Chair Seifried started the hearing on the item by recapping the actions taken by the Planning Commission on Articles 1 through 4 at the May 17th, hearing. The Board was reminded that a motion to approve Article 4, the last item discussed at that meeting, was never entertained, and needed therefore to be made, seconded and voted upon, before considering the updates to the remaining Articles of the LDRs and the Zoning Map. Staff then intervened to request that the Planning Commission revisit Article 3, Division 14, Section 3-1407, which deals with the imposition of impact fees. Staff and the Consultant had originally deleted the whole section and did not want to arbitrarily update these fees, absent any updated impact fees study, as required by state statutes. However, staff later found out that, on November 22nd, 2016, the Mayor and City Council had unanimously passed and adopted an ordinance (Ordinance No. 1409) amending the texts of Article 3, Division 14 of the LDRs to establish impact fees, criteria and administrative procedures for petitions for impact fee determination, refunds, credits and deferments. As such, staff notified the Commission that the ordinance would be incorporated and made part of Article 3, Division 14 of the LDRs, as had been approved by the City Council. A discussion ensued on the need to remove the impact fee schedule from the texts of Article 3, Division 14, in order to

avoid amending the LDRs every time the City Council deems necessary to update the fee schedule. A motion was then made by Commissioner McDearmaid to that effect. Seconded by Commissioner Boule, the motion passed 7-0 by roll call.

Following is a summary of the discussions held and actions taken by the Planning Commission on Articles 4 through 7 at that meeting.

Kevin Burns came up to discuss Article 4, Section 4.302, Page 21 and request to remove the restrictions for residential and the reduction of 3 uses to 2 uses. The motion to make this change was made by Commissioner Kenny Each and seconded by Commissioner McDearmaid. Passed 7-0.

Kevin Burns next initiated the discussion of Section 4.302 on page 22, regarding minimum acreage. After discussion, the recommendation was to reduce the minimum acreage from two (2) acres to one-half acre and also remove the minimum average width and depth of 100 feet. The motion was made by Commissioner Each and seconded by Vice Chair Ernst. The board was polled. Commissioner Pechon, James, and Boule opposed. Chair Seifried, Vice Chair Ernst, Commissioner McDearmaid, and Commissioner Each approved. Passed 4-3.

Jessica Alston came to the mic to address her concerns on Article 4 and ask the Commission to preserve the integrity of the Sunkist Grove area community by not allowing alcoholic beverages to be permitted in that zoning district. She also mentioned the 500 square feet apartment limitations was a plan to build tenement slums along 7th Avenue and adjoining areas and expressed her vehement dissatisfaction of such.

After the conclusion of discussion of Article 3 and Article 4, the discussion of Article 5 commenced. Article 5 includes several recommendations from the Planning Commission. A comprehensive list of recommendations made for Article 5 (and all of the other articles) is attached (see attachment #4). The motion to approve Article 5 was made by Vice Chair Ernst. Seconded by Commissioner Boule, the motion passed 6-0. Commissioner James left the dais during the Article 5 discussion and was not present to vote on Article 5, 6, 7, as well as the Zoning Map.

Article 6 was approved for Council recommendation as proposed and no public participants spoke on the article. Chair Seifried called for a motion. The motion to approve Article 6 was made by Commissioner McDearmaid and was seconded by Commissioner Boule. Passed 6-0.

Recommendations to the definitions in Article 7 are presented in Attachment 4. Chair Seifried called for a motion on Article 7. A motion was made by Commissioner McDearmaid and was seconded by Commissioner Boule. Passed 6-0.

Chair Seifried called for a motion to adopt the proposed Zoning Map. A motion was made by Commissioner McDearmaid and was seconded by Commissioner Boule. Passed 6-0.

The chair called for a motion to approve the entire comprehensive Land Development Regulations and Zoning Map Update. The motion to approve was made by Commissioner McDearmaid and seconded by Commissioner Boule. Passed 6-0. The meeting was adjourned at 2:05 a.m.

## EXECUTIVE SUMMARY

The proposed update to the LDRs and the Zoning Map ("Update") is intended primarily to: (1) facilitate a comprehensive update to incorporate the future development goals, objectives and policies of the adopted 2015 Plan Amendments; (2) to eliminate inconsistent standards and excessive regulatory barriers that may hinder economic development in the City; (3) to revise and establish new permitting processes that would allow staff to administer discretion over uses that are more routine in nature, but still require an evaluation of potential impacts, such as parking, noise, odor, and land use compatibility; (4) to revise, update, expand and consolidate under one generalized table the list of permitted and conditional uses, while including new use categories that are not currently identified and that are needed to respond to the evolving nature of the South Florida economy; to simplify, update and consolidate under one generalized table the list of development standards governing the development of lands in the different zoning districts of the City; (5) to provide for adequate transition standards to enhance neighborhood preservation in light of the high-intensity, mixed-use development called for in the recently adopted 2015 Plan Amendments for properties located within the Neighborhood Redevelopment Overlay (NRO) District and the Planned Corridor Overlay District (PCD), along the City's major corridors; (6) to provide for development standards that promote high-quality development through design excellence, environmental stewardship through implementing nationally recognized sustainable building standards, economic development through streamlined development review procedures, and a sense of place through urban design guidelines that regulate urban form along the City's major corridors and address streetscape improvements; and (7) to review the current LDRs for possible legal, planning and development issues and undertake any other necessary changes to reflect current practice and law, eliminate antiquated content and increase the usability of the document. A key objective of this Update is to make the regulations easier for staff as well as members of the community to interpret and use, thus making the LDRs more market-friendly.

## BACKGROUND

The purpose for this agenda item is to hold the required public hearing to receive input from the public on the proposed update to the City's LDRs and Official Zoning Map, and to discuss and consider a recommendation to the Mayor and City Council. This item is on the Planning Commission agenda in compliance with statutory requirements relating to amendments to either the interpretive texts of the LDRs or the Official Zoning Map adopted in conjunction therewith, as set forth in Article 3, Division 10, Section 3-1006 of the City's LDRs, which requires that all such amendments be delivered to the Planning Commission for review and recommendation to the Mayor and the City Council for final consideration and approval.

The Current Land Development Regulations

The current LDRs, Chapter 29 of the City Code of Ordinances, was adopted in 2009 through Ordinance No. 1278 and, at that time, constituted a major overhaul of the City's outdated Zoning Ordinance No. 798 adopted July 9, 1986, which was a revision of the Zoning Ordinance formerly codified as Chapter 29 of the City's 1958 Code of Ordinances. The intended purpose of the 2009 LDRs was to establish zoning districts and regulations that implement the adopted 2007 Future Land Use Map (FLUM) designations (corresponding intensity, density, uses and urban form standards), as well as the objectives of the Traffic Concurrency Exemption Area (TCEA) and the City's Community Redevelopment Area (CRA) Plan. The City's Official Zoning Map was adopted separately and at a later date, on May 25, 2010, through Ordinance No. 1297. As with any living, policy document, the current LDRs has been amended multiple times to include new uses, streamline procedural requirements, and better reflect existing developmental realities and desired developmental outcomes with regard to the City's built form. The most recent text amendment involved certain procedural changes to the administrative variance approval, as well as an extension of the appeal period.

The City's Comprehensive Plan

As set forth in ss. 163.3764, 163.3167 and 163.3171, Florida Statutes, the purpose and direction of a local government's land development regulations derive from the goals, objectives and policies (GOPs) established in that local government's comprehensive plan. Section 163.3202, Florida Statutes, further requires that, within one year of adopting or amending its comprehensive plan, a local government shall adopt, amend, and enforce land development regulations that are consistent with and implement the comprehensive plan. In conformity with the then Local Government Comprehensive Planning and Land Development Regulation Act ("1985 Act"), which required every local government in the State to adopt a detailed comprehensive plan by 1992, the City adopted its first Comprehensive Plan in 1989. In accordance with s. 163.3191, Florida Statutes, which stipulates that every seven (7) years, every local government shall amend its comprehensive plan pursuant to the provisions set out in section 163.3164, Florida Statutes, the City has twice updated its Comprehensive Plan. The first

of these two (2) updates occurred in 2007 and was based, in large part, upon the 2005 Evaluation and Appraisal Report, which recommended substantial revisions to update the 1989 Comprehensive Plan to current conditions and the City's redevelopment objectives, the Evaluation and Appraisal Report (EAR), statutory requirements from 2006 to 2007, and existing conditions, goals and objectives.

The second and latest update, the 2015 Plan Amendments, was adopted on April 26, 2016 by the Mayor and the City Council through Ordinance No. 1399, and became effective on June 23, 2016, when it was found to be in compliance, pursuant to s. 163.3184(4), Florida Statutes, by the Florida Department of Economic Opportunity (DEO), the State Land Planning Agency. That update followed the new evaluation and appraisal process for updating local comprehensive plans, following the sweeping changes enacted by the 2011 Florida Legislature, which replaced and repealed the 1985 Act with the Community Planning Act as Part II of Chapter 163, Florida Statutes. Indeed, as per the new Community Planning Act, EAR sufficiency review and mandatory plan updates are no longer required and, instead and consistent with Rule 73C-49, Florida Administrative Code, an evaluation and appraisal notification letter becomes the principal process for a local government to update its comprehensive plan, in order to satisfy the requirements of s. 163.3191, Florida Statutes.

In addition to responding to changes in state requirements stemming from the passage of the 2011 Community Planning Act, the City's recently adopted 2015 Plan Amendments also address changes in local conditions, specifically in light of the renewed focus on redeveloping the City's Downtown and major corridors in order to meet the growing demands for new housing, employment, transportation, entertainment, food, health and other community needs. Chief among these Amendments are two (2) new overlay areas: (1) the PCD Overlay District, which aims to promote high-density mixed-use development with density of up to 100 du/ac and with height of up to 110 feet along the City's major corridors; and (2) the Planned Community Urban Design (PCUD) Overlay District, which is confined within the boundary of the SoLe Mia planned development and permits height up to 450 feet/45 stories in response to market demands and the desire for greater open space. These new districts call for new transition and sustainable design standards, which, along with other developmental goals and desired outcomes set forth in the rest of the Comprehensive Plan and in other relevant planning instruments adopted by the City Council, now need to be reflected in the City's LDRs and Official Zoning Map. The 2015 Plan Amendments also provide for a new Climate Change Element, several substantial changes in the density and height permitted along the City's major corridors, as well as certain updates to the Future Land Use Map (FLUM) of the Future Land Use Element (FLUE) to address land use inconsistencies and also expand the NRO eastern boundary to further promote redevelopment in the City Downtown.

<u>Selection of Keith and Schnars, P.A. to Perform the Update</u>

Consequently, on November 7, 2016, the Mayor and the City Council unanimously passed Resolution No. 2016-R-115, approving Keith and Schnars, P.A. (Consultant) as the highest ranking firm to provide all aspects of work required to prepare the Update, in order to ensure consistency with and implement the City's adopted 2015 Plan Amendments, pursuant to the provisions of s. 163.3202, Florida Statutes. Following its selection, the Consultant met with the Project Advisory Committee (PAC), which is composed of staff from the Community Planning and Development Department (CP&D), and Gary M. Held, Esq., an outside land use attorney retained by the City Attorney's Office to provide additional legal oversight over the Update. The purpose of that introductory meeting was to afford the Consultant and the PAC, which together form the Working Group, an opportunity to review and discuss the scope of the Update. Some of the key accomplishments of that meeting include, but are not limited to:

1. Establishing the expectations and timetable for the Update, in light of both the statutory deadline and the "Zoning in Progress" invoked by the Mayor and the City Council via the adoption of Resolution No. 2017-R-1, which defers the processing, review and approval of certain development applications during the pendency of the Update;
2. Holding preliminary discussion on key development regulation, i.e., substantive, procedural and organizational issues, including zoning office opinions and Code conflicts;
3. Formulating a detailed public outreach program to keep residents, business owners, civic leaders and all other stakeholders abreast of the Update and to receive any comments they may have by uploading information via an established project website at http://www.northmiamifuture.com/ldr/;
4. Establishment of reporting relations;
5. Agreeing on the number and frequency of meetings until the final passage of the Update, including, the community workshops to solicit input from the community, in-house staff meetings to review recommendations regarding policy changes, in light of relevant landmark court cases, as well as public hearings in front of the Planning Commission and the Mayor and City Council, as required by law; and
6. The deliverables.

Additional information on the scope of the Update can be found in the copy of the published request for proposal, RFP 37-15-16 Land Development Regulations and Zoning Map Update.

<u>Kick-Off Meeting and Neighborhood-Level Outreach Meetings</u>

On January 12, 2017, a kick-off meeting was held in the City Council Chambers in order to introduce the Update, solicit ideas and concerns, and identify key development regulation issues to be addressed during the Update process. In order to further understand community concerns and aspirations, the Consultant, in coordination with City staff, organized three (3)

neighborhood-level outreach meetings: the first meeting took place at the Gwen Margolis Community Center on January 17, 2017; the second at the Griffing Community Center on January 18, 2017; and the third at the Joe Celestin Center on January 23, 2017. These meetings, which were attended by community residents, business owners and civic leaders, provided an interactive forum where the attendees discussed and provided input on such topics as transition standards for the overlay districts, minimum unit size, transportation concurrency issues, environmental/sustainable design standards, parking garages, signage, and medical marijuana dispensaries, among other items.

The comments garnered at these outreach meetings were further discussed, refined and clarified at several in-house staff meetings and through many conference calls between the Consultant and the Project Advisory Committee. These comments along with other policy recommendations from the PAC and from City elected officials were then incorporated in the development of the draft Update, attached hereto and being submitted to the Planning Commission for its review and recommendation to the Mayor and the City Council.

**SUMMARY OF THE PROPOSED UPDATE**

The following provides a breakdown by Articles of highlights of the proposed updates and revisions to the texts of the current LDRs, as well as a summary of the proposed Zoning Map amendments, in order to ensure consistency with the adopted 2015 Plan Amendments and the 2036 FLUM attached thereto.

- **Article 1 – General Provisions:** No substantial changes or amendments are proposed for this article, except for some minor cleanups to delete some obsolete references to state statutes, to provide for the correct departments name, and to update the list of zoning districts in the City.

- **Article 2 – Decision-Making and Administrative Bodies:** Changes proposed to this article are substantive in nature and provide for the inclusion of new divisions that address the authority, duties, responsibilities and membership of the Downtown Action Plan Advisory Committee (DAPAC) and of the proposed Zoning Appeals Board; the addition of new qualification requirements for membership in the Planning Commission and the Board of Adjustment; as well as some department names corrections and renumbering.

- **Article 3 – Development Review:** Changes proposed to this article are essentially procedural and involve certain text amendments on the submittal requirements and review standards for site plan approval application, as well as the inclusion of criteria for substantial compliance determination with previously approved development order; the

public notice requirements for quasi-judicial hearings to provide for continuances and deferrals and to ensure consistency with state laws; the appeal process to provide for clarity, applicability, appeal period, and review criteria, especially in light of the proposed Zoning Appeals Board; the current subdivision regulations to provide for uniformity and consistency with Chapter 28 – Subdivisions (Miami-Dade County Code of Ordinances); the deletion of obsolete references to state statutes; the correction of city department names; and the renumbering of certain sections, among other amendments.

- **Article 4 – Zoning Districts:** Changes proposed to this article provide for clarity in the intent and purpose of the different zoning districts; a more user-friendly generalized table of permitted (principal) uses by zoning district; the inclusion of the Planned Corridor Development (PCD) Overlay District, the Planned Community Urban Design (PCUD) Overlay District, as well as the proposed BZ zoning district, along with related standards, to implement the City's 2036 FLUM; the breakdown of the current PD zoning district into three new zoning districts, PD-1, PD-2 and PD-3, intended to provide for greater consistency with and better implementation of the GOPs set forth in the Mixed-Use Low, Mixed-Use Medium and Mixed-Use High land use designations of the FLUE, respectively; as well as revisions in the general development standards and in the criteria for allocating bonus density and height, among other amendments. Furthermore, several new use categories, such as brew pubs, distilleries/wineries, or even medical marijuana dispensaries, which are not currently identified or listed in the LDRs, but which are needed to respond to the evolving nature of the South Florida economy, are also being proposed as permitted either by right with site plan approval, or through special exception approval in the appropriate zoning districts.

- **Article 5 - Development Standards:** This article has undergone by far the most extensive revision and transformation. The current LDRs feature 22 divisions, which are intended to regulate, among other items, accessory uses, daycare facilities, adult entertainment establishments, transit-oriented development (TOD), sustainable building design, fences, landscaping, parking, signage, etc. The Update now provides for 23 divisions in this article, the new division being proposed as a replacement for Chapter 20, "Tree Preservation and Protection" from the City's Code of Ordinances, as this chapter is being repealed and consolidated under the LDRs as a part of the Update. Division 9, which currently contain provisions for the installation of fences, wall and other similar structures in the City, are also being relocated to and consolidated under Division 12, to further streamline and organize the specific sections of the entire division and provide for greater internal consistency. Regulations pertaining to the permitting and installation of Bio-swales are now provided in this division. The updated Division 9, now entitled "Alcoholic Beverages," (relocated from Chapter 3 of the Code of Ordinances), provides standards regulating the licensing requirements for and the location of places engaging in

the business of manufacturing, selling, serving, bartering, or in any way dealing with alcoholic beverages. Additionally, Division 1, the title of which has now changed from "Accessory Uses" to "Accessory Uses and Structures," has undergone some extensive revision and now provides for more elaborate and comprehensive standards that address the wide range of accessory uses and structures the CP&D staff has received inquiries on over the past several years. This division now features a generalized table of permitted accessory uses by zoning district, similar to the generalized table of permitted uses also being proposed in Article 4 and, consistent with Section 33-151 of the Miami-Dade County Code of Ordinances, physical standards for the operation of private or non-public educational facilities and childcare facilities. Requirements for townhouse development, which are currently contained in Division 20, are being relocated to and consolidated under Article 4, Division 2, Section 4-204 of the updated LDRs. As such, the new Division 20 provided criteria for the establishment of live-work units. Other amendments to Article 5 involve inclusion of new standards to address the permitting of murals under Division 15, revisions to the parking standards in Division 14 to provide for standards for elderly housing, community residential homes, parking garages and parking analysis, among other revisions. Division 15, "Signs," is also being revised to provide for more consistent criteria for permanent, temporary signs, non-conforming signs, and prohibited signs, and for granting relief from the standards therein. The proposed revisions also attempt to clean up the existing sign regulations to avoid any perception of them being a content-based and unconstitutional regulation of speech, in the aftermath of the U.S. Supreme Court's 2015 ruling in Reed v. Town of Gilbert. Regulations on telecommunications towers and antennas have been relocated from Chapter 29A to Division 18 of this Article.

- **Article 6 - Nonconformities:** This article was retitled and revised to provide for more consistent and predictable regulations and limitations for the development and continued existence of uses, structures and lawful lots established prior to the effective date of the LDRs and subsequent amendments thereto. For instance, the article now includes specific standards dealing with the expansion of nonconforming uses and the change from one nonconforming use to another nonconforming use, as well as with the destruction of a lawful nonconforming structure.

- **Article 7 - Definitions:** This article has been revised to provide for greater clarity and consistency in the definitions of terms used in the LDRs, for inclusion of newer and prevailing terminology in the land use planning field and associated fields, and therefore for greater usability of the LDRs as a whole.

- **Official Zoning Map:** As stated above, the 2015 Plan Amendments introduced the PCD Overlay District and the PCUD Overlay District land use designations, which now need

to be reflected on the Official Zoning Map. The new BZ zoning district, which is being created to implement the Bayshore Zone land use designation depicted on the City's 2036 FLUM, also need to be added to the Official Zoning Map. In addition, the current PD zoning district is being broken down into three (3) new zoning districts, the PD-1, PD-2 and PD-3 zoning districts, and these new districts also need to be depicted on the Official Zoning Map. The 2015 Plan Amendments included an eastward extension of the boundary of the NRO District to N.E. 123rd Street between N.E. 8th Avenue and N.E. 10th Avenue. Lastly, for the past several years, CP&D staff has also discovered a number of inconsistencies between the land use designation and the zoning classification of various parcels throughout the City. As such, the changes being proposed to the Official Zoning Map as part of the Update are intended to accomplish the above-listed objectives, in conformity with s. 163.3202, Florida Statutes.

**CONCLUSION**

The proposed Update to the City's Land Development Regulations and Official Zoning Map is intended to meet state laws, more particularly s. 163.3202, Florida Statutes, which mandates that, the City adopts or amends and enforces land development regulations that are consistent with and implement its adopted 2015 Plan Amendments, within one (1) year after submission of the former to the State Land Planning Agency. The Update, which incorporates input from public workshops, as well as other policy recommendations from the Working Group and from City elected officials, accomplishes several other key development objectives, including, but not limited to, the elimination of antiquated content, inconsistent standards and excessive regulatory barriers, and the provision of consistent and predictable standards that are more market-friendly and that promote excellence in design, environmental stewardship, and protect the integrity of the City's residential neighborhoods. Staff believes that the Update is consistent with and strictly adheres to the community aspirations and vision, as articulated in the GOPs of the City's 2015 Plan Amendments, and will also protect the public health, safety, order, convenience, comfort and general welfare. Staff further believes that the Update will promote the orderly development of the City through regulations that, among other things, will: (1) preserve the integrity of the City residential neighborhoods; (2) advance the economic development goals of the City's 2015 Plan Amendments; (3) provide for consistent and appropriate transition standards for proximate development within and among zoning districts; (3) enhance the aesthetic and ecological quality of the City; and (5) promote a healthy and sustainable interrelationship between the built and natural environments. **Staff is therefore requesting that, pursuant to the requirements of Article 3, Division 10, Section 3-1006 of the City's LDRs, the City Council reviews and adopts the proposed Update to the current LDRs and to the accompanying Official Zoning Map, as described in the above ordinance title and as attached hereto as composite "Exhibit A," for consistency with the City's Adopted 2015 Plan Amendments, consider**

**City staff and Planning Commission recommendation and any testimony at the public hearing, and adopt the proposed update by passage of the attached ordinance.**

NL/MM/tws

Attachments:
1. Proposed Ordinance
2. Exhibit A: Draft of the Updated Land Development Regulations and Official Zoning Map
3. Newspaper Advertisement
4. Planning Commission Recommendations
5. LDR Scriveners errors/ Staff/Attorney Revisions & Edits
6. Draft of Design Review Board regulations

**ORDINANCE NO. _____**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, REPEALING IN THEIR ENTIRETY CHAPTER 3, ENTITLED "ALCOHOLIC BEVERAGES", CHAPTER 20, ENTITLED "TREE PRESERVATION AND PROTECTION", AND CHAPTER 29A, ENTITLED "WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS" OF THE CODE OF ORDINANCES IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE; AND AMENDING CHAPTER 29, ENTITLED "LAND DEVELOPMENT REGULATIONS" IN THE FORM ATTACHED AS EXHIBIT "A"; PROVIDING FOR AN EXPANDED AND CONSOLIDATED LIST OF DEFINITIONS OF TERMS AND CLARIFICATION OF POWERS AND DUTIES; ESTABLISHING A NEW ZONING APPEALS BOARD, NEW ZONING DISTRICTS AND A NEW OFFICIAL ZONING MAP TO PROVIDE CONSISTENCY WITH AND IMPLEMENT THE CITY'S ADOPTED 2015 EAR-BASED COMPREHENSIVE PLAN AMENDMENTS AND MORE SPECIFICALLY, THE 2036 FUTURE LAND USE MAP OF THE FUTURE LAND USE ELEMENT THEREOF; UPDATING THE CONSOLIDATED TABLE OF PERMITTED USES AND THE CONSOLIDATED TABLE OF DEVELOPMENT STANDARDS; PROVIDING FOR NEW TRANSITION AND SUSTAINABILITY DESIGN STANDARDS AND MORE STREAMLINED, DEVELOPMENT-FRIENDLY PROCEDURAL REQUIREMENTS, IN ACCORDANCE WITH THE APPLICABLE SECTIONS OF CHAPTERS 163 AND 166 OF THE FLORIDA STATUTES (2016); PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.**

**WHEREAS**, the 1985 Florida State Legislature established the Local Government Comprehensive Planning and Land Development Regulation Act ("1985 Act"), which required every local government in the State, including the City of North Miami ("City"), to adopt a detailed comprehensive plan by 1992; and

**WHEREAS**, in conformity with the 1985 Act, the City adopted its first Comprehensive Plan in 1989, consisting of principles, guidelines, standards, and strategies, arranged in goals, objectives and policies (GOPs) intended to foster the orderly and balanced future economic, social, physical, environmental, and fiscal development of the City; and

**WHEREAS**, the 2011 Florida State Legislature repealed and replaced the 1985 Local Government Comprehensive Planning and Land Development Regulation Act with the Community Planning Act as Part II of Chapter 163, Florida Statutes; and

**WHEREAS**, the Community Planning Act, through s. 163.3191, Florida Statutes, stipulates that every seven (7) years, every local government shall amend its comprehensive plan pursuant to the provisions set out in Section 163.3164, Florida Statutes ; and

**WHEREAS**, on April 26, 2016, the Mayor and City Council of the City unanimously passed Ordinance No. 1399, adopting the Evaluation and Appraisal Review (EAR) based Amendments to the City Comprehensive Plan, in accordance with requirements of Rule 73C-49, Florida Administrative Code, and s.163.3191, Florida Statutes; and

**WHEREAS**, on June 23, 2016, the State of Florida Department of Economic Opportunity, the state land planning agency, issued a Notice of Intent finding the EAR-based Amendments to the City Comprehensive Plan adopted by Ordinance 1399 on April 26, 2016, in compliance, pursuant to s. 163.3184(4), Florida Statutes; and

**WHEREAS**, ss. 163.3764, 163.3167 and 163.3171, Florida Statutes, give power and authority, and mandate that, in order to plan and guide its future development and growth, every local government in the State, implements adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof; and

**WHEREAS**, pursuant to s. 163.3202, Florida Statutes, within one (1) year after submission of its comprehensive plan or revised comprehensive plan for review pursuant to s. 163.3191, each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

**WHEREAS**, s. 166.041(3) (c), Florida Statutes, outlines procedures for the adoption of ordinances that change the actual zoning map designation of parcels of land; and

**WHEREAS**, the recently adopted EAR-based Amendments to the City Comprehensive Plan creates, among other changes, two (2) new overlay areas: (1) The Planned Corridor Development (PCD) Overlay District, which aims to promote high-density mixed-use development with density of up to 100 du/ac and with height of up to 110 feet along the City's major corridors; and (2) the Planned Community Urban Design (PCUD) Overlay District, which

is confined within the boundary of the SoleMia planned development and permits height up to 450 feet/45 stories in response to market demands and the desire for greater open space; and

**WHEREAS**, these new districts call for new transition and sustainable design standards, which, along with other developmental goals and desired outcomes set forth in the rest of the Comprehensive Plan and in other relevant planning instruments adopted by the City Council, now need to be reflected in the City's Land Development Regulations ("LDRs") and on the Official Zoning Map; and

**WHEREAS**, this update also provides the City with an opportunity to review the current LDRs for antiquated content, inconsistent standards, and possible legal issues, especially in the aftermath of *Reed v. Town of Gilbert* and *Arizona and Buehrle v. City of Key West, Florida*, among other cases; and

**WHEREAS,** on November 7, 2016, the Mayor and City Council of the City adopted Resolution No. 2016-R-115, approving the selection of Keith and Schnars, P.A. ("Consultant"), to review and update the City's LDRs and Official Zoning Map, in light of the newly adopted EAR-based Amendments to the Comprehensive Plan; and

**WHEREAS**, on January 10, 2017, the Mayor and City Council of the City passed Resolution No. 2017-R-1, invoking the Zoning in Progress or Pending Ordinance Doctrine with respect to the LDRs and further deferring the acceptance, processing and approval of applications for Comprehensive Plan Text and Future Land Use Map amendments, LDRs Text and Zoning Map amendments, Site Plan approval and Conditional Use Permits for Bonus Density during the pendency of the City's consideration of the LDRs and Zoning Map Update; and

**WHEREAS**, the Consultant and City staff have been working diligently to review work tasks, expectations and project schedules, establish reporting relations, identify stakeholders, develop a public involvement plan, discuss specific issues, zoning office opinions, problems (code conflicts) and opportunities related to the current LDRs; and

**WHEREAS**, the Consultant, in coordination with the City, held a kick-off meeting on January 12, 2017 to introduce the project, solicit ideas/concerns and identify key development regulation issues to be addressed during the revision/update process; and

**WHEREAS**, in order to further understand community concerns and aspirations, the Consultant, in coordination with the City, further organized three (3) neighborhood-level meetings, which were held at the Griffing Community Center on January 18, 2017, at the Gwen Margolis Community Center on January 19, 2017, and at the Joe Celestin Center on January 23, 2017, respectively; and

**WHEREAS**, pursuant to Article 2, Division 2, Section 2-203, LDRs, at least four (4) affirmative votes of the Planning Commission shall be required for a positive recommendation of any proposed zoning or Comprehensive Plan change; and

**WHEREAS**, on May 17, 2017, the Planning Commission, after a duly noticed public meeting, approved the proposed LDRs and Official Zoning Map Update, pursuant to Article 3, Division 11, Section 3-1006, LDRs; and

**WHEREAS**, pursuant to Article 3, Section 3-1007C, LDRs, the Mayor and City Council shall adopt the proposed LDRs and Official Zoning Map Update with the affirmative vote of a super-majority; and

**WHEREAS**, the Mayor and City Council, after two (2) duly noticed public meetings (first reading and second reading), find it in the best interest of City residents to adopt the proposed LDRs and Official Zoning Map Update, in accordance with state law.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1. Recitals.** The recitals to the preamble herein are incorporated by reference.

**Section 2. Repeal of Chapters 3, 20 and 29A.** Chapter 3, entitled "Alcoholic Beverages," Chapter 20, entitled "Tree Preservation and Protection," and Chapter 29A, entitled "Wireless Telecommunication Towers and Antennas" of the City of North Miami Code of Ordinances are hereby repealed in their entirety.

**Section 3. Amendments to Chapter 29, North Miami Code of Ordinances and City of North Miami – Zoning Map.** Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations," according to underlines and strikethroughs as stated therein,

and City of North Miami – Zoning Map in its entirety, are hereby amended in accordance with the forms attached as "Exhibit A".

**Section 4.** **Repeal.** All Ordinances and part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 5.** **Conflicts.** All Ordinances or parts of ordinances in conflict herewith the provisions of this Ordinance are repealed.

**Section 6.** **Severability.** The provisions of this Ordinance are declared to be severable. If any section, paragraph, sentence, phrase, clause or word of this Ordinance shall, for any reason, be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, phrases, clause or words of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall notwithstanding the invalidity of any part.

**Section 7.** **Codification.** The provisions of the text amendments attached as Exhibit "A" to this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or any other appropriate word. The Official Zoning Map shall not be codified, but shall be maintained by the Department of Community Planning and Development, and the City Clerk's Office.

**Section 8.** **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED AND ADOPTED** by _____ vote of the Mayor and City Council on first reading this _____ day of _____, 2017.

**PASSED AND ADOPTED** by _____ vote of the Mayor and City Council on second reading this _____ day of _____, 2017.

_____
DR. SMITH JOSEPH
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

**Vote:**

| | |
|---|---|
| Mayor Dr. Smith Joseph, D.O., Pharm. D. | _____ (Yes)_____ (No) |
| Vice Mayor Scott Galvin | _____ (Yes)_____ (No) |
| Councilman Carol Keys, Esq. | _____ (Yes)_____ (No) |
| Councilman Philippe Bien Aime | _____ (Yes)_____ (No) |
| Councilman Alix Desulme | _____ (Yes)_____ (No) |

Additions shown by underlining. Deletions shown by ~~overstriking~~.

ARTICLE 1. - GENERAL PROVISIONS

Sec. 1-101. - Title.

This code shall be known as and referred to as the "Land Development Regulations (LDRs) of the City of North Miami, Florida."

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-102. - Authority.

These LDRs are enacted pursuant to the requirements and authority of F.S. § 163.3161 et seq. (~~the Local Government Comprehensive Planning and Land Development Regulation Act~~ Community Planning Act), the Charter of the City of North Miami ("the City"), and the powers and authority in F.S. chs. 60, 162, 166, 171, 177, 286 and 823.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-103. - Purpose of LDRs.

The purpose of these LDRs is to implement the comprehensive land use plan of the City; to establish comprehensive controls for the use of land in the City of North Miami; to protect, promote and improve the public health, safety, comfort, order, appearance, convenience, morals and general welfare and quality of life in the City of North Miami; to establish rules of procedure for land development approvals; to enhance the character of the City and the preservation of neighborhoods.

It is the further purpose of these LDRs to provide for efficient and appropriate use of land; for preservation, protection, development and conservation of the natural resources of land, water and air; for convenient circulation of traffic, people and goods; the proper use and occupancy of buildings; for healthful distribution of the population; for adequate public facilities and utilities; for promotion of civic amenities of beauty and visual interest.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-104. - Jurisdiction and applicability.

These LDRs shall govern the development and use of land and structures within the corporate limits of the City. No building, structure, water or land shall be used or occupied, and no building, structure, or land shall be developed unless in conformity with all of the provisions of the land use district in which it is located, all applicable regulations, and all development approvals.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-105. - Comprehensive plan and future land use map.

The comprehensive plan of the City of North Miami along with the future land use map which is part of the plan is the official statement of policy of the City in regard to the use of land and all use or development of land undertaken pursuant to these LDRs shall be consistent with the comprehensive plan.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-106. - Official zoning map.

A. Map established. The official zoning map is established and incorporated into the LDRs by this reference. The official zoning map shows the boundaries of all zoning districts as adopted by the City Council pursuant to the procedures of these LDRs. The official zoning map, as amended from time to time, shall be kept on file and made available for public reference in the community planning and development department~~building and zoning department~~.

B. Interpretation of boundaries.

1. Designation of zoning district boundaries. The district boundary lines are intended generally to follow the centerlines of streets, the centerlines of railroad rights-of-way, existing lot lines, the mean water level of streams and other waterways, or municipal boundary lines, all as shown on the official zoning map. Where a district boundary line does not follow such a line, its position is shown on said zoning map by a specific dimension expressing its distance in feet from a street centerline or other boundary line as indicated.

2. Determination of locations of boundaries. In the case of uncertainty as to the true location of a district boundary line in a particular instance, the ~~building and zoning~~community planning and development department shall request the board of adjustment to render its determination with respect thereto; provided, however, that no boundary shall be changed by the board of adjustment. All boundary changes shall be made by the City Council in accordance with the provisions of Article 3, Division 10.

3. Annexed land, reclaimed lands or lands resulting from changed mean high water mark. All lands which come into existence as a result of reclaiming, or reestablishment of the mean high water mark or become part of the City of North Miami and under its jurisdiction through dissolution of other governmental units shall automatically be zoned R-1 until the properties' designation on the City's land use plan and zoning maps can be amended in accordance with the procedures in these LDRs. Said lands will, within thirty (30) days of such action, be reviewed by the City staff for designation of an appropriate zoning district and land use plan category, in accordance with the provisions of Article 3, Divisions 10 and 11.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

**Note—** Ordinances amending the official zoning map are as follows:
Ord. No. 1297, § 1, 5-25-10; Ord. No. 1342, § 1, 10-23-12; Ord. No. 1351, § 1, 2-26-13; Ord. No. 1364, § 1, 12-10-13; Ord. No. 1366, § 1, 2-11-14

Sec. 1-107. - Transitional rules.

A. Transition period. Where a complete application for development approval is pending on the date of adoption of these LDRs, or prior to amendment thereto, the provisions of the regulations in effect when the application was filed shall govern the review and approval of the application for development approval, provided that:

   1. The application is approved within nine (9) months of the date of adoption of or amendment to these LDRs; and

   2. Construction begins within eighteen (18) months of the issuance of such approval and ~~is diligently pursued to~~ the building permits remain in effect without lapse through completion.

B. Existing unlawful uses and structures. A structure or use not lawfully existing at the time of the adoption of these LDRs is deemed lawful only if it conforms to all of the requirements of these LDRs.

C. Existing approved uses. An existing use, which is lawful on the date of adoption of these LDRs, whether permitted as a "permitted use," a "conditional use permit," or a "special exception" in the zoning district in which it is located, shall not be deemed nonconforming solely because the procedure for approval has been changed through the adoption of these LDRs and shall hereafter be deemed permitted as of right, as a conditional use permit, or as a special exception use in the district in which it is located. In the event the use was approved subject to one (1) or more conditions, those conditions shall continue in full force and effect unless a new approval is obtained, which otherwise nullifies those conditions. If the existing use is nonconforming under either the prior zoning code or these LDRs, then such use shall come into conformance with these LDRs if required by the provisions of Article 6.

D. Previously granted variances.

   1. All variances granted subject to a time frame for construction which are still in effect on the adoption of these LDRs shall remain in full force and effect, including any conditions attached thereto, and the recipient of the variance may proceed to develop the property in accordance with the plans previously approved. However, if the recipient of the variance has failed to apply for a building permit before the variance expires, the provisions of these LDRs shall govern and the variance shall have no further force and effect~~.~~, subject to claims of equitable estoppel and good faith reliance as established under Florida law, as determined by the City Manager and City Attorney.

   2. Any variance granted, which is not subject to a time frame for construction, where the development proposal approved under the related variance has not been commenced prior to the adoption of these LDRs, shall remain in full force and effect, including any conditions attached thereto, and the recipient of the variance may proceed to develop

the property in accordance with the plans previously approved. However, if the recipient of the variance fails to apply for a building permit within six (6) months of the adoption of these LDRs, the provisions of these LDRs shall govern and the variance shall have no further force and effect, subject to claims of equitable estoppel and good faith reliance as established under Florida law, as determined by the City Manager and City Attorney.

E. Previously approved planned unit development/conditional uses. All planned unit development/conditional uses approved prior to the adoption of these LDRs, and any conditions attached thereto, shall remain in full force and effect, and the recipient of the approved planned unit development/conditional use may proceed to develop the property in accordance with the previous approval and shall hereafter be deemed a planned development/conditional use in the district in which it is located. However, if the recipient of the approved planned unit development/conditional use has failed to apply for a building permit before the approval expires or if the approval is abandoned, the provisions of these LDRs shall govern. No planned unit development/conditional use approved prior to the adoption of these LDRs but where no certificate of occupancy had been granted shall be extended.

F. Previously approved special exceptions. All special exceptions approved prior to the adoption of these LDRs, and any conditions attached thereto, shall remain in full force and effect, and the recipient of the approved special exception may proceed to develop the property in accordance with the previous approval. However, if the recipient of the approved special exception has failed to apply for a building permit or receive a business tax receipt before the approval expires or within six (6) months of the approval if the approval is abandoned, the provisions of these LDRs shall govern. No special exception approved prior to the adoption of these LDRs but not constructed shall be extended.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-108. - Construction rules.

For the purposes of these LDRs, the following rules of construction apply:

A. In interpreting and applying the provisions of these LDRs, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, order, convenience and general welfare of the community.

B. The provisions of these LDRs shall be construed to achieve the purposes and intent for which they are adopted.

C. Nothing in these LDRs is intended to abrogate any easement, covenant, deed restriction or other private agreement; however, where the regulations of these LDRs are more restrictive or impose higher standards or requirements than such easement, covenant, deed restriction or other private agreement, the requirements of these LDRs shall govern.

D. In the event of a conflict between the text of these LDRs and any caption, figure, illustration, table, or map, the text of these LDRs shall control. In the event of a conflict

between a chart and an illustration, the chart shall control. All illustrations included in these LDRs are for illustrative purposes only.

E. In the event of any conflict in limitations, restrictions, or standards applying to an individual use or structure, the more restrictive provisions shall apply.

F. In the event of a conflict between these LDRs and any federal or state statute, which preempts local regulation, the federal or state statute shall apply.

G. In the event of a conflict between these LDRs and the comprehensive plan, the comprehensive plan shall apply.

H. The words "shall," "must," and "will," are mandatory in nature, implying an obligation or duty to comply with the particular provision.

I. The word "or" is alternative in nature; the words "and/or" shall mean "all or any."

J. The word "may" is permissive in nature and distinguished from the word "shall."

K. Words used in the present tense include the future tense.

L. The singular number includes the plural number and the plural, the singular.

M. Words used in the masculine gender include the feminine gender.

N. The words "used" and "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

O. The word "lot" shall include the word "plot," "parcel," "site," or "tract" of land.

P. The word "herein" means "these LDRs."

Q. Any act authorized by these LDRs to be carried out by a specific official or agency of the City is impliedly authorized to be carried out by a designee of such official or agency.

R. The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded. The use of the word "day" shall mean a calendar day unless otherwise specified.

S. Any words and terms not defined herein shall have the meaning indicated by common dictionary definition.

T. Any reference to Federal, Florida Statutes, Florida Administrative Code, Comprehensive Plan, or any other official code shall be construed to be a reference to the most recent enactment of such statute or rule, and shall include any amendments as may from time to time be adopted.

U. Titles. Wherever reference is made to officials, boards, departments or agencies of the city by title only, such as "mayor" or "city manager," such title shall be construed as if the words "of the City of North Miami" followed it.

V. For the purposes of these LDRs, the term “administrative official” means the community planning and development director.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 1-109. - Severability.

Should any section or provision of these LDRs be declared to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of these LDRs as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

ARTICLE 2. - DECISION-MAKING AND ADMINISTRATIVE BODIES

DIVISION 1. - CITY COUNCIL

Sec. 2-101. - Powers and duties.

The City is governed by a City Council consisting of five (5) elected members, including a mayor, as more particularly set forth in the City Charter. In addition to any authority granted the City Council by state law, city charter or other regulations of the City, the City Council shall have the power and duty to act as the final decision maker in these LDRs with respect to certain types of applications and appeals.

In accordance with the standards and procedures of Article 3, Development Review, the City Council is the final decision-maker for:

| POWERS AND DUTIES | APPLICABLE STANDARDS/PROCEDURES |
|---|---|
| Appeals as the Zoning Appeals Board~~from decisions by the Board of Adjustment)~~ | Article 3, Division 7 |
| Comprehensive Plan Text and Map Amendments | Article 3, Division 11 |
| Conditional Uses/Planned Development | Article 3, Division 4 |
| Development Agreements | Article 3, Division 13 |
| Platting/Subdivision | Article 3, Division 8 |
| Protection of Landowner's Rights: Vested Rights Determinations | Article 3, Division 12 |
| Text of LDRs and Map Amendments | Article 3, Division 10 |

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 2. - PLANNING COMMISSION

Sec. 2-201. - Powers and duties.

The planning commission shall have the following powers and duties:

A. Prepare and recommend to the City Council a comprehensive master plan for the public welfare, economic, and physical development of all areas within the City.

B. Prepare and recommend to the City Council land use regulations for implementation of the comprehensive plan.

~~C. Continually plan for the progress and growth of the City with respect to capital projects and local improvements; assist the City Manager and the director of community planning and development department in preparing the capital improvements portion of the annual budget; and from time to time, recommend to the City Council such legislation as may be deemed appropriate to carry out such plans as the commission may decide.~~

~~D~~C. Continually plan for the progress and growth of the City with respect to properly regulating the height, number of stories and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures, and land and water for trade, industry, residence or other purposes, and from time to time recommend to the City Council such legislation as may be deemed appropriate to carry out such plans.

~~E~~D. Review and study potential and existing areas of distress and decay and recommend action with respect to urban renewal or rehabilitation; institute a program of education covering ways and means to avoid the decay of a neighborhood, and study and recommend zoning changes to effect the improvement of a neighborhood.

~~F~~E. Conduct public hearings in connection with the study of future plans and include the results of such public hearings in its recommendations to the City Council on proposed plans.

~~G~~F. Conduct public hearings regarding proposed planned development and conditional uses and make recommendations thereon to the City Council.

~~H~~G. Whenever any amendment, supplement, change or repeal of existing zoning districts or classification of the official zoning map is proposed, the planning commission shall conduct a public hearing and make recommendations to the City Council, as provided by Article 3.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-202. - Membership; terms; vacancies; removal.

A. Membership.

1. The planning commission shall be composed of seven (7) members and two (2) alternates. Each member of the City Council shall nominate one (1) member of the planning commission, which nomination shall be subject to approval of the majority of the City Council. Two (2) members of the planning commission and the two (2) alternates shall be appointed by a majority of the City Council. The City Council may at any time remove a member from office and appoint a qualified person to serve out the unexpired term of any member so removed.

2. Each member ~~shall be a resident of the city and~~ shall not hold any other elected public office or city employment within the City during the term of such appointment. Members shall be chosen from persons with experience in the areas of planning, law -, environmental science, the development industry, real estate development, engineering, architecture, former local government official, and other related local industries, except

that the City Council may appoint residents who do not satisfy these criteria if no person is available after reasonable search to appoint one person who does.

~~Any member who ceases to reside within the city limits during the term of office shall be deemed to have resigned as of the date of moving from the city.~~ No member or alternate shall serve if that person is obligated to the City for any recorded lien, fine, judgment or if there is a code enforcement violation against the member which has remained unresolved for sixty (60) days or more, without an appeal being taken by the member.

B. Terms. The term of those board members appointed by the individual City Council members shall be coterminous with the appointing elected official's term of office. The term of those board members appointed by the City Council as a whole shall be coterminous with the mayor's term of office. Upon adoption of amendments reconfiguring the board membership the City Council may remove and reappoint members in accord with the new membership requirements.

C. Vacancies. Appointments to fill any vacancies shall be made by the City Council and shall be for the remainder of the unexpired term.

D. Removal. Three (3) affirmative votes of the City Council shall be required in order to remove a commission member, and no cause need be shown for removal. Any commission member who has three (3) consecutive ~~excused~~ absences in one (1) year shall ~~automatically~~ forfeit membership at the discretion of the City Council, except that the City Council may accept military service or an extended illness as excused absences.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1288, § 1, 11-10-09; Ord. No. 1370, § 1, 4-22-14)

Sec. 2-203. - Meetings; quorum; required vote.

A. Meetings. The planning commission shall meet on the first Tuesday of each month. The meeting time may be set and amended as deemed necessary by the chairperson and the director of the community planning and development department. The meetings of the planning commission shall be open to the public.

B. Quorum; required vote. The seven (7) members of the planning commission shall transact the business of the commission with ~~four~~ five (45) members constituting a quorum. Four (4) affirmative votes shall be required for a positive recommendation of any proposed zoning or comprehensive plan change. A positive recommendation for any other matter coming before the commission shall require a majority vote of the members present. No member shall participate in deliberations or vote upon any item before the planning commission that would constitute a conflict of interest for that member, in compliance with F.S. ch. 112.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-204. - Officers; staff.

A. Officers. The planning commission shall elect from within the commission a chairperson, who shall be the presiding member; a vice-chairperson, who shall preside in the absence or

disqualification of the chairperson. Terms of all officers shall be for one (1) year, with eligibility for reelection.

B. Staff. The director of the community planning and development department or the director's designee shall be the secretary for the commission and shall provide support staff as may be necessary to assist the commission in the performance of its duties.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-205. - Rules and records.

The planning commission may establish such rules of procedure as it may determine necessary to carry out its duties. Records of the proceedings shall be a public record maintained and filed with the secretary of the commission.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 3. - BOARD OF ADJUSTMENT

Sec. 2-301. - Powers and duties.

The board of adjustment shall have the following powers and duties:

~~A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the director of the building and zoning department in the interpretation of and enforcement of any of the city's LDRs.~~

~~B~~A. To hear and decide special exceptions to the City's LDRs.

~~C~~B. To hear and decide variances to the City's LDRs.

~~D~~C. To authorize, except as provided in section 3-606, variances from the LDRs or flood damages prevention Article.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-302. - Membership; terms; vacancies; removal.

A. Membership.

1. The board of adjustment shall be composed of seven (7) members and two (2) alternates. Each member of the City Council shall nominate one (1) member of the board of adjustment, which nomination shall be subject to approval of the majority of the City Council. Two (2) members of the board of adjustment and the two (2) alternates shall be appointed by a majority of the City Council. The City Council may at any time remove a member from office and appoint a qualified person to serve out the unexpired term of any member so removed.

2. Each member ~~shall be a resident of the city and~~ shall not hold any other elected public office or city employment within the City during the term of such appointment. Members

shall be chosen from persons with experience in the areas of planning, law, environmental science, the development industry, real estate development, engineering, architecture, former local government official, and other related local industries, except that the City Council may appoint residents who do not satisfy these criteria if no person is available after reasonable search to appoint one person who does. ~~.Any member who ceases to reside within the city limits during the term of office shall be deemed to have resigned as of the date of moving from the city.~~

No member or alternate shall serve if that person is obligated to the City for any recorded lien, fine, judgment or if there is a code enforcement violation which has remained unresolved for sixty (60) days or more, without an appeal being taken by the violator.

B. Terms. The term of those board members appointed by the individual City Council members shall be coterminous with the appointing elected official's term of office. The term of those board members appointed by the City Council as a whole shall be coterminous with the mayor's term of office. Upon adoption of amendments reconfiguring the board membership the City Council may remove and reappoint members in accord with the new membership requirements.

C. Vacancies. Appointments to fill any vacancy on the board shall be made by the City Council and shall be for the remainder of the unexpired term.

D. Removal. Three (3) affirmative votes of the City Council shall be required in order to remove a board member, and no cause need be shown for removal. Any board member who has ~~two~~ three (~~2~~3) ~~unexcused~~ absences in one (1) year shall ~~automatically~~ forfeit membership~~.~~ at the discretion of the City Council; the City Council may accept military service or extended illness as excused absences.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1370, § 1, 4-22-14)

Sec. 2-303. - Meetings; quorum; required vote.

A. Meetings. The board of adjustment shall meet on the third Wednesday evening of each month in the City hall. The meeting dates may be amended as deemed necessary by the board.

B. Quorum; required vote. ~~Four~~ Five (45) members shall constitute a quorum for the transaction of business. The seven (7) regular members of the board of adjustment shall transact the business of the board and the affirmative vote of a majority of the board present shall be necessary for the adoption of any motion. In the event any regular member anticipates an absence from a meeting the member shall notify the director of ~~building and zoning~~planning and community development who shall then notify one (1) of the alternate members so that there shall be sitting seven (7) members as often as is practicable. No more than seven (7) members shall sit at any meeting. No member shall participate in deliberations or vote upon any item before the board that would constitute a conflict of interest for that member.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-304. - Officers; staff.

A. Officers. During the first meeting of the board of adjustment in June of each year, the members shall elect one (1) of their number to act as chairperson and one (1) member to serve as vice-chairperson, who shall preside in the absence or disqualification of the chairperson. Terms of all officers shall be for one (1) year, with eligibility for reelection.

B. Staff. The director of the ~~building and zoning department~~community planning and development department, or the director's designee, shall be the secretary for the board and shall provide support staff as may be necessary to assist the board in the performance of its duties.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-305. - Rules and records.

The board of adjustment may establish such rules of procedure as it may determine necessary to carry out its duties. All meetings shall be conducted in accordance with Florida law and written records of the proceedings shall be a public record maintained and filed with the ~~ex officio~~ secretary.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 4. - DOWNTOWN ACTION PLAN ADVISORY COMMITTEE

Sec. 2-401. Powers and Duties.

The purpose of the Downtown Action Plan Advisory Committee (DAPAC) is to assist in the implementation of the adopted Major Corridor and Downtown Master Plan as well as the accompanying Concept and Action Plans. Members are to regularly attend DAPAC meetings and contribute constructively out of the experience and knowledge that they possess; understand and articulate the DAPAC's purpose, responsibilities and work plan; communicate and coordinate with the member's constituent group to represent the group's perspective on key issues and convey information from the DAPAC back to the stakeholders; act as an ambassador for the Action Plan with peers, neighbors and colleagues to further build momentum, participation and constructive feedback on the process and the Master Plan and the future revitalization of the Downtown area; review and provide comments/recommendations on project materials and draft plans; and participate actively in and help market the project's community outreach efforts.

Sec. 2-402. Membership; terms; vacancies; removal.

A. Membership.

1. The DAPAC ~~Downtown Action Plan Advisory Committee~~ shall be composed of a minimum of 11 and a maximum fifteen (15) members appointed by the majority of the City Council.

2. The composition of the committee shall be:

The DAPAC will consist of City and Commuity Redevelopment Agency (CRA) staff, as well as several key community stakeholders, with representation from the City's local Arts/Cultural, Education, Film industry and business community. Examples include, but are not limited to a representative from MOCA, downtown business owners/tenants, chamber of commerce representatives, Business Development Board Representative, University partners, and other stakeholders.

B. Terms. Appointments to the DAPAC ~~Downtown Action Plan Advisory Committee~~ shall be for two-year terms. When a committee member's term expires, the member shall continue to be an active member until such time that the City Council reappoints or makes a new appointment.

C. Vacancies. Appointments to fill any vacancies shall be made by the City Council and shall be for the remainder of the unexpired term.

D. Removal. Members can be removed from office for good cause by three-fifths (3/5) vote of the City Council. An example of good cause will be failing to attend three (3) consecutive meetings without a committee-approved excuse, or a finding of the majority of the committee, as expressed upon the minutes of the committee, that participation and attendance by such member is not satisfactory and a replacement is needed.

Sec. 2-403. Meetings; quorum; required vote.

A. Meetings. The DAPAC ~~Downtown Action Plan Advisory Committee~~ shall hold a regularly scheduled meeting once a month at a specific time in a specific place and provide in its bylaws for holding special meetings.

B. Quorum; required vote. Two-thirds (2/3) majority of the current membership shall constitute a quorum for the transaction of business. An affirmative vote of a majority of the members present shall be necessary to approve a motion.

Sec. 2-404. Officers; staff.

A. Officers. The committee shall select one of its members as its chairperson and another as vice-chairperson. Terms of all officers shall be for one (1) year, with eligibility for reelection.

B. Staff. The director of c~~C~~ommunity p~~P~~lanning and d~~D~~evelopment shall designate staff for the committee. The staff member will be responsible for taking minutes at the monthly meetings and distributing minutes to the committee.

Sec. 2-405. Rules and records.

The DAPAC ~~Downtown Action Plan Advisory Committee~~ may establish such rules of procedure as it may determine necessary to carry out its duties. All meetings shall be conducted in

accordance with Florida law and written records of the proceedings shall be a public record maintained and filed with the community planning and development department.

The committee's fiscal year shall coincide with that of the City. All funds of the committee shall be received, held, secured, audited and accounted for like other public funds by the appropriate fiscal officers of the City. The funds shall be used for the purposes authorized.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1286, § 1, 10-27-09)

~~(a)~~ DIVISION 5. - ZONING APPEALS BOARD

Sec. 2-501 Authority.

The City Council is hereby established as the zoning appeals board for the City, according to the procedures in Article 3, Division 7, Section 702, et seq.

Sec. 2-502 Duties and responsibilities.

The functions and powers shall include ~~the~~:

(1) Keeping the general public informed and advised as to the physical development of the City;
(2) Hearing and deciding appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the administrative official, development review committee and any board that may be authorized in this chapter to make decisions or determinations, in the administration and enforcement of this chapter; except that where jurisdiction of an administrative official is established by other authority, appeals may be subject to the rules of the other authority, for example, decisions by the building official under the Florida Building Code are subject to review by the Miami-Dade County Board of Rules and Appeals;
(3) Reversing or affirming, in whole or in part, or modifying any order, requirement, decision, or determination of the administrative official, development review committee or boards that may be authorized in this chapter to make decisions or determinations in the administration and enforcement of this chapter, where such appeal is made in writing to the administration official within 30 days of such action, unless otherwise provided for in these LDRs.

Sec. 2-503 Public hearings.

Appeals shall be subject to the quasi-judicial standards established in Sec. 3-303 and scheduled and noticed in accordance with ~~to~~ the applicable regulations of Sec. 3-302.

DIVISION ~~5~~6. - ADMINISTRATIVE DECISION-MAKERS AND STAFF

Sec. 2-~~501~~601. - City Manager.

The City Manager shall be the chief administrative officer of the City of North Miami, with ultimate authority over the interpretation, enforcement and implementation of the LDRs. The City Manager has the authority to delegate his authority to city staff as necessary for the effective administration of the LDRs, and, by virtue of the adoption of these LDRs, may designate the director of community planning and development for these LDRs for all purposes.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-~~502~~602. - City Attorney.

The City Attorney serves as the final authority with regard to legal issues involving interpretation, enforcement and implementation of the LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-~~503~~603. - Community planning and development department.

The community planning and development department was created to facilitate the development of the community. The planning division of the community planning and development department is responsible for long range planning, current planning/zoning, and sustainability. The planning division is also responsible for maintaining and updating the comprehensive plan.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-~~504~~604. - Building ~~zoning~~ department.

The building ~~and zoning~~ department provides supervision of construction activities, acceptance of building permit and zoning improvement permit applications, issuance of all building and trade permits, verification of compliance with the Florida Building Code and the LDRs. The building ~~and~~ ~~zoning~~ department is charged with enhancing the quality of life within the City of North Miami through the interpretation, implementation and administration of these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-~~505~~605. - Building official.

The building official is responsible for the implementation of the various building codes adopted by the City, included as Chapter 5 of the Code of Ordinances of the City of North Miami. The building official issues building permits and certificates of occupancy and completion upon a determination by the City of compliance of such applications with the City's regulations and these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION ~~6~~7. - DEVELOPMENT REVIEW COMMITTEE

Sec. 2-~~601~~701. - Powers and duties.

The development review committee reviews and makes recommendations or decisions on applications for the following:

A. Site plans (conceptual and precise plans);

B. New construction or renovation;

C. Campus master plans;

D. Building relocation;

E. Conditional uses, including planned development;

F. Vacation of right-of-way or easement, road closure or traffic calming devices;

G. Tentative plat, replat and waiver of plat applications;~~.~~ and

H. Other applications as deemed necessary by the C~~c~~ity M~~M~~anager.

Following review by the development review committee, projects over 5,000 square feet shall be submitted to the city council for approval.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-~~602~~702. - Membership.

The development review committee members shall be staff from various city departments including: the community planning and development, building,~~zoning,~~ public works, parks and recreation, police and such other departments as may be deemed appropriate by the City Manager or the director of ~~building and zoning~~community planning and development.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 2-~~603~~703. - Responsibilities; meetings.

A. Responsibilities. The development review committee shall adopt rules and regulations for the conduct of its business. The zoning administrator ~~director of building and zoning~~ shall serve as the chair of ~~secretary to~~ the development review committee. The zoning administrator ~~director of building and zoning~~ shall coordinate all applications before the development review committee. The basis for all findings shall be available to the City Council and the public.

B. Meetings. The development review committee shall meet on an as-needed basis to process applications within the time required by these LDRs, and without undue delay.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 1. - PURPOSE AND APPLICABILITY

Sec. 3-101. - ~~[~~Purpose and applicability.~~]~~

The purpose of this ~~article~~Article is to establish and describe the types of procedures involved in obtaining development approval. This A~~a~~rticle establishes the requirements for each type of development approval, beginning with general procedures, which are applicable to all levels of approval and followed by specific procedures that are applicable to each process. This ~~article~~Article is applicable to all applications for development approval, ~~that~~which are initiated subsequent to the effective date of ~~adoption of~~ these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 2. - GENERAL DEVELOPMENT REVIEW PROCEDURES.

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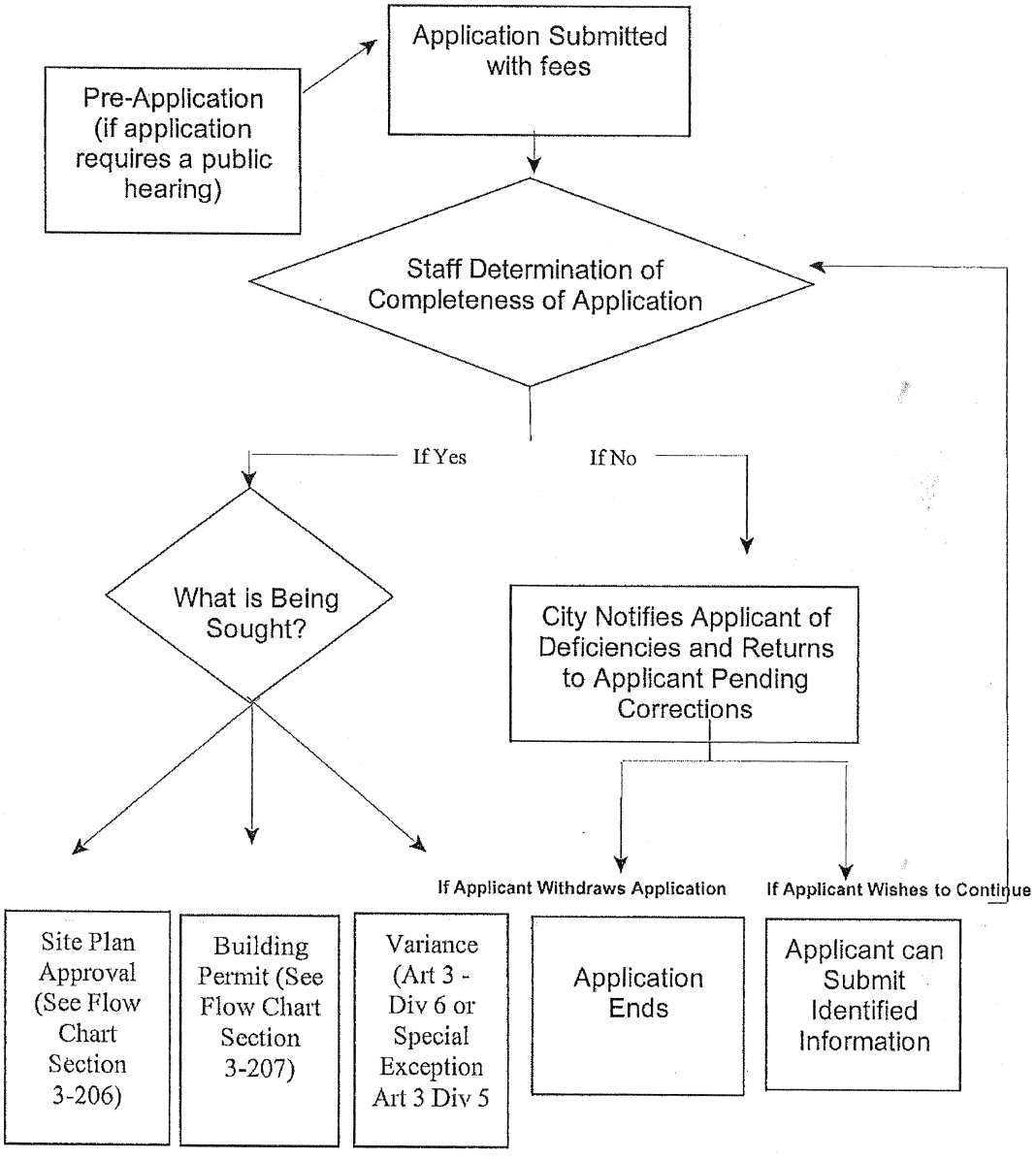
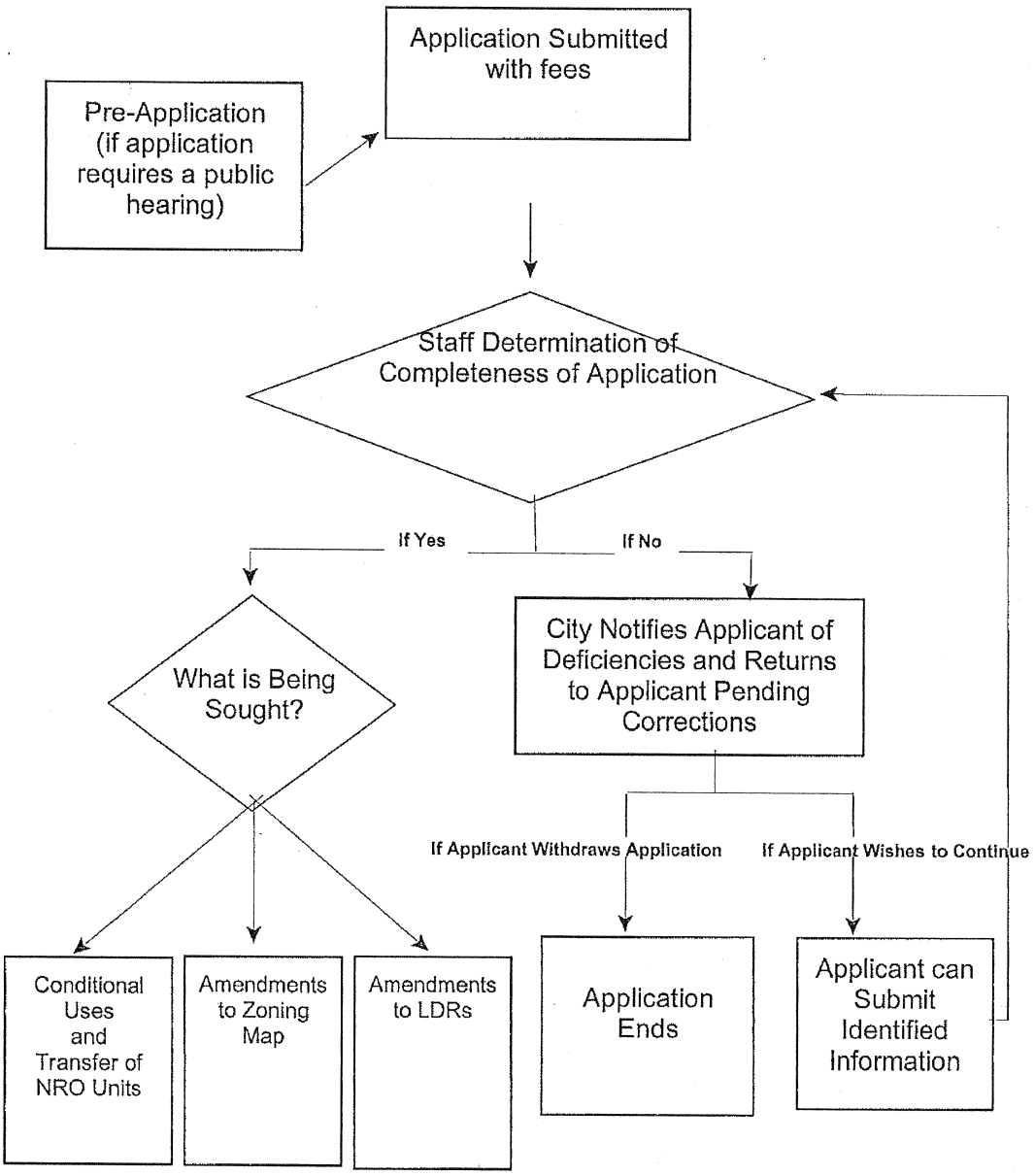
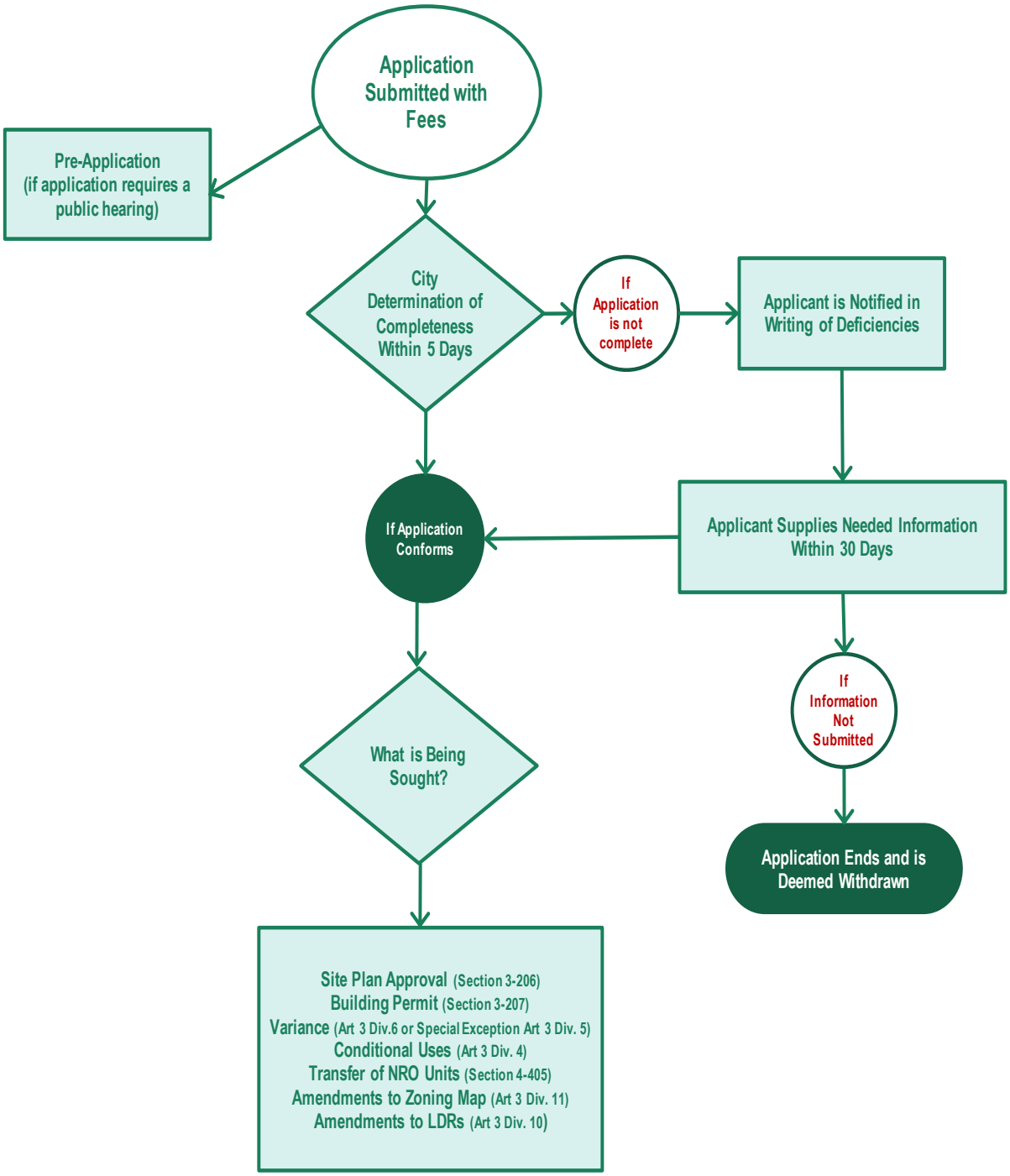
~~Development of Building and Zoning~~



~~Development of Planning and Community Development~~



## Site Plan Review



Sec. 3-201. - Preapplication conference.

A. ~~All~~ For all ~~applicants with applications for~~ development applications~~review~~, which may or may not require a public hearing~~ for approval~~, ~~shall schedule~~ a pre-application conference shall be scheduled with ~~city staff~~the community planning and development department to discuss the nature of the application, application format requirements, and the timing of review and approval.~~ Any other applicant for development approval may request a preapplication conference with the appropriate city staff.~~

B. At the preapplication conference, the ~~city staff~~community planning and development department shall determine whether the proposed application contains developable property, provide the applicant with all required application forms, including ~~and~~ all pertinent information~~a checklist that~~ and submittal requirements, ~~sets forth all of the information that will be required of the applicant~~ in order to review the application for compliance with these LDRs, and without undue delay.~~.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-202. - Application.

A. ~~A.~~ Form of application. All applications for development approval shall be submitted on forms approved and provided by ~~city staff~~the community planning and development department.

B. ~~B.~~ Payment of application fee. All~~The~~ applications shall be accompanied by the applicable fees established via resolution by the City Council, as may be amended from time to time, and/or cost recovery amount(s) for peer review~~required by resolution shall accompany all applications~~. ~~The fee schedule shall be available from city staff.~~

C. ~~C.~~ Proof of ownership or agency/authorization. All applications shall include sworn proof of ownership of the subject property or sworn proof that the applicant is authorized by the owner to act on the owner's behalf on a form approved ~~provided~~ by ~~city staff~~the community planning and development department and the City Attorney.

D. ~~D.~~ Development p~~P~~lans ~~–~~submittal~~and specifications~~. All applications shall be accompanied by~~Such~~ detailed development plans, ~~and specifications as are required by which city staff~~ shall be prepared by a registered architect, landscape architect or registered engineer, qualified under the laws of the State of Florida to prepare such plans and specifications. Traffic studies shall be prepared by registered traffic engineers.

E. Boundary Survey Requirement. A boundary survey is required when filing for any development application, as well as for a building permit or zoning improvement permit. The boundary survey submitted shall have been updated within one (1) year from the date of an application being filed.

F. ~~E.~~ Simultaneous applications. If more than one (1) approval is requested for a particular development proposal, with the exception of an application for a building permit~~,~~ or certificate of completion/occupancy, an applicant is required to submit all applications for development review at the same time.

G. ~~F.~~ Withdrawal of applications. If an application for development approval has been filed but no approval has been received within nine (9) months of receipt of a complete application, the application will be deemed withdrawn. ~~and if~~ If another application is submitted for the same project, new fees will be required, unless the application has been to hearing before a board and is under a continuance granted by the board.

H. ~~G.~~ ~~[~~Priority given.~~]~~ Priority shall be given to the review of all applications for development approval which involve green building principles and affordable housing.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-203. - Determination of completeness.

A. Upon receipt of an application for development review, ~~city staff~~the community planning and development department shall review the application to determine whether submittal requirements have been met:

1. All required information is provided in an acceptable format;
2. The required fee(s) is paid; and
3. Whether the information is technically competent.

B. If any required information is not provided, the applicable fee not paid and/or if the application or any part of the application is determined not technically competent, then:

1. City staff shall notify the applicant in writing of the specific deficiency in the application and shall not process the application further; and
2. The applicant shall either:
   a. Submit the specifically identified information in a technically competent form; or
   b. Withdraw the application.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-204. - Review by D~~d~~evelopment R~~r~~eview C~~e~~ommittee.

After an application for development approval is determined to be complete and technically competent, if a site plan is required under the provisions of subsection 3-206(A)~~.~~, the development review committee (DRC) shall review the application in accordance with the procedures adopted by the DRC and any procedures applicable to the application for development approval. The ~~building and zoning~~community planning and development~~zoning~~ administrator ~~department director~~ will coordinate the DRC review, assist in the resolution of conflicts and inform the applicant of any changes that need to be made to the applications to allow further review of the application to proceed. The following shall be required to be submitted with an application for site plan approval:

(1) Letter of intent. The applicant shall submit a detailed letter of intent with a statement of objectives indicating:

a. The general purpose of the development;
b. The density, number and type of dwelling units to be constructed, and/or the type and square footage of nonresidential development, pervious and impervious surface areas, and other standards as may be required;
c. The method and time schedule of development and improvements to be made as part of the project;
d. For any site plan for residential units, the applicant shall include a statement indicating whether the residential units are intended to be owner occupied or rental units.

(2) Survey. A boundary survey drawn to an appropriate engineering scale sufficient to show and to depict the location of existing property lines for both private and public property, existing contours shown at a contour interval of no greater than two feet, streets, buildings, watercourses, transmission lines, sewers, bridges, culverts and drain pipes, water mains, public utility easements, wooded areas, streams, lakes, marshes, and any other physical improvements and conditions on the site.

(3) Site plan. A site plan shall be drawn to an appropriate engineer's scale showing:

a. The proposed grading plan;
b. The width, location, typical section, and names of proposed streets;
c. The width, location and names of surrounding streets including all rights-of-way and easements;
d. The zoning district categories and existing land uses on properties adjacent to the proposed development;
e. The use, size, location and height of all proposed buildings and other structures;
f. The location of phase lines indicating all applicable construction phases;
g. The off-street parking and loading plan;
h. A circulation diagram showing vehicular and pedestrian movements including any special engineering features and traffic regulation devices;
i. The location and size of common open spaces and public or quasi-public areas; and
j. Statistical information, including:
    1. Total acreage of the site;
    2. Maximum building coverage expressed as a percentage of the total site area;
    3. The area of land devoted to open space expressed as a percentage of the total site area;

4. The calculated density in dwelling units/acre or intensity in square footage for the project;
5. Parking calculations for required parking and provided parking categorized by uses; and
6. The area of land devoted to rights-of-way, transportation easements, parking and other transportation facilities expressed as a percentage of the total site area.

(4) Engineering plan. Civil engineering plans drawn to an appropriate engineer's scale depicting:
   a. Existing drainage and sewer lines;
   b. The disposition and/or retention of sanitary waste and storm water;
   c. The source of potable water;
   d. The location and width of all utility easements and rights-of-way;
   e. All roadways, alleyways, driveways, improved and proposed; and
   f. All easements, reservations of easements of record and proposed.

(5) Landscape plan. Landscaping plan drawn to an appropriate engineer's scale depicting:
   a. All landscape areas, including swale and abutting properties to be landscaped;
   b. All specimen trees or groups of specimen trees, indicating those to be retained, removed, or relocated;
   c. The location, height, and material for walks, fences, walkways, and other manmade landscape features; and
   d. Any special landscape features including but not limited to, manmade lakes, hardscape materials, land sculpture, and waterfalls.

(6) Development phasing plan. Development phasing plan with schedule showing order of construction, consistent with phase lines shown on the site plan, proposed date for the beginning of construction and completion of the project as a whole and any phases thereof, and construction staging areas.

(7) Covenants, grants, easements, dedications and restrictions. Submittal of any covenants, grants, easements, dedications and restrictions to be imposed on the land, buildings, and structures, including proposed easements for public utilities and instruments relating to the use and maintenance of common open spaces and private streets. Such instruments shall give consideration to access requirements of public vehicles for maintenance purposes.

(8) School concurrency. ~~For developments with a proposed residential component, the applicant shall submit an application completed school impact analysis form. to~~ All residential development applications shall be reviewed for compliance with Public School Concurrency, pursuant to Chapters 163 and 1013, Florida Statutes. All such

applications shall be submitted through the City to the Miami-Dade County Public Schools for Public School Concurrency review. ~~the Miami-Dade County Public Schools for a Concurrency Determination Statement.~~

(9) Design standards. Plans of the design standards for the development depicting the following:

a. Elevations of front and sides of buildings, and rear if facing a public right of way, with indications of materials, openings, design and dimensions;
b. Elevations of accessory buildings, if proposed, with indications of materials and dimensions;
c. Paving materials;
d. Palette of exterior materials and their colors; and
e. Color rendering in perspective.

(10) Application and fee. Completed application on form approved by ~~the city~~the City, accompanied with the required fee, as~~.~~ established via resolution by the City Council, as may be amended from time to time, and/or cost recovery amount(s) for peer review.

(11) Additional information. Additional and relevant information, which is deemed to be appropriate by ~~the city~~the City to ensure consideration of all relevant issues.

(12) Waiver of submittal requirements. The administrative official shall have the discretion to waive, if deemed appropriate, any of the required submittal items.

(13) Determination of completeness.

a. Within five (5) working days after receipt of an application for site plan approval, ~~the city~~the City shall determine whether the application contains all required information at the required level of detail. In the event it is determined that the application is not complete, ~~the city~~the City shall notify the applicant in writing of the areas of insufficiency and shall specify the additional information and level of detail required in order to declare the application complete.
b. In the event that an applicant fails to submit the required additional information within thirty (30) days of notification of insufficiency, ~~the city~~the City may consider the application to be withdrawn.
c. At the written request of an applicant, an ~~An~~ extension may be granted by the ~~director of community planning and development~~community planning and development ~~director~~at ~~the written request of the applicant~~, provided that the applicant demonstrates just cause. Such extension shall be for a time certain.

(14) Design review criteria. The zoning administrator may approve, approve with conditions, defer, or deny the application, or if acting in an advisory capacity, make a recommendation therefore, after consideration and review of the following:

a. The development, as proposed, conforms to ~~the city~~the City's comprehensive plan, and is consistent with the recommendations of any applicable neighborhood or area studies or master plans that have been approved by action of the ~~city council~~City Council, and is otherwise compatible with the existing area or neighborhood development;
b. The proposed development site plans, landscape plans, engineering plans and other required plans conform or will conform with all applicable city codes; including design standards as set forth in this chapter;
c. The development, as proposed, will efficiently use or not unduly burden water, sewer, solid waste disposal, education, recreation or other necessary public facilities that have been constructed or planned and budgeted for construction in the area;
d. The development, as proposed, will efficiently use or not unduly burden or affect public transportation facilities, including mass transit, public streets, roads and highways that have been planned and/or budgeted for construction in the area, and if the development is or will be accessible by private or public roads, streets, or highways; and
e. The development provides necessary and adequate vehicular circulation, pedestrian access, ingress/egress, and is configured in a manner to minimize hazards and impacts on abutting and adjacent properties and abutting and adjacent rights-of-way.

(15) Imposition of conditions. Upon approval with conditions, or recommendation therefore, the zoning administrator may impose conditions as deemed necessary to ensure compliance with code requirements or minimize or mitigate the impacts of the application on public facilities, adjacent properties and the surrounding neighborhood, including but not limited to the following:

a. Require ~~city council~~City Council approval as applicable for compliance with code requirements.
b. Require the property be platted, or waiver of plat filed and obtained, prior to issuance of building permit or issuance of certificate of occupancy.
c. Require submittal of revised and completed plans to ~~the city~~the City meeting the conditions imposed by the DRC prior to issuance of building permit or prior to issuance of certificate of occupancy.
d. Require applicant to proffer, execute and record a declaration of restrictive covenants, subject to the review and approval of ~~the city~~the ~~attorney~~City Attorney, inclusive of conditions of approval and other proffered restrictions on

the development as required, or recommended as the case may be, by the administrative official.

e. Require applicant to dedicate, reserve, or grant easements for future improvements as may be deemed necessary by ~~the city~~the City, as permitted by applicable law.

f. Require applicant to proffer a unity of title or covenant in lieu of unit of title, pursuant to this division, for lands subject to the development as deemed necessary prior to issuance of building permit.

g. Require applicant to submit planning studies, traffic impact analysis, parking analysis, cost estimate studies, drainage studies, or other studies as deemed necessary by ~~the city~~the City as requiring further review.

h. Require the applicant to post a bond or other form of surety to ensure and if appropriate fund construction of any improvements as deemed necessary prior to issuance of building permit or issuance of certificate of occupancy.

i. Require that all applicable fees, contributions, or proffered contributions be paid prior to issuance of building permit.

j. Require that large scale developments with residential uses provide park and/or recreation areas within the developments.

k. Impose any other condition that is deemed necessary in protecting the public health, safety and welfare, inclusive of mitigating, or minimizing impacts as result of the proposed development.

(16) Appeals. An applicant may appeal any order, requirement, decision or determination by filing such petition with the zoning appeals board in accordance with Sec. 3-701, et seq.

(17) Modifications, deletions, revisions. Any modification, deletion, or revision to approved plans or conditions shall only be made upon a request being submitted to the zoning administrator , on a form approved by ~~the City~~the City zoning administrator, requesting the modification, deletion, or revision. The zoning administrator shall determine if the requested modifications, deletions, or revisions represent a substantial change to the approval. If it is determined that the requested modifications, deletions, or revisions are in substantial compliance with the approval, the zoning administrator shall issue a substantial compliance statement to the applicant. In the event it is determined the requested modifications, deletions, or revisions are not substantially in compliance with the approval the zoning administrator may require the application to be resubmitted and reviewed in the manner set forth in this section.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-205. - Permitted uses.

Any use listed as a permitted use in a zoning district may be permitted subject to obtaining a building permit and site plan approval, business tax receipt and certificate of use, as may be ~~if~~ required by these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-206. ~~–~~ Site ~~Site~~ plan review.

A. Administrative site plan review by the ~~community planning and development~~community planning and development department~~building and zoning department~~ shall be required for minor development/redevelopment as depicted on the use chart in ~~article~~Article 4, Division 2, Ssection 4-2~~3~~02.

B. Site plan review shall be required by the DRC of any proposed development that:

1. Increases the gross impervious area of any property by more than five thousand (5,000) square feet;
2. Involves development of ten (10) percent or more of the site area; or
3. Reconstructs a structure following substantial destruction by fire or other calamity.

C. ~~Building and zoning department community planning and development~~The community planning and development department~~ may~~ may determine that a site plan is required for development not covered by subsection 3-206(A)~~.~~ or (B)~~.~~ and the director shall consult such other city departments as may be determined to be necessary in the review of the application.

D. Upon receipt of a preliminary site plan application under the provisions of subsection 3-206(B)~~.~~, the ~~director of building and zoning community planning and development~~zoning administrator~~ department~~ shall schedule a DRC meeting to present the proposed plan.

1. Public works shall review the site plan for:
   a. Water and sewer;
   b. Stormwater;
   c. Sanitation;
   d. Public right-of-way, including sidewalks;
   e. Public facilities concurrency;
   f. Traffic circulation and impacts.
2. Parks and recreation department shall review the site plan for:
   a. Consistency with the park master plan;
   b. Landscape design and energy conservation;
   c. Park concurrency;
   d. Florida friendly plant list.
3. Police shall review the site plan for:

a. Environmental safety design techniques for crime prevention (CPED);

b. Defensible space design approaches.

4. ~~Community planning and development~~Community planning and development department shall review the site plan for:

a. Consistency with comprehensive plan's goals, policies and objectives;

b. Compliance with these LDRs;

c~~b~~. Concurrency requirements;

d~~e~~. Transportation mitigation strategies; and

~~d. Consistency with these land development regulations; and~~

e~~e~~. Sustainable building program~~.~~;

~~f. Consistency with these LDRs.~~

~~5. Building and zoning shall review the site plan for:~~

~~a. Consistency with these LDRs.~~

6~~5~~. Community redevelopment agency shall review the site plan for:

a. Consistency with the CRA plan.

E. At the DRC meeting where a new site plan is being presented, members of the committee will receive copies of the proposed site plan. Within five~~twelve~~ (5~~12~~) business days of the DRC meeting, members of the committee shall provide the ~~building and zoning department~~ community planning and development department with comments.~~—~~ Notice of the application shall be given to the mayor and ~~city council~~c~~C~~ity c~~C~~ouncil. Mayor and councilmember comments on the site plan may be made to the director of community planning and development.

F. Upon receipt of all preliminary review comments, the community planning and development department~~building and zoning department~~ shall compile each of the comments into a comprehensive development review report and submit such report to the applicant.

G. Once corrections are made as requested by the DRC, the applicant shall submit copies of a final site plan. The community planning and development department~~building and zoning department~~ shall transmit~~place~~ the final site plan ~~on the agenda of the next regularly scheduled meeting~~ to~~of~~ the members of the DRC for final approval and signatures, if all outstanding comments have been addressed.~~by each member of the DRC.~~

H. After receiving final site plan approval, the applicant may apply for a building permit. If another approval is required, such as a conditional use or a variance, simultaneous applications may be considered in accordance with applicable procedures in this ~~article~~Article.

I. If a building permit is not applied for pursuant to an approved site plan within eighteen (18) months of approval, then the site plan approval shall expire, unless the director of community planning and development grants an extension of time not to exceed an additional six (6) months.

J. -Applicability, substantial compliance. Where there has been a final development order issued an applicant may request a substantial compliance determination of any modification, deletion, amendment or revision to the development order as it impacts the approved plans, declaration of restrictive covenants, or any other condition of approval, which, if granted shall not require the modification, deletion, amendment, or revision to be reviewed as otherwise required in this chapter.

K. Application substantial compliance determination. Prior to the implementation of any modification, deletion, amendment or revision to the final development order as it impacts the approved plans, declaration of restrictive covenants, or any other conditions of approval, an applicant may file an application in a form approved by the zoning administrator for a substantial compliance determination. The application shall be accompanied by a fee, and contain a statement as to the basis upon which the substantial compliance determination is asserted together with documentation required by ~~the city~~the City and other documentary evidence supporting the claim. The administrative official shall review the application and based upon the evidence submitted and the review criteria set forth in this section shall make a determination within 30 days as to whether the request is substantially in compliance with the original approval.

L. Criteria for review of substantial compliance determination request. Upon direct application in specific cases for a substantial compliance determination the zoning administrator may grant approval, approval with conditions, or deny the request after consideration of the following:

    a. The request is consistent with the basic intent and purpose of the land development, subdivision and other regulations set forth in this chapter, which are to protect the general welfare of the public, particularly as it affects the stability and appearance of the community. The request will not be detrimental to the community;
    b. The request will have a significant adverse effect upon the value of properties in the immediate vicinity;
    c. The request changes the community design, architecture, or layout and orientation of buildings, open space, or amenities that is inconsistent with and deleterious to the aesthetic character of the immediate vicinity;
    d. The requested increases the density, massing, intensity, or height, or decreases the dimensional requirements or numerical requirements, or changes the use of the subject property that it represents an obvious and significant departure from the original approval and/or the established development pattern of the immediate vicinity which will have a deleterious effect on its community character;
    e. The request may result in a substantial degradation of localized traffic patterns or a substantial adverse impact on the roadway network;
    f. The request may result in unmitigated demands on potable water, sanitary sewer, or stormwater treatment systems, which exceed the capacity of those systems;
    g. The request creates a new or continued and substantial risk to human life or safety or to the environment, or a nuisance.

M. Appeals. The administrative official's decision shall be subject to appeal, by only the applicant for substantial compliance determination, to the zoning appeals board as an appeal of an administrative interpretation. Such notice of appeal filed shall be filed with the zoning administrator within 30 days after the zoning administrator's written decision, subject to the provisions of sec. 3-702.

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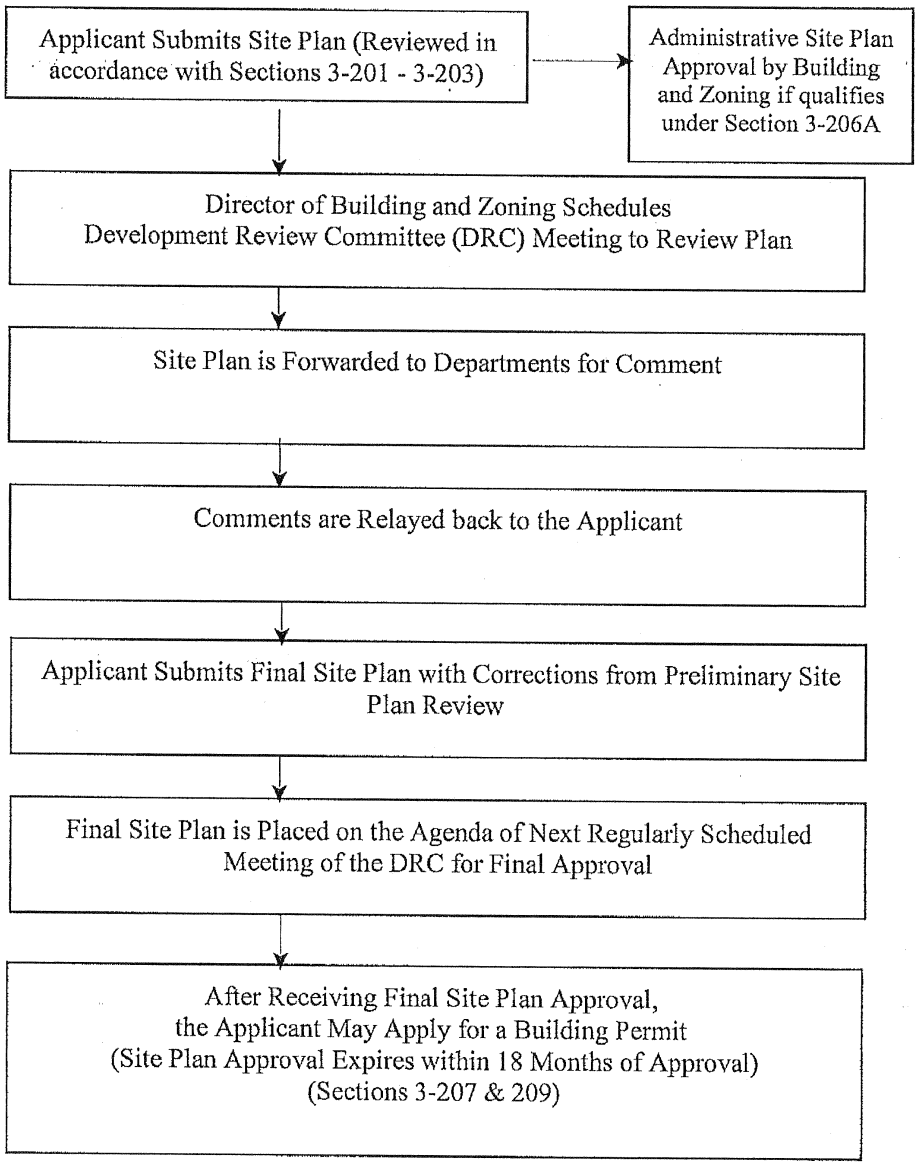
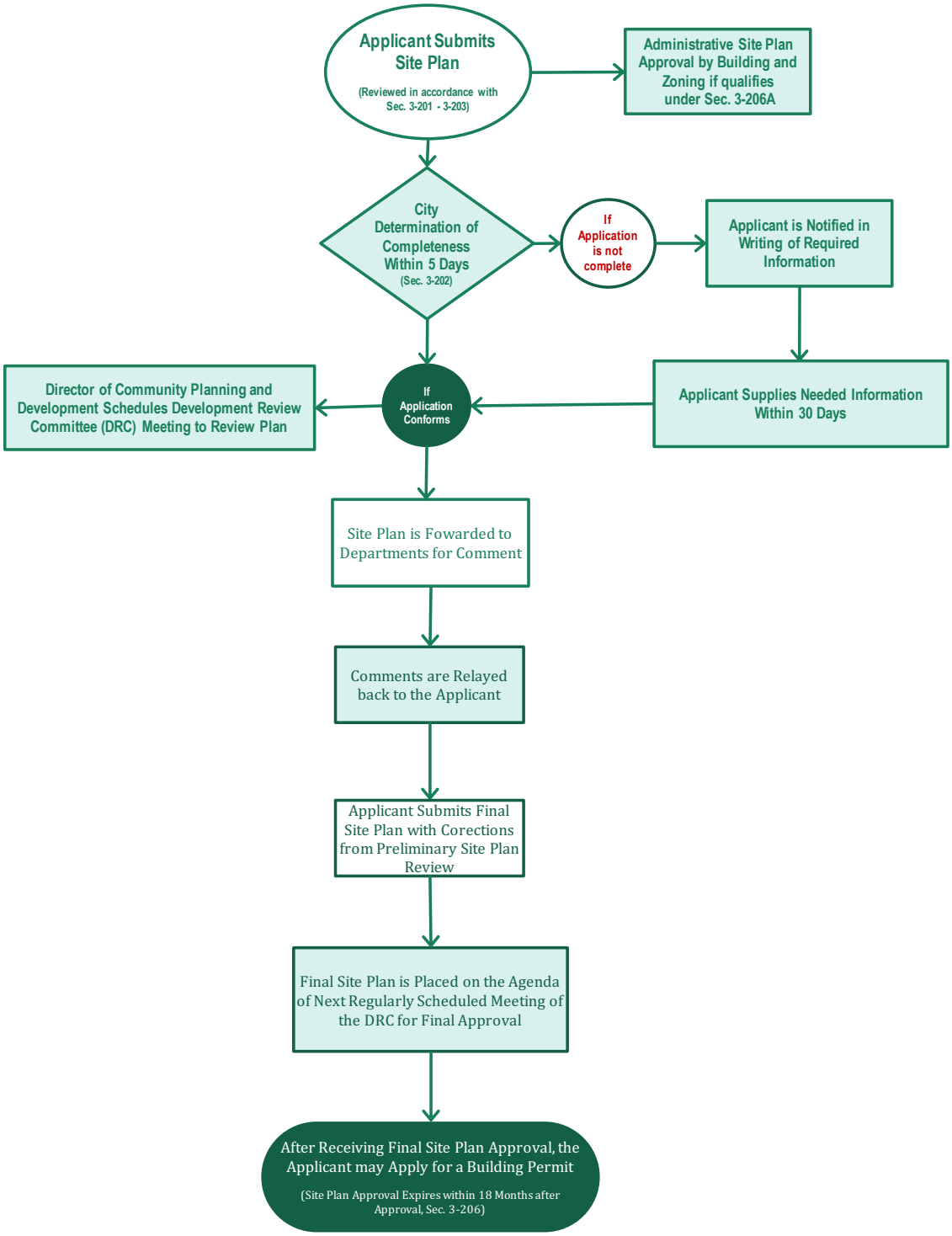
~~Site Plan Review~~




~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

## Site Plan Review



Sec. 3-207. - Building permit.

~~A.~~ Permit required.

1. No person shall construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or any outside area being used as part of the building's designated occupancy or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the Florida Building Code, or to cause any such work to be done, without first making application to the building services ~~and zoning~~ department and obtain the required permit for the work.
2. All building permits and sign permits shall be in conformity with these LDRs and any applicable development approval related to the parcel proposed for development.
3. ~~Application for permits will be accepted only from persons currently licensed in their respective fields and for whom no revocation or suspension of license is pending; provided however, a private homeowner may make application and if approved obtain a permit and supervise work in connection with the construction, maintenance, alteration or repair of a single-family residence or duplex for his own use and occupancy and not intended for sale and may make application for, and if approved, obtain a permit for maintenance and minor repairs on any type of building. The construction of more than one (1) residence or duplex by an individual owner in any twenty-four-month period shall be construed as contracting, and such owner shall then be required to be licensed as a contractor. Such licensed contractor or owner shall be held responsible to the building official for the proper supervision and conduct of all work covered thereby.~~

~~B. Procedure. All applications and plans for building permits shall be submitted to the building and services zoning department. Upon receipt of an application and plans, city staff shall determine whether the application and plans conforms to these LDRs and any applicable development approval. If the building and serviceszoning department determines that the application and plans does not conform, the applicant shall be informed of the decision. If the building and serviceszoning department determines that the application and plans does conform, the application and plans shall be referred to the building official who shall determine whether the application and plans conforms to all applicable requirements contained in the Florida Building Code. If the building official determines that the application and plans does conform, the building permit shall be issued, provided there are no open code violations or unpaid code enforcement fines. If the building official determines that the application and plans does not conform, he shall identify the application and plans' deficiencies and deny the application and plans.~~

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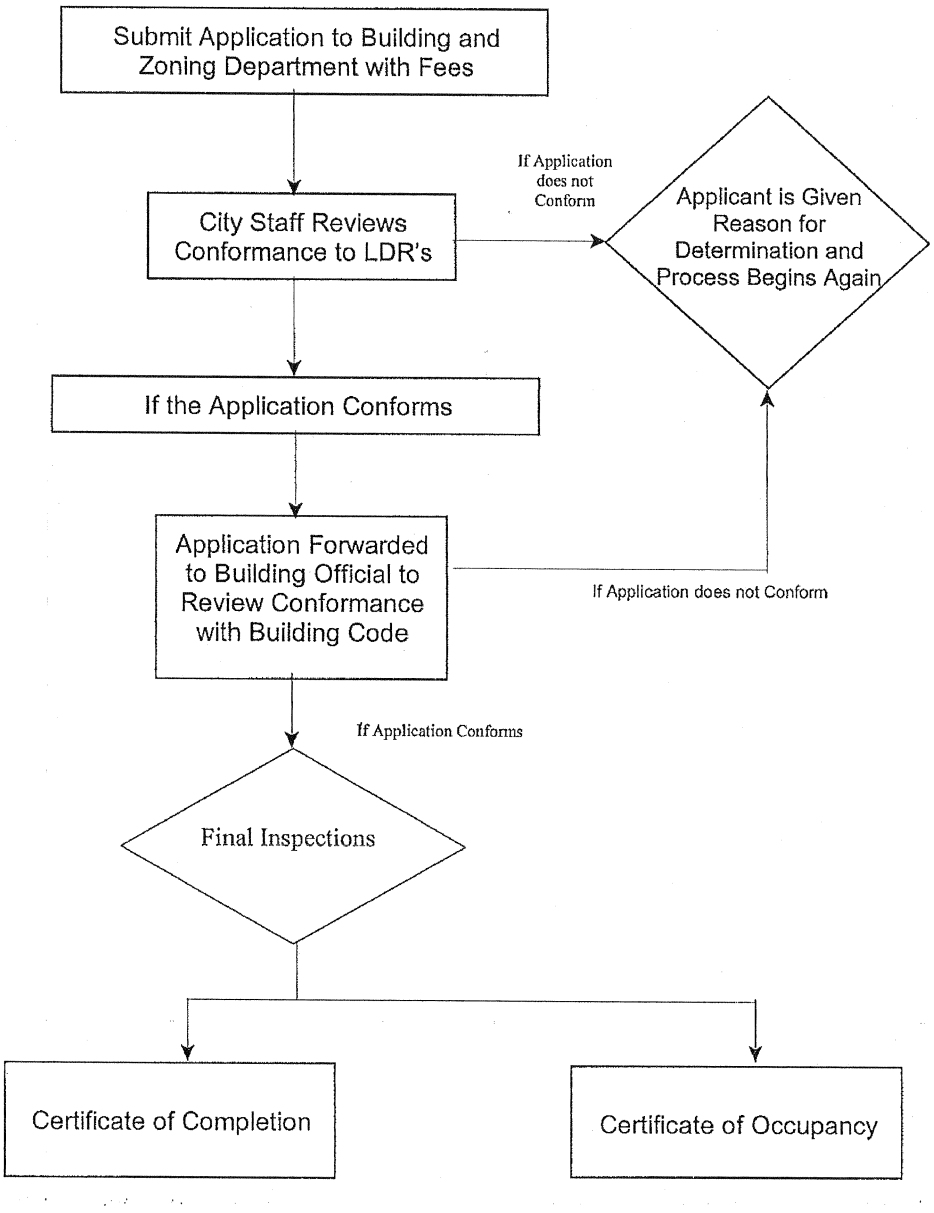
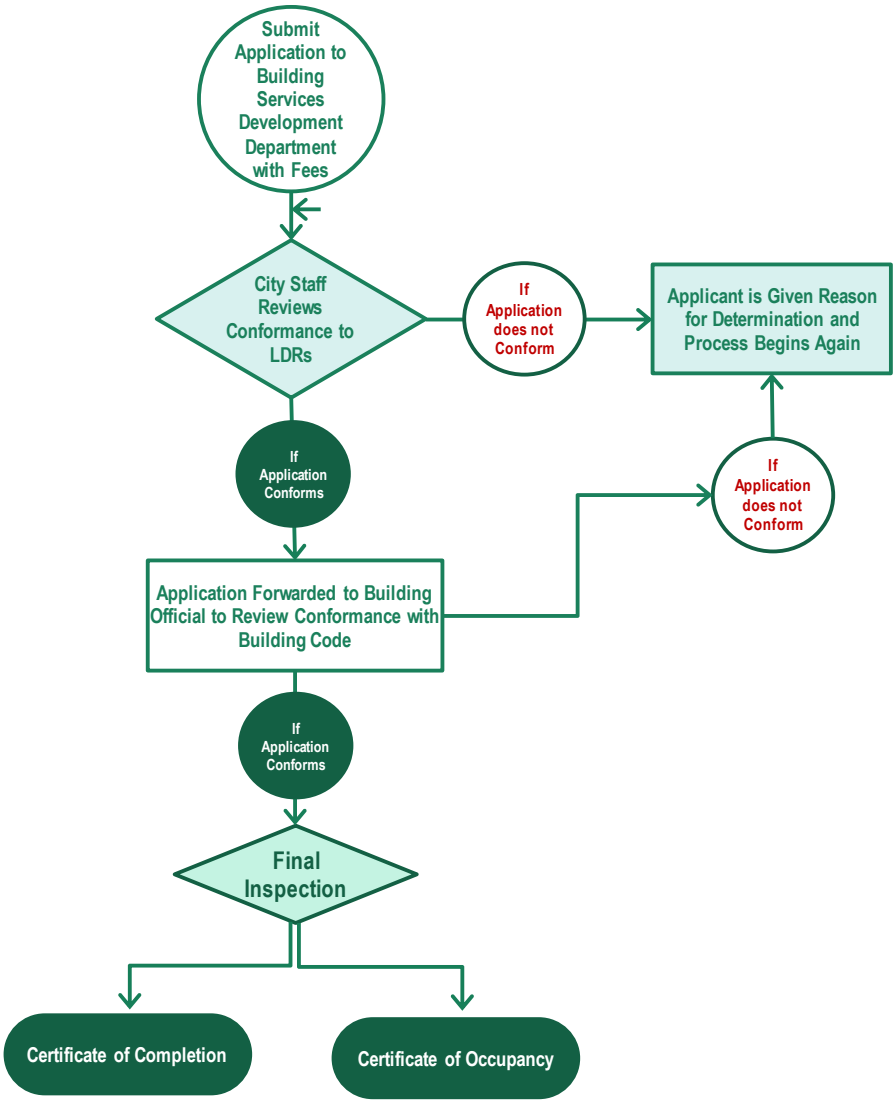
~~Building Permit~~




(Ord. No. 1278, § 1(exh. 1), 4-28-09)

**Building Permit**




Sec. 3-208. – Zoning Improvement Permits.

Certain buildings, structures, improvements and installations are exempted by the Florida Building Code from building permit issuance, but must otherwise comply with the minimum requirements of this chapter. Therefore, such buildings, structures, improvements and installations shall be subject to review under the Zoning Improvement Permit (ZIP) standards contained in this section, as well as the regulations of the underlying zoning district and other applicable provisions of these LDRs.

The following buildings, structures, improvements and installations shall require a ZIP from the community planning and development department:

1. Chickee huts constructed by Miccosukee or Seminole Indians (Florida Statutes);
2. Decorative reflective pools and fishponds that contain water less than 24 inches deep, that contain less than 250 square feet in area, and contain less than 2,250 gallons in volume;
3. Decorative garden-type water fountains;

The community planning and development director shall have the authority to require ZIP review for other buildings, structures, improvements and installations that are newly created or come about by changes in the state or local building codes.

In the event any portion of the subject property is contiguous to or across the street from a municipal boundary, applicant shall submit a boundary survey performed in accordance with Chapter 61G17-6.0031, Florida Administration Code.

The submittal of plans shall be necessary to fully advise and acquaint the issuing department with the location and use of the buildings, structures, improvements and installations, and such plans must accompany the application for a ZIP. The Miami-Dade county's environmental resources management and fire rescue department shall review the submitted plans only to the extent of their respective jurisdiction under the Code of Miami-Dade County. In the event there is a question as to the legality of a use, the community planning and development director may require affidavits and such other information as may be deemed appropriate or necessary to establish the legality of the use, before a ZIP permit is issued.

Sec. 3-209. - Permit to move building; bond.

(a) No building or structure shall be moved from one (1) lot or premises to another, unless such building or structure shall thereupon be made to conform with all the provisions of this chapter relative to building or structures hereafter erected upon the lot or premises to which such buildings or structures shall have been moved.

(b) The community planning and development director is hereby authorized to require any person applying to obtain a permit to move a building or structure from one (1) lot or premises to another, to post a bond, either in cash or surety company bond, meeting with the approval of the Director in a sum not to exceed two thousand five hundred dollars ($2,500.00), deposited with the City Clerk, if a cash bond, or if a surety bond, payable to the City, conditioned upon the applicant's compliance in all respects with the building and zoning codes pertaining to the area on which such a building shall have been moved.

(c) A building shall not be moved on, across or along a public highway without a permit being obtained from the City. A building to be moved shall be routed over highways and bridges as directed by the public works director.

Sec. 3-210. - Buildings on through lots.

Where a lot extends through from one (1) street to another, the setback requirement for each such street shall be complied with and any building shall have dual facing. Lots which have a decorative wall as defined in Section 5-1209 along the rear property line as required by plat shall not be considered through lots.

Sec. 3-211~~09~~8. - Certificate of occupancy.

A certificate of occupancy (CO) is required for all new construction. A certificate of occupancy (CO) can be issued by the building official after all applicable final inspections are approved, all required documents are filed with the building official and all applicable fees are paid.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-212~~00~~9. - Certificate of completion.

A certificate of completion (CC) is required for all substantial remodeling, renovations and rehabilitations without any change in use. A certificate of completion (CC) can be issued after all applicable final inspections are approved, all required documents are filed with the building ~~and~~ services ~~zoning~~ department and all applicable fees, and code enforcement fines are paid.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-213~~1~~0. - Certificate of re-occupancy.

A. Purpose. The purpose of this section is to ensure that prior to residential property being conveyed to new ownership, ~~the city~~the City is able to confirm that the property meets the current city zoning requirements; that the premises are being used solely for residential purposes; and that there are no previously existing and cited uncorrected life safety code violations on the property.

B. Single-family, duplex, triplex and condominium units. It shall be unlawful for any person, entity or corporation to buy, sell, convey or transfer a single-family, duplex, triplex or condominium dwelling unit, unless a certificate of re-occupancy has been issued by the building official or his or her designee. The certificate of re-occupancy, if issued, shall state that the building official or his or her designee has inspected the dwelling and has determined that the dwelling meets the provisions of the land development regulations of ~~the city~~the City pertaining solely to the requirement that each individual unit is used, designed or intended to be used as a single-family, duplex, triplex or condominium dwelling unit and that the dwelling unit has not been altered and conforms to its zoning designation. A certificate of re-occupancy shall not be required for the original transfer or conveyance of a newly constructed single-family, duplex, triplex or condominium dwelling unit.

C. Apartment complex. It shall be unlawful for any person, entity or corporation to buy, sell, convey or transfer an apartment or building complex consisting of four (4) or more units unless a certificate of re-occupancy has been issued by the building official or his or her designee. The certificate of re-occupancy, if issued, shall state that the building official or his or her designee has inspected the dwelling and has determined that the dwelling meets

the provisions of the land development regulations of ~~the city~~the City pertaining solely to the requirement that each individual unit is used designed or intended to be used as an apartment or building unit and that the unit has not been altered and conforms to its zoning designation. A certificate of re-occupancy shall not be required for the original transfer or conveyance of a newly constructed apartment or building complex.

D. Certificate of re-occupancy application.

1. Applications for a certificate of re-occupancy shall be made by the seller, owner or the designated agent, upon a form provided by ~~the city~~the City along with the payment of an inspection fee.

2. Upon receipt of the application and fee, a city inspector shall inspect the dwelling within ten (10) days and, if such dwelling is found to be in conformity with the provisions of subsection A. or B. above, a certificate of re-occupancy shall be issued. If the dwelling is not in conformity with such provisions, the building official or his or her designee shall indicate by itemized list, corrective action and the certificate of re-occupancy shall be withheld unless and until such provisions are complied with, to the reasonable satisfaction of the building official.

3. The fee for re-inspection, to be paid by the applicant, shall be promulgated by ~~the city~~the City. An expedited inspection or re-inspection fee shall be paid by the applicant, if the applicant requests for an inspection or re-inspection to be completed within five (5) business days of receipt of the application.

E. Restriction on inspection. Inspections under this section shall be limited to ensuring compliance with zoning requirements and dwelling use. Information gained or conditions observed, including life safety violations, other than as to the dwelling use or zoning designations addressed in subsections A. or B. of this section, during the course of any inspection under this section, shall not be utilized as the basis for denying a certificate of re-occupancy. This shall not preclude the bringing of code enforcement actions against the property for violations observed during the inspection.

F. Conditional certificate of re-occupancy. A certificate of re-occupancy may not be issued should there be previously existing and cited uncorrected life safety code violations on the dwelling. In the event that there are previously existing and cited uncorrected life safety code violations, a conditional certificate of re-occupancy may be issued subject to terms set by the building official. ~~The city~~The ~~manager~~City Manager shall have authority to enter into settlement agreements and issue the conditional certificates of re-occupancy, which shall be executed by the buyer and seller. The fee for a conditional certificate of re-occupancy shall be promulgated by ~~the city~~the City. Prior to the issuance of the conditional certificate of re-occupancy, all code enforcement fines must be satisfied.

G. Penalties. Any property for which an approved re-occupancy or conditional re-occupancy certificate is not obtained prior to the transfer of title shall be subject to a fine equivalent to the expedited application fee, payable at the time the late application is filed plus any fines assessed by the code enforcement special magistrate under code enforcement violation proceedings.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1324, § 1, 12-3-11; Ord. No. 1381, § 1, 10-14-14)

Sec. 3-212~~1~~. - Resubmission of application affecting same property.

If an application for conditional use permit, special exceptions, variances, appeals, text amendments to the LDRs and/or zoning map amendments, comprehensive plan text and/or map amendments, and abandonment and vacation of right-of-ways and easements, is denied by the City Council or the board of adjustment, another similar request on the same property or portions thereof shall not be accepted within a one (1) year period. If the City Council or the board of adjustment specifies that the denial of the application is made without prejudice, or if the City Council or the board of adjustment makes a determination that significant new material or facts are present, which justify reconsideration of the application and thereby grants specific approval for refiling of the application, said one (1) year waiting period may be waived.~~No application shall be accepted during the following time periods after the denial of a substantially similar application affecting the same property or any portion thereof: .~~

~~A. Conditional uses, special exceptions, variances, and appeals: , twelve (12) months. Rrezonings, LDR text amendments, comprehensive land use plan amendments and application for abandonment and vacation of nonfee interests: twelve (12) months, unless the denial was without prejudice, then re-application may be made at any timeafter 18 months.~~

~~B. Rezonings, LDR text amendments, comprehensive land use plan amendments and application for abandonment and vacation of nonfee interests: twelve (12) months, unless the denial was without prejudice, then re-application may be made at any time.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-213~~2~~. - Certificate of use.

A. Certificate of use required.

1. No building ~~structure~~, other than a single-family residence or duplex, shall be used or enlarged, or any new use made or enlarged of any land, body of water, or structure, without first obtaining a certificate of use (CU) from the department of community planning and development. Notwithstanding the foregoing, home occupational and community residential uses to be conducted within a single-family residence or duplex shall obtain a CU. Said CU shall be required for each individual business and each multi-family building located within ~~the city~~the City. No person shall use or permit the use of any structure and/or property hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a CU reflecting the use, extent, location, transfer of ownership and other matters related to this section shall have been issued to the property owner. Where a building permit is involved, the provision of a certificate of use shall be part of the building permit application review and approval process. Otherwise, an application shall be made to the zoning administrator on forms provided by ~~the city~~the City.

~~2. Any use for which a CU has been approved and issued must commence within one hundred eighty (180) days of CU approval, or said approval shall be deemed null and void.~~

2. ~~3.~~ When granted, a CU, together with any conditions or safeguards attached, shall apply to the land, building ~~structure~~, or use for which it was issued, and shall be binding upon heirs and assigns, unless abrogated or altered in the manner set forth in this chapter.

B. Application.

1. Applications for CU are to be completed only by the property owner, its formally designated agent, or a lessee with formal and legally sufficient consent of the property owner. Such applications shall be made on forms provided by the director and shall be accompanied by such plans, reports, or other information, exhibits, or documents as may be reasonably required to make the necessary findings that the applicant is in compliance with zoning requirements. If the application is not in full accord with zoning regulations, the application shall be denied and the applicant notified in writing of the reasons for such denial.

2. The property owner may also be subject to the following disclosure requirements:

   a. A statement describing in detail the character and intended use of structure and/or property;

   b. Boundaries of the property, any existing streets, buildings, watercourses, easements, and section lines;

   c. Exact location of the structure and/or property;

   d. Access to utilities and points of hookups;

   e. Storm drainage and sanitary sewerage plans;

   f. Such additional data, maps, plans, or statements as may be required for the particular use involved.

3. Completed applications with the appropriate fee shall be filed with the department of ~~community planning and development~~community planning and development. No application shall be deemed to have been filed unless and until the application is completed with all plans, reports, or other information, exhibits, or documents required hereto shall have been provided, and all fees due at time of filing shall have been paid.

4. During the processing of an application, if it is determined by the director that additional information is required, failure to supply such information may be used as grounds for denial of CU. In the event the director denies an application pursuant to this section, the applicant may appeal the decision of the director in accordance to subsection I.2. below.

C. Certificate of use renewal.

1. Except for CUs required by code or zoning regulation to be renewed annually, and except for CUs issued on a temporary basis, certificates of use shall remain valid for one (1) year commencing October 1 through September 30, unless otherwise revoked for cause. The CU is only valid for the specific address, business name, corporate name and type of business for which it was issued. A new CU shall be required for any changes in use, name or ownership interest, expansion of square footage occupied, the

inclusion of additional uses, or when changes to the structure have been approved by final building inspection.

2. No CU shall be issued to any person, firm, or corporation for the sale of alcoholic beverages to be consumed on or off the premises where the proposed place of business does not conform to the distance requirements of section 3-11 of ~~the City~~the City Code, unless a variance is first obtained.

D. Conformity with laws.

1. The certificate of use shall show that the use of a structure and/or property is in conformity with applicable city and Miami-Dade County (county) codes, as amended from time to time. It shall be the duty of the director of ~~community planning and development~~community planning and development or his/her designee (director) to issue a CU if the director finds that all applicable city and county requirements have been complied with as of the date of issuance, or to withhold a CU until such time the director finds that all applicable city and county requirements are satisfied, including abatement/satisfaction of open code violations and payment of any code enforcement fines.

2. In the event there is a question as to the legality of a use, the director may require inspections, affidavits and such other information deemed appropriate or necessary to establish the legality of the use. Additionally, ~~the city~~the City shall have the right to periodically inspect premises at any reasonable time to ensure the existence of a current and valid CU and to ensure compliance with applicable city and county laws, under which the CU was issued.

E. Certificate issued in error.

1. A certificate of use issued in error shall not confer any rights to the person or entity in possession of the certificate, and upon a finding by the director of community planning and development that a certificate has been so issued, it shall be considered null and void.

2. No certificate of use shall be deemed or construed to authorize a violation of any provision of these LDRs, and such certificates of use shall be deemed or construed to be valid only to the extent that the use, location, or other matters related to these LDRs are lawful.

3. Issuance of a CU, in reliance upon the information presented during the application process, shall not prevent the director from taking any of the following actions:

   a. Require necessary corrections on the application documents;

   b. Require the abatement of any violation of use of structure and/or property; and

   c. Revoke, or otherwise withhold the certificate of use.

F. Certificate of use fee.

1. The department of community planning and development shall charge a certificate of use application fee in the amount prescribed from time to time by resolution of the ~~city~~

~~council~~City Council. The fee is to be paid by all applicants prior to the issuance of the certificate of use.

2. The certificate of use fee may be adjusted annually by an amount equal to the rate of increase in the Consumer Price Index (CPI) or from time to time by resolution of ~~city council~~City Council.

3. Unless otherwise provided, for each new certificate of use obtained between October 1st and March 31st, the full fee amount shall be paid, and for new certificate of use obtained from April first to September 30th, one-half (½) of the full fee amount for one (1) year shall be paid.

G. Administration.

1. ~~The city~~The ~~manager~~City Manager or ~~his/her~~ designee shall be responsible for the administration and enforcement of this section, prevent violations or detect and secure their correction, and investigate promptly complaints of City Code violations, with such assistance as ~~the city~~the ~~manager~~City Manager may direct.

2. It shall be the duty of all employees of ~~the city~~the City, and especially of all officers and inspectors of the department of ~~community planning and development~~community planning and development, the code enforcement division, and the police department, to report to the director any apparent violation.

3. If any structure is erected, constructed, reconstructed, altered, repaired, or maintained, or any structure, land, or waterway is used in violation of any regulation herein contained, enforcement procedures shall be initiated before a special magistrate as provided in chapter 2, divisions 5.2 and 5.3 of ~~the City~~the City Code.

H. Violations and enforcement.

1. If ~~the city~~the ~~manager~~City Manager or ~~his/her~~ designee ~~director~~ shall find that any of the provisions of this chapter or City Code are being violated, notification shall be made in writing to the owner of the property where the violation is occurring, indicating the nature of the violation and ordering action necessary to correct it.

2. If the violation continues, ~~the city~~the ~~manager~~City Manager or ~~his/her~~ designee ~~director~~ may initiate enforcement procedures pursuant to chapter 2, divisions 5.2 and 5.3 of ~~the City~~the City Code. The director, in addition to other remedies, may also institute any appropriate civil action or proceedings in the circuit court for Miami-Dade County, to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, and to restrain, correct, or abate such violation, to prevent the occupancy of said structure, land or waterway, and to prevent any illegal act, conduct of business, or use in or about such premises.

3. Any person, firm or corporation violating or failing to comply with the requirements of this section may be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars ($500.00) or imprisonment for a term not exceeding sixty (60) days, or both such fine and imprisonment at the discretion of the court.

I. Nonrenewal and revocation of certificate of use.

1. The ~~director city manager~~City Manager or ~~his/her~~ designee is authorized to deny or revoke a CU for cause. The following constitute adequate grounds ~~for the director~~ to deny or revoke a CU:

    a. The use or activity on the property is conducted without a business tax receipt or with an unpaid balance of business tax for the previous year.

    b. The applicant has obtained a CU by misleading, and or deceptive information or by making false statements that were relied upon by ~~the city~~the City in issuing the CU.

    c. Unless the violation is cured subsequent to being issued a CU, the property owner was convicted of, or has pled guilty to, a state or federal law violation, or to a city or county ordinance violation, which violation occurred as a part of the main business use.

    d. The property owner, lessee or sub-lessee is conducting a business which is not in compliance with a city or county code, state or federal law or regulation.

    e. There is a pending judgment, order, injunction or decree entered by a court or tribunal of competent jurisdiction against the property owner, which is prohibiting the property owner from engaging in the use or activity for which property owner seeks a CU.

    f. The property owner currently has existing liens on property or unpaid code enforcement fines and or penalties.

2. The property owner may appeal the decision ~~of the director~~ denying or revoking the CU, by a written petition requesting a hearing before the zoning appeals board ~~board of adjustment,~~ as required under ~~chapter 29, article 2, section 2-301 of the City~~the City Code. The request for such a hearing must be made pursuant to chapter 29, ~~article~~Article 3, section 3-~~702~~ 701 of ~~the City~~the City Code.

3. The property owner may appeal an order of the ~~board of adjustment~~zoning appeals board by filing a petition with a court of competent jurisdiction. Such appeal shall be filed within thirty (30) days of the date of ~~issuance~~ filing of the order by the board ~~of adjustment.~~ with the clerk.

4. If a CU is denied or revoked under this section, ~~the city~~the City shall be entitled to recover its reasonable attorneys' fees and any costs of the hearing such as court reporters and transcription charges expended by ~~the city~~the City.

J. Records. The director shall maintain records of all official administrative actions and of all violations discovered by whatever means, including all complaints and responses made in regard thereto, with remedial action taken and disposition of cases.

K. Exemption from fees. ~~The city~~The City, Miami-Dade County, the state, and the United States of America shall be exempted from the payment of any fee for a certificate of use where the work is done wholly by personnel of any such agency.

(Ord. No. 1284, § 1, 10-27-09; Ord. No. 1323, § 1, 11-8-11; Ord. No. 1332, § 1, 4-24-12)

Sec. 3-214. – Unity of title; covenant in lieu thereof.

The term "unified development site" shall be defined as a site where a development is proposed and consists of multiple lots, all lots touching and not separated by a lot under different ownership, or a public right of way. A "unified development site" does not include any lots separated by a public right-of-way or any non-adjacent, non-contiguous parcels. All applications for building permits where buildings and/or improvements are proposed for a single lot, or where building(s) are proposed for a unified development site, shall be accompanied by one of the following documents:

A. Unity of Title. A unity of title shall be utilized when there is solely one owner of the entire unified development site. The unity of title, approved for legal form and sufficiency by the city attorney, shall run with the land and be binding upon the owner's heirs, successors, personal representatives and assigns, and upon all mortgagees or lessees and others presently or in the future having any interest in the property; or

B. Covenant in Lieu of Unity of Title. A covenant in lieu of unity of title or a declaration of restrictive covenants, shall be utilized when the unified development site is owned, or is proposed for multiple ownership, including, but not limited to, a condominium form of ownership. The covenant in lieu of unity of title shall be approved for legal form and sufficiency by the city attorney. The covenant in lieu of unity of title shall run with the land and be binding upon the owner's heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest in the property. The covenant shall contain the following necessary elements:

   a. The unified development site shall be developed in substantial accordance with the approved site plan.

   b. No modification to the site plan shall be effectuated without the written consent of the then owner(s) of the unified development site for which modification is sought.

   c. Standards for reviewing a modification to the site plan. A modification may be requested, provided all owners within the original unified development site, or their successors, whose consent shall not be unreasonably withheld, execute or consent to the application for modification. The director of the city's community planning and development department shall review the application and determine whether the request is for a minor or substantial modification. If the request is a minor modification, the modification may be approved administratively by the director. If the modification is substantial, the request will be reviewed by the DRC, after public hearing. This application shall be in addition to all other required approvals necessary for the modification sought. A minor modification would not generate excessive noise or traffic; tend to create a fire or other equally or greater dangerous hazard; provoke excessive overcrowding of people; tend to provide a nuisance; nor be incompatible with the area concerned when considering the necessity and reasonableness of the modification in relation to the present and future development of the area concerned. A substantial modification may also include a request to

modify the uses on the unified development site, the operation, physical condition or site plan. Substantial modifications shall be required to return to the appropriate development review board or boards for consideration of the effect on prior approvals and the affirmation, modification or release of previously issued approvals or imposed conditions.

d. That if the unified development site is to be developed in phases, that each phase will be developed in substantial accordance with the approved site plan.

e. In the event of multiple ownerships, subsequent to site plan approval that each of the subsequent owners shall be bound by the terms, provisions and conditions of the covenant in lieu of unity of title. The owner shall further agree that he or she will not convey portions of the subject property to such other parties unless and until the owner and such other party or parties shall have executed and mutually de~~ve~~livered, in recordable form, an instrument to be known as an "easement and operating agreement" which shall include, but not be limited to:

i. Easements for the common area(s) of each parcel for ingress to and egress from the other parcels;

ii. Easements in the common area(s) of each parcel for the passage and parking of vehicles;

iii. Easements in the common area(s) of each parcel for the passage and accommodation of pedestrians;

iv. Easements for access roads across the common areas(s) of the unified development site to public and private roadways;

v. Easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in the unified development site;

vi. Easements on each parcel within the unified development site for construction of buildings and improvements in favor of each such other parcel;

vii. Easements upon each such parcel within the unified development site in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;

viii. Easements on each parcel within the unified development site for attachment of buildings;

ix. Easements on each parcel within the unified development site for building overhangs and other overhangs and projections encroaching upon such parcel from the adjoining parcels such as, by way of example, marquees, canopies, lights, lighting devices, awning, wing walls and the like;

x. Appropriate reservation of rights to grant easements to utility companies;

xi. Appropriate reservation of rights to road right-of-ways and curb cuts;

xii. Easements in favor of each such parcel within the unified development site for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and

xiii. Appropriate agreements between the owners of the unified development site as to the obligation to maintain and repair all private roadways, parking facilities, common areas and common facilities and the like.

xiv. Such easement and operating agreement shall contain such other provisions with respect to the operation, maintenance and development of the property as to which the parties thereto may agree, or the community planning and development director may require, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan. The community planning and development department shall treat the unified site as one site under these land development regulations, regardless of separate ownerships. These provisions or portions thereof may be waived by the director if they are not applicable to the subject property (such as for conveyances to purchases of individual condominium units). These provisions of the easement and operating agreement shall not be amended without prior written approval of the city attorney.

f. The declaration of restrictive covenants shall be in effect for a period of 30 years from the date the documents are recorded in the public records of Miami-Dade County, Florida, after which time they shall be extended automatically for successive periods of ten years unless released in writing by the then owners and the community planning and development director, acting for and on behalf of North Miami, Florida, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the property for the purposes herein intended.

g. Enforcement of the declaration of restrictive covenants shall be by action at law or in equity with costs and reasonable attorneys' fees to the prevailing party.

DIVISION 3. - UNIFORM NOTICE AND PROCEDURE FOR PUBLIC HEARINGS

Sec. 3-301. ~~–~~ Intent and purpose. The intent of this section is to establish procedures to ensure procedural due process and maintain citizen access to the local government decision-making process relating to the approval of applications requiring quasi-judicial and legislative hearings. This policy shall be applied and interpreted in a manner recognizing both the legislative and judicial aspects of the local government decision-making process relating to site-specific parcels.~~Applicability.~~ The procedures set out in this division shall be applicable to all public hearings required by any provision of these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-302. - Notice.

In every case where a public hearing is required pursuant to these LDRs, city staff shall provide a notice of public hearing in the manner set out in this section.

A. Publication. The requirements for this type of notice shall be as follows:

1. Notice shall be published at least one (1) time in the non-legal section (unless specified otherwise) of a newspaper of general circulation published in ~~the City~~the City of North Miami, or in Miami-Dade County, Florida, at least ten (10) days prior to the date of any required public hearing.

2. The notice of hearing shall state the date, time and place of the meeting; the titles of the proposed ordinances or resolution or a description of the substance of the matter being considered; and the place within ~~the city~~the City where the proposed ordinances or other materials may be inspected by the public. The notice shall also state that interested parties may appear at the meeting and be heard with respect to the matter.

3. A copy of the notice shall be available for public inspection at city hall during the regular business hours of ~~the city~~the City.

4. Notice for ordinances that change the actual list of permitted, conditional or prohibited uses, within a zoning category/district, or ordinances initiated by ~~the city~~the City that change the actual zoning map designation of a parcel or parcels of land involving ten (10) contiguous acres or more, shall be published at least ten (10) days prior to the planning commission public hearing, again at least seven (7) days prior to the first ~~city council~~City Council public hearing and again at least five (5) days prior to the second ~~city council~~City Council adoption hearing. Public notice shall be provided as described in the following subsections:

a. The required advertisements shall be no less than two (2) columns wide by ten (10) inches long in a standard size tabloid size newspaper and the headline in the advertisement shall be in a type no smaller than eighteen (18) point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the municipality, not one of limited subject matter, pursuant to F.S. ch. 50. Whenever possible, the

advertisement shall appear in a newspaper that is published at least five (5) days a week unless the only newspaper in ~~the city~~the City is published less than five (5) days a week.

b. The advertisement shall be in substantially the following form:

Notice of (Type) Change

~~The City~~The City of North Miami proposes to adopt the following ordinance or approve the following application: (title of ordinance or description of application).

A public hearing on the ordinance or application will be held on (date) at (time) at (location).

The proposed ordinance or application materials are available for inspection at the office of the department of ~~community planning and development~~community planning and development during normal business hours.

Interested parties may appear at the meeting and will be given the opportunity to be heard on the matter.

Except for amendments which change the actual list of permitted, conditional or prohibited uses within a zoning category, the advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposed ordinance or application. The map shall include major street names as a means of identification of the general area.

c. In lieu of publishing the advertisement set out in this section, ~~the city~~the City may mail a notice to each person owning real property within five hundred (500) feet of the property covered by the ordinance or application. Such notice shall clearly explain the proposed ordinance or application and shall notify the persons of the date, time and location of any public hearing on the proposed ordinance or application. The notice shall also inform the persons that the materials are available for inspection and of their opportunity to attend the meeting and be heard.

5. Ordinances initiated by other than ~~the city~~the City that would change the actual zoning map designation of a parcel of land or parcels of land shall be read by title, in full, at two (2) separate ~~city council~~City Council hearings and shall be published at least ten (10) days before the planning commission meeting and again at least ten (10) days before the ~~city council~~City Council adoption hearing.

6. Notice of small-scale development amendments to the comprehensive land use plan, initiated by someone other than ~~the city~~the City, shall be published at least ten (10) days before the planning commission public hearing and again at least five (5) days before the ~~city council~~City Council adoption hearing.

7. All comprehensive land use plan amendments, other than small-scale amendments, shall be published at least ten (10) days before the planning commission public

hearing, and again at least seven (7) days before the first ~~city council~~City Council meeting, and again at least five (5) days before the ~~city council~~City Council adoption hearing.

8. Failure to provide advertised notice as set forth in the foregoing notice requirements shall not affect any action or proceedings taken under this section unless such notice is required by Florida Statutes.

B. Posting property.

1. Except as provided in subsection B.2., all specific property being considered at a public hearing shall be posted at least ten (10) days in advance of the public hearing, provided however that the posting of specific property shall not be required when the property subject to change constitutes more than ten (10) contiguous acres. Such posting shall consist of a sign, the face surface of which shall not be larger than five hundred seventy-six (576) square inches in area, with black lettering and shall contain the following language:

   [NAME OF DECISION-MAKING BODY]

   NOTICE OF PUBLIC HEARING

   PHONE: _____

   HEARING DATE: _____

   HEARING TIME: _____

   HEARING NO.: _____

   ACTION REQUESTED: _____

   ADDRESS: _____

2. No posting shall be required for meetings of the business development board.

3. The sign shall be erected in full view of the public on each street side of the subject property. Where large parcels of property are involved with street frontages extending over considerable distances, as many signs shall be erected on the street frontage as may be deemed adequate by ~~the city~~the City staff to inform the public.

4. The sign shall be located within the boundaries of the subject property and visible from the street.

5. The height of such sign shall be erected to project not more than seven (7) feet above the surface of the ground.

6. Failure to post specific property shall not affect any action or proceeding taken under the provisions of these LDRs.

C. Mailed notices.

1. Except for meetings before the business development board, a notice of public hearing affecting specific properties containing general information as to the date,

time, place of the hearing, property location and general nature of the application may be mailed to the property owners whose addresses are known by reference to the latest ad valorem tax record, within a five hundred-foot radius. This notification requirement is measured in feet from the perimeter boundaries of the subject property. The expense of mailing notice shall be borne by the applicant.

The ~~community planning and development~~community planning and development department may require that an additional area receive a courtesy notice on any application. The ~~community planning and development~~community planning and development department~~building and zoning department~~ may also require courtesy notices on applications that are not typically required to be so noticed if it is determined that such notice is desirable.

2. Courtesy notices shall be mailed at least ten (10) days prior to the date of the public hearing.

3. When a proposed ordinance is initiated by ~~the city~~the City that changes the actual zoning map designation for a parcel or parcels of land less than ten (10) acres, the ~~community planning and development~~community planning and development department shall notify, by mail, each real property owner whose land ~~the city~~the City will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. In addition, the notice will be mailed to all owners of property within a five hundred-foot radius of the subject property. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a place and time for the public hearing on such ordinance. Such notice shall be given at least ten (10) days prior to the date of the planning commission meeting and again at least thirty (30) days prior to the date of the ~~city council~~City Council public hearing.

4. Notice of small-scale development amendments to the future land use map, initiated by ~~the city~~the City, shall be mailed to each owner of record of the property subject to the amendment in the current tax rolls. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for the public hearing on such ordinance. Such notice shall be given at least ten (10) days prior to the date of the planning commission public hearing and again at least thirty (30) days prior to the date of the ~~city council~~City Council public hearing.

5. Notice for ordinances that change the actual list of permitted, conditional or prohibited uses or special exceptions within a zoning category/use district, or ordinances initiated by ~~the city~~the City that change the actual zoning map designation of a parcel or parcels of land involving ten (10) contiguous acres or more, shall be mailed at least ten (10) days prior to the planning commission public hearing, again at least seven (7) days prior to the first ~~city council~~City Council public hearing and again at least five (5) days prior to the second ~~city council~~City Council adoption hearing.

6. A copy of mailed notice shall be available for public inspection during the regular business hours of ~~the city~~the City.

7. Failure to mail where required by these LDRs, or receive notice shall not affect any action or proceeding taken under these LDRs. Except for courtesy notices, the applicant shall be required to provide a mailing list and labels of the area within the radius prescribed above to ~~the city~~the City. The mailing list shall be accompanied by a map certified by a registered surveyor or engineer or sworn to by a person regularly in the business of providing such lists, indicating the property within a five hundred-foot radius of the subject property.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-303. - Quasi-judicial procedures.

~~A. Applicability. The provisions of this section apply to all quasi-judicial hearings held pursuant to these LDRs.~~

~~B~~A. Order of presentation. Quasi-judicial hearings shall be conducted generally in accordance with the following order of presentation:

1. Disclosure of ex parte communications and personal investigations pursuant to subsection C., below.
2. Presentation by city staff.
3. Presentation by the applicant.
4. Public comment.
5. Cross-examination by city staff.
6. Cross-examination by the applicant.
7. Cross-examination by the decision-making body.
8. Rebuttal by the applicant.
9. Closing of public hearing.
10. Discussion among members of the decision-making body.
11. Motion by decision-making body with explanation of position.
12. Action by decision-making body, including amendments to the motion if desired, and entry of specific findings. Action may include a continuance if additional information is needed for a decision, however, no more than two continuances shall be permitted. In the event the board fails to make a decision or recommendation, the matter shall proceed to the ~~city council~~City Council for decision without a board decision or recommendation.

~~C~~B. Ex parte communications.

1. Any person not otherwise prohibited by statute, charter provision or ordinance may discuss the merits of any matter on which action may be taken by any decision-making body with any member of the decision-making body.

2. Members of the decision-making body shall disclose ex parte communications and personal investigations regarding pending quasi-judicial decisions in accordance with applicable Florida law; see F.S. sec. 286.0115.

~~(a)~~

C. Continuances and deferrals. A continuance of a quasi-judicial proceeding may be requested by any party at any time prior to a decision on the merits of the matter. Such request may be granted by the board in the interests of justice and fairness. A continuance may also be granted where, in the opinion of the board, any testimony or documentary evidence or information presented at the hearing justifies allowing additional research or review in order to properly determine the issue presented. The board shall continue the hearing to a time and date certain, unless the time needed for continuance is indeterminate, and in such event the board may continue the hearing to a future date to be determined, if the matter is readvertised at the expense of the applicant.

~~(b)~~ D. Judicial notice. The board shall take judicial notice of all state and local laws, ordinances and regulations and may take judicial notice of such other matters as are generally recognized by the courts of the state.

E. Supplementing the record. Supplementing the record after the quasi-judicial hearing is prohibited, unless specifically authorized by an affirmative vote of the board under the following conditions:

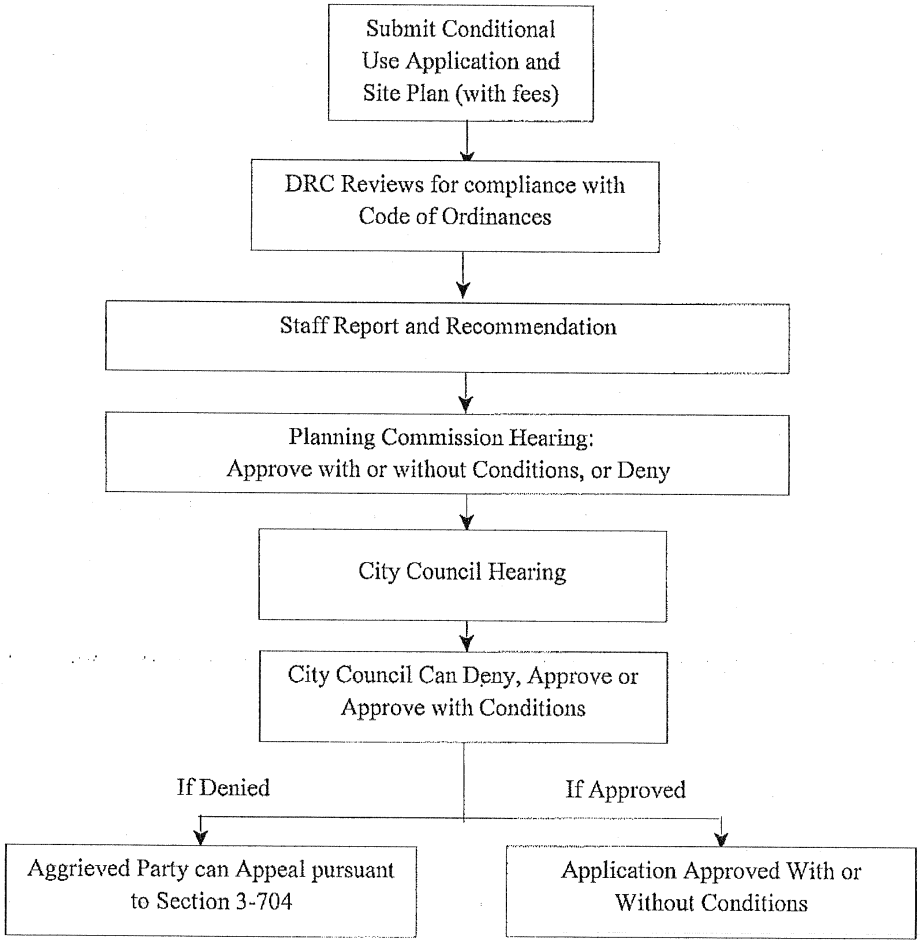
1. After a quasi-judicial hearing is continued but prior to final action being taken.

2. A question is raised by the board at the hearing to which an answer is not available at the hearing, the party to whom the question is directed may submit the requested information in writing to the board after the quasi-judicial hearing, provided the hearing has been continued or another hearing has been scheduled for a future date and no final action has been taken by the board. The information requested will be presented to the board at the time of the continued hearing. All parties and participants shall have the same right with respect to the additional information as they had for evidence presented at the hearing.

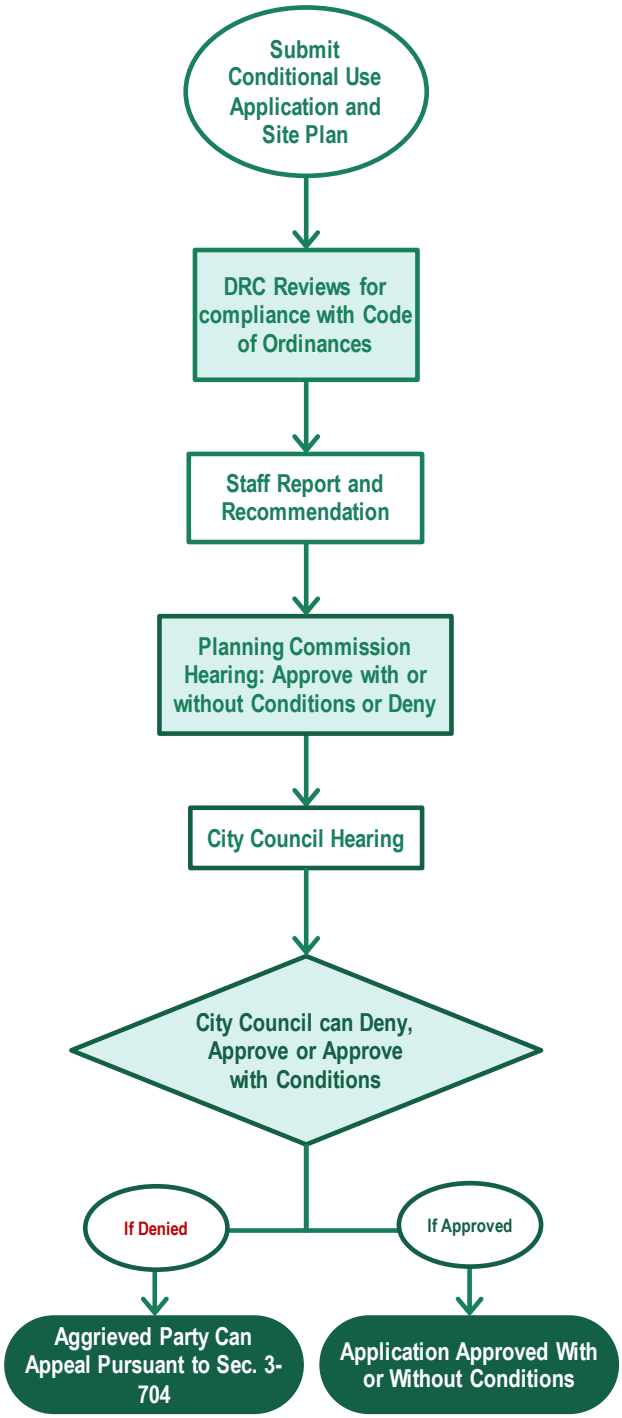
F. The record. All evidence in the form of documents, photographs, maps and other written materials admitted at the hearing shall be maintained by the community planning and development department or shall be placed in the official file as directed by the council or board. The official file shall be kept in the custody of the appropriate staff at all times during the pendency of the application. The official record of the quasi-judicial hearing may be preserved by tape recording or similar device by the office of ~~the city~~the City clerk, and maintained with the official file for the quasi-judicial hearing as a public record of ~~the city~~the City. Resumes of staff members who testify during a quasi-judicial proceeding will be automatically be entered into the record of the proceeding.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 4. - CONDITIONAL USES



## Conditional Use



Sec. 3-401. - Purpose and applicability.

A. Purpose. The purpose of providing for conditional uses is to recognize that there are uses which may have beneficial effects and serve important public interests, but which may, but not necessarily, have adverse effects on the environment, overburden public services or change the desired character of an area. Conditional uses are permitted uses in a particular zoning district that require individualized review due to the potential individual or cumulative impacts that they may have on the surrounding area or neighborhood. The review process allows the imposition of conditions to mitigate identified concerns or to deny the use if concerns cannot be resolved.

B. Applicability. ~~Conditional~~ With the exception of applications in the PCD, conditional use approval is the mechanism for approval of all planned development district applications, for allocating units in the NRO district, for approval of PU applications, and approval of density and height bonuses in ~~article~~Article 4, section 4-404.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-402. - General requirements.

In addition to the application for a conditional use permit, the following items shall be submitted for review and approval:

A. Phasing plans. A progress plan delineating the various development phases, if more than one (1), and specifying a reasonable time allocation for each phase.

B. Landscape and irrigation plan. A detailed landscaping plan indicating type and size of trees, shrubs, ground cover and other horticulture.

C. Site plan. A detailed site plan of the proposed development, in accordance with administrative regulations.

D. Impact analysis. The form and content of impact analyses shall be as set forth in administrative regulations or as required by the director of community planning and development.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-403. - Application.

An application for conditional use approval shall be made in writing upon an application form approved by city staff, and shall be accompanied by applicable fees.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-404. - Staff review, report and recommendation.

A. City staff shall review the application in accordance with the procedural provisions of ~~article~~Article 3, division 2 of these LDRs and this division.

B. Upon completion of review of an application, city staff shall:

1. Provide a report that summarizes the application, including whether the application complies with each of the standards for granting conditional use approval in section 3-405.
2. Provide written recommended findings of fact regarding the standards for granting conditional use approval.
3. Provide a recommendation as to whether the application should be approved, approved with conditions or denied.
4. Provide the report and recommendation, with a copy to the applicant, to the planning commission for review.
5. Provide notice of the hearing before the planning commission in accordance with the provisions of ~~article~~Article 3, division 3 of these LDRs.
6. After the planning commission hearing and recommendation, compile the planning commission recommendation together with the staff recommendation and report for the hearing before the ~~city council~~City Council.
7. Provide notice of the hearing before the ~~city council~~City Council in accordance with the provisions of ~~article~~Article 3, division 3 of these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-405. - Standards for approval of conditional uses.

A. Applications for conditional use shall demonstrate compliance with the following standards:

1. The application is consistent with the comprehensive land use plan;
2. The application is in compliance with the district regulations applicable to the proposed development, including the bonus provisions in section 4-404, if applicable;
3. The application is consistent with the applicable development standards in these LDRs;
4. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use or adequate mitigation is provided;
5. The proposed use is compatible with the nature, condition and development of adjacent uses, buildings and structures and will not adversely affect the adjacent uses, buildings or structures;
6. The parcel proposed for development is adequate in size and shape to accommodate all development features;
7. The proposed use will not have an adverse impact on use, livability, value and development of adjacent properties;
8. The nature of the proposed development is not detrimental to the public health, safety and general welfare of the community;

9. The design of the use creates a form and function which enhances the community character of the immediate vicinity of the parcel proposed for development; and

10. Flexibility in regard to development standards is justified by the benefits to community character and the immediate vicinity of the parcel proposed for development.

11. No open code violations or unpaid code enforcement fines exist.

B. Conditional uses may be granted some flexibility in the application of the development standards in ~~article~~Articles 4 and 5; provided however, that:

1. The limitations in height and density in ~~article~~Article 4 may not be exceeded for the zoning district in which the property is located; and

2. No deviations from the transitional standards in the NRO district may be granted.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-406. - Planning commission recommendation.

The planning commission shall review the application for conditional use, the recommendation and report of city staff and the standards for conditional uses in section 3-405. The planning commission may attach such conditions to the approval of the conditional use that are necessary to ensure compliance with the standards in section 3-405 in furtherance of protecting the public health, safety and general welfare. The planning commission, after reviewing the reports and application as well as hearing testimony at the public hearing, shall make a recommendation for approval, approval with conditions or denial. If the planning commission determines that additional information is needed in order to make a decision, it may continue the item for receipt of such information and further review.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-407. - ~~City council~~City Council decision.

The ~~city council~~City Council shall review the application, the recommendation of the planning commission and city staff and shall conduct a quasi-judicial public hearing on the proposed conditional use request. The ~~city council~~City Council, at the conclusion of the public hearing, shall render a decision on the conditional use to either approve, approve with conditions or deny the proposed conditional use. If the ~~city council~~City Council determines that additional information is needed in order to make a decision, it may continue the item for receipt of such information and further review.

The ~~city council~~City Council shall set forth its findings in writing.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-408. - Effect of decision.

Approval of a conditional use shall be deemed to authorize only the particular use(s) for which it is issued and shall entitle the recipient to apply for a building permit or any other

approval that may be required by these LDRs, ~~the city~~the City or regional, state or federal agencies. Within one (1) year after approval of a planned development conditional use approval, a precise plan shall be filed denoting overall development as approved by the ~~city council~~City Council and all permits which are issued for the conditional use shall be in accordance with the provisions of the precise plan. If a precise plan is not filed within one (1) year, the conditional use approval shall be null and void.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 3-409. - Appeals.~~

~~An appeal from a decision of the city council regarding a conditional use may be taken by filing a petition for writ of certiorari with the appellate division of the circuit court in accordance with the Florida Rules of Appellate Procedure within thirty (30) days of rendering of the decision.~~

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1382, § 1, 1-27-15)~~

Sec. 3-410. - Changes to conditional use approvals.

A. Minor revisions. The ~~manager~~ director of ~~community planning and development~~community planning and development is authorized to allow minor revisions to an approved conditional use permit after receipt of comments from the development review committee. A minor revision is one which:
    1. Does not affect the conditional use criteria applicable to the conditional use.
    2. Does not alter the location of any major road or walkway by more than ten (10) feet.
    3. Does not change the use.
    4. Does not change a condition of approval.
    5. Does not increase the density or intensity of the development.
    6. Does not result in a reduction of setback or previously required landscaping.
    7. Does not result in a substantial change to the location of a structure within a previously approved use by the development review committee or by a previously issued and approved conditional use permit.
    8. Does not add property to the parcel proposed for development.
    9. Does not increase the height of the buildings.
    10. Does not include any modifications not reflected in a previously approved conditional use permit.
B. Substantial revisions. Any proposed change that does not meet the above criteria is not minor and must be reviewed in accordance with the procedures for an original approval, including new application materials and payment of fees.

C. Applicability. Notwithstanding any provision to the contrary in this section 3-410, a previously approved and issued conditional use permit, as may be amended from time to time, shall clearly define within its terms what constitutes a minor or substantial revision under subsections A and B.

D. Appeal. An appeal from any decision of the director ~~manager~~ of community planning and development or the development review committee, shall be taken by an aggrieved party to the ~~board of adjustment~~Zoning Appeals Board as provided for in section 3-~~702~~ 701 of these LDRs.

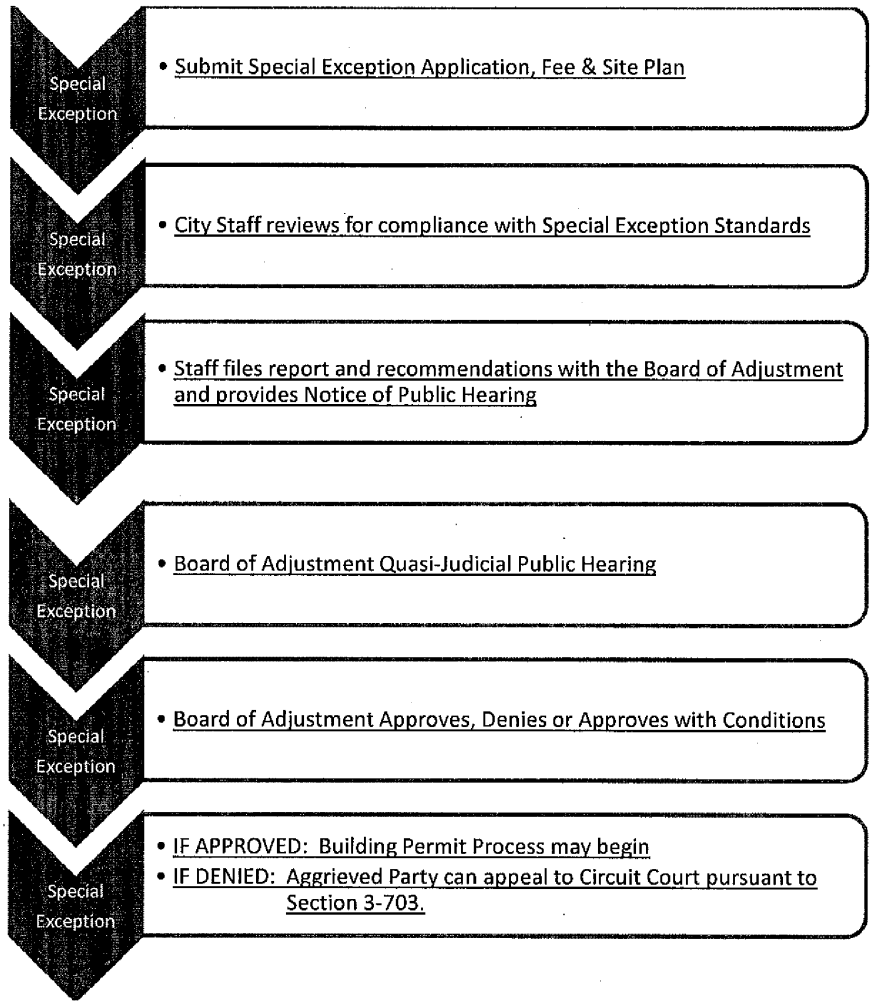
(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1382, § 1, 1-27-15)

Sec. 3-411. - Expiration of approval.

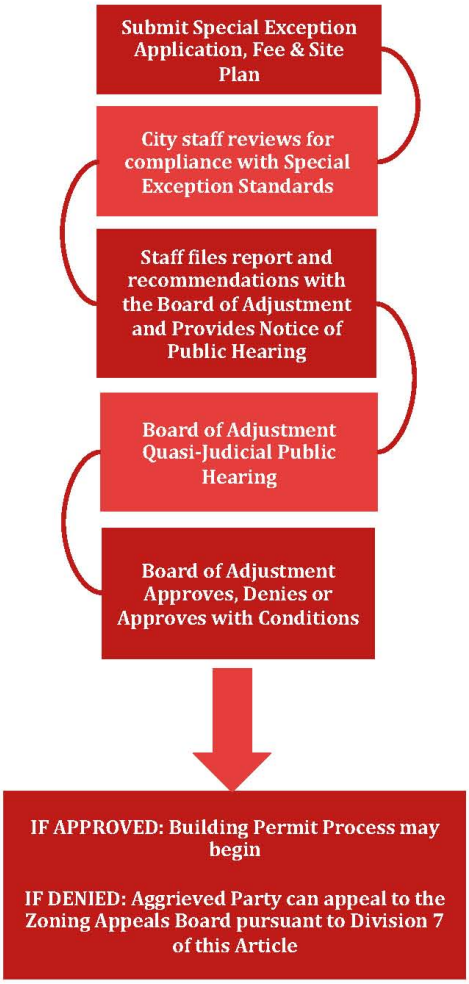
Unless otherwise specified in the approval, an application for a building permit shall be made within one (1) year of the date of the conditional use approval. An extension of time may be granted by the director of ~~community planning and development~~community planning and development for a period not to exceed six (6) months and only within the original period of validity.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 5. - SPECIAL EXCEPTIONS


Special Exception
• Submit Special Exception Application, Fee & Site Plan
Special Exception
• City Staff reviews for compliance with Special Exception Standards
Special Exception
• Staff files report and recommendations with the Board of Adjustment and provides Notice of Public Hearing
Special Exception
• Board of Adjustment Quasi-Judicial Public Hearing
Special Exception
• Board of Adjustment Approves, Denies or Approves with Conditions
Special Exception
• IF APPROVED: Building Permit Process may begin
• IF DENIED: Aggrieved Party can appeal to Circuit Court pursuant to Section 3-703.

## Special Exception



(Ord. No. 1321, § 1, 9-27-11)

Sec. 3-501. - Purpose and applicability.

A. Purpose. The purpose of providing for special exceptions is to recognize that there are uses which may have beneficial effects and serve important public interests, but which may, but not necessarily, have adverse effects on the environment, overburden public services or change the desired character of an area. Special exceptions are permitted uses in their respective zoning districts that require individualized review due to the potential individual or cumulative impacts that they may have on the surrounding area or neighborhood. The review process allows the imposition of conditions to mitigate identified concerns or to deny the use if concerns cannot be resolved.

B. Applicability. Special exception approval is required for all uses listed as requiring special exception approval in the zoning districts in ~~article~~Article 4.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-502. - Application.

An application for special exception approval shall be made in writing upon an application form approved by ~~the city~~the City, accompanied by a site plan and other information required and applicable fees.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-503. - Staff review, report and recommendation.

A. City staff shall review the application in accordance with the provisions of division 2 of this ~~article~~Article and this division.

B. Upon completion of review of an application, city staff shall:

1. Provide a report that summarizes the application, including whether the application complies with each of the standards for granting special exception approval in section 3-504.
2. Provide written recommended findings of fact regarding the standards for granting special exception approval.
3. Provide a recommendation as to whether the application should be approved, approved with conditions or denied.
4. Provide the report and recommendation, with a copy to the applicant, to the board of adjustment for review.
5. Provide notice of the hearing before the board of adjustment in accordance with the provisions of ~~article~~Article 3, division 3, of these LDRs.
6. After the board of adjustment hearing and decision, prepare and record a special exception permit and provide the applicant with a copy.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1321, § 1, 9-27-11)

Sec. 3-504. - Standards for approval.

Applications for special exceptions shall demonstrate compliance with the following standards:

A. The use is a listed special exception in the district where the property is located.

B. There is appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion.

C. There are adequate parking areas and offstreet truck loading spaces (if applicable) for the anticipated number of occupants, employees, patrons, and the layout of the parking is convenient and conducive to safe operation.

D. There is suitable landscaping or fencing along side lot and rear lot lines adjacent to residential uses or residential zoning districts.

E. The proposed special exception is reasonable in terms of logical, efficient and economical extension of public services and facilities, such as public water, sewers, police and fire protection, and transportation.

F. The proposed special exception will constitute an appropriate use in the area and will not substantially injure or detract from the use of the surrounding property or from the character of the neighborhood.

G. No open code violations or unpaid code enforcement fines exist.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-505. - Board of adjustment decision.

The board of adjustment shall review the application for special exception, the recommendation and report of city staff and the standards for special exception in section 3-504. The board of adjustment shall conduct a quasi-judicial public hearing on the application and may attach such conditions to the approval of the special exception that are necessary to ensure compliance with the standards in section 3-504 in furtherance of protecting the public health, safety and general welfare. The board of adjustment, after reviewing the reports and application as well as hearing testimony at the public hearing, shall approve, approve with conditions or deny the application. If the board determines that additional information is needed in order to make a decision, it may continue the item for receipt of such information and further review.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 3-506. - Appeals from board of adjustment.~~

~~An appeal from a decision of the board of adjustment regarding a special exception may be taken in accordance with the provisions of section 3-703.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1321, § 1, 9-27-11)

**Editor's note—** Ord. No. 1321, § 1, adopted September 27, 2011, repealed the former section 3-506 in its entirety, which pertained to appeal to ~~city council~~City Council and derived from Ord. No. 1278, § 1(exh. 1), adopted April 28, 2009. Subsequently, Ord. No. 1321 redesignated the former sections 3-507—3-510 as sections 3-506—3-509. The historical notation has been preserved for reference purposes.

Sec. 3-507. - Effect of decision.

Approval of a special exception shall be deemed to authorize only the particular use for which it is issued and shall entitle the recipient to apply for a building permit or any other approval that may be required by these LDRs, ~~the city~~the City or regional, state or federal agencies.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1321, § 1, 9-27-11)

**Note—** See editor's note at section 3-506.

Sec. 3-508. - Changes to special exception approvals.

A. Minor revisions. The community planning and development department~~building and zoning department~~ is authorized to allow minor revisions to an approved special exception. A minor revision is one which:
    1. Does not affect the special exception standards applicable to the special exception.
    2. Does not alter the location of any road or walkway by more than five (5) feet.
    3. Does not change the use.
    4. Does not change a condition of approval.
    5. Does not increase the density or intensity of the development.
    6. Does not result in a reduction of setback or previously required landscaping.
    7. Does not result in a substantial change to the location of a structure previously approved.
    8. Does not add property to the parcel proposed for development.
    9. Does not increase the height of the buildings.
B. Substantial revisions. Any proposed change that does not meet the above criteria is not minor and must be reviewed in accordance with the procedures for an original approval.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1321, § 1, 9-27-11)

**Note—** See editor's note at section 3-506.

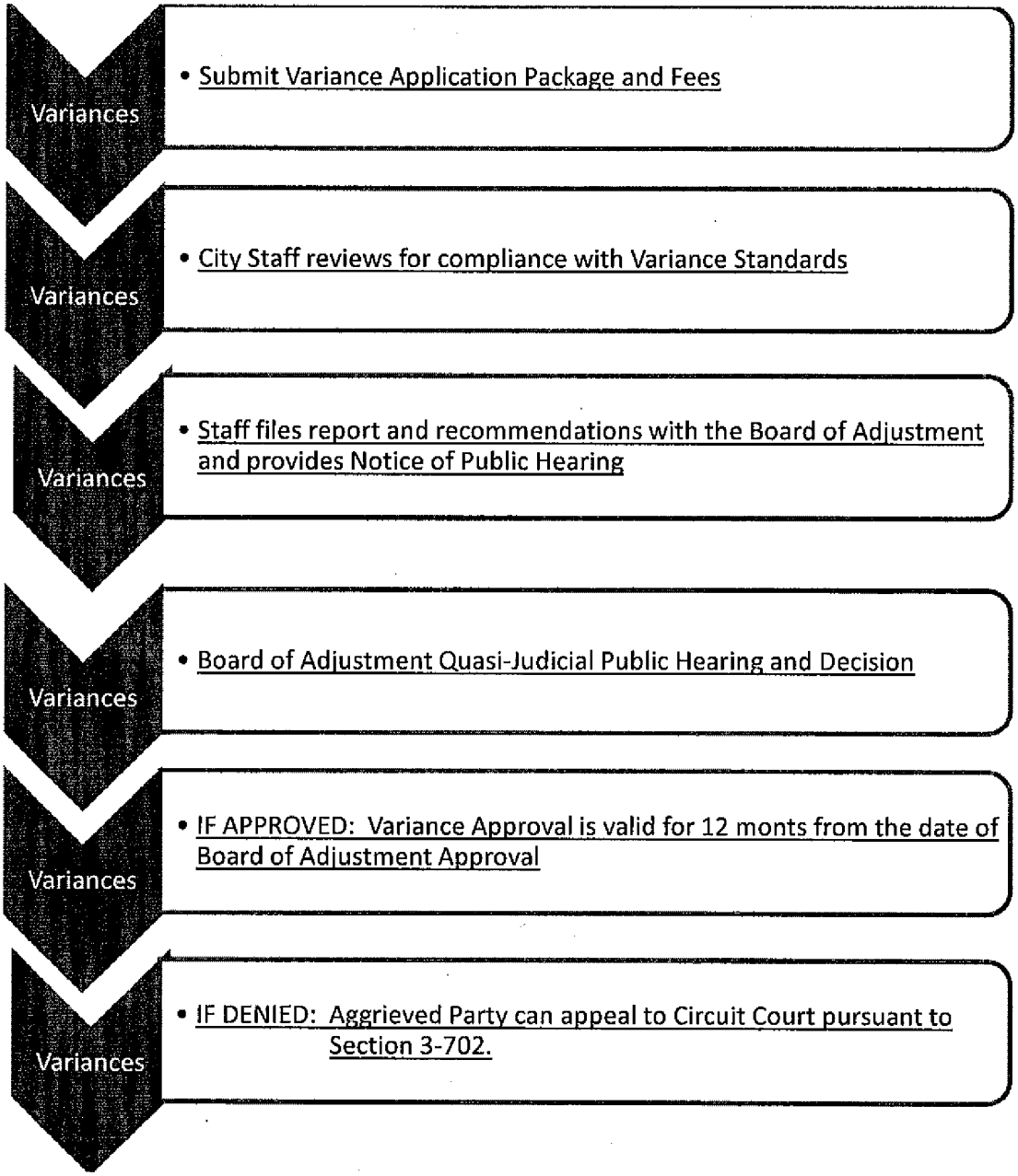
Sec. 3-509. - Expiration of approval.

Unless otherwise specified in the approval, an application for a business tax receipt or building permit necessary to establish such use shall be made within one (1) year of the date of the special exception approval. An extension of time may be granted by the community planning and development department~~building and zoning department~~ for a period not to exceed six (6) months, and only if requested within the original period of validity.

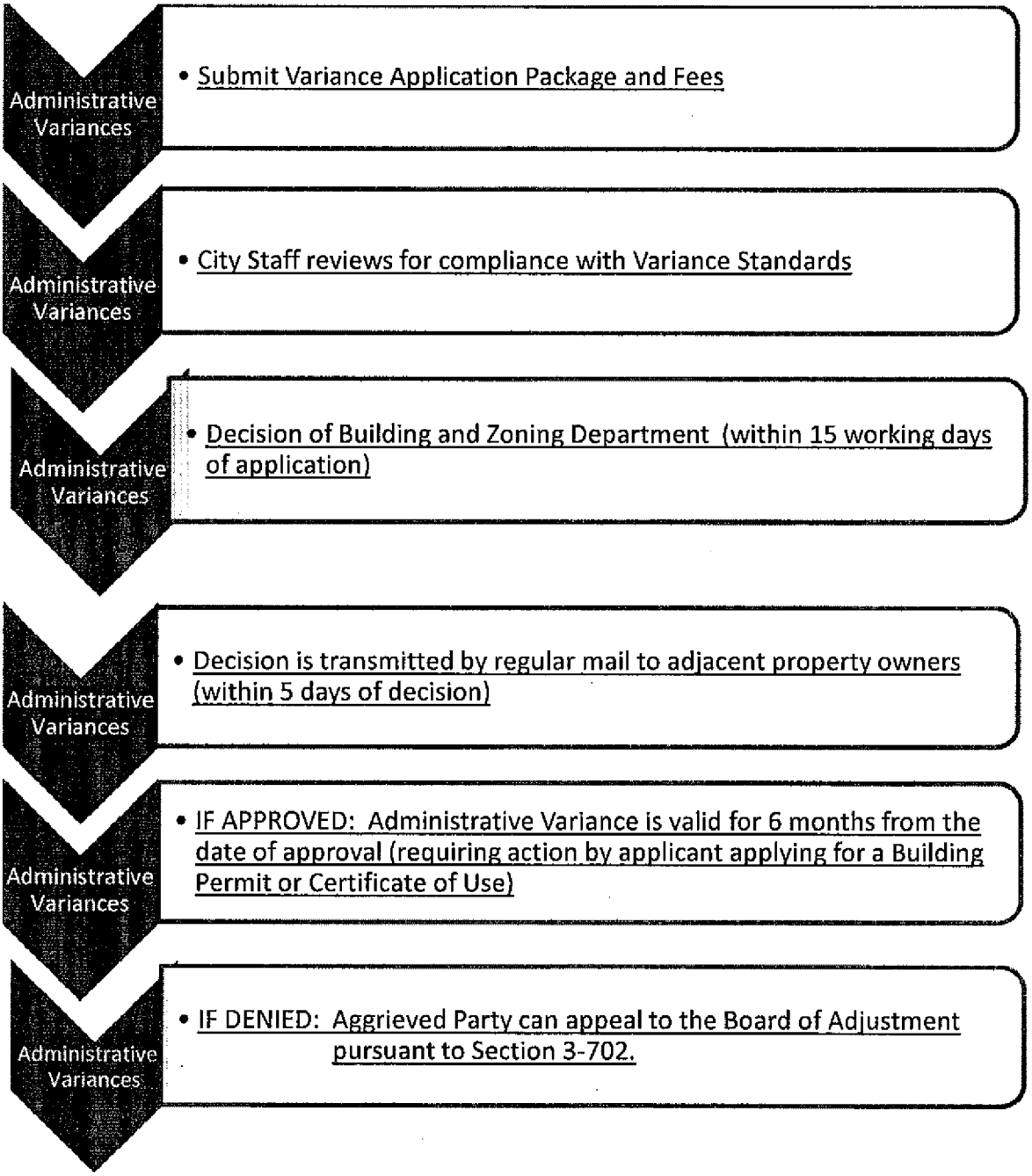
(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1321, § 1, 9-27-11)

**Note—** See editor's note at section 3-506.

DIVISION 6. - VARIANCES HEARD BY BOARD OF ADJUSTMENT


Variances
• Submit Variance Application Package and Fees
Variances
• City Staff reviews for compliance with Variance Standards
Variances
• Staff files report and recommendations with the Board of Adjustment and provides Notice of Public Hearing
Variances
• Board of Adjustment Quasi-Judicial Public Hearing and Decision
Variances
• IF APPROVED: Variance Approval is valid for 12 monts from the date of Board of Adjustment Approval
Variances
• IF DENIED: Aggrieved Party can appeal to Circuit Court pursuant to Section 3-702.

**Administrative Variances.**




Footnotes:

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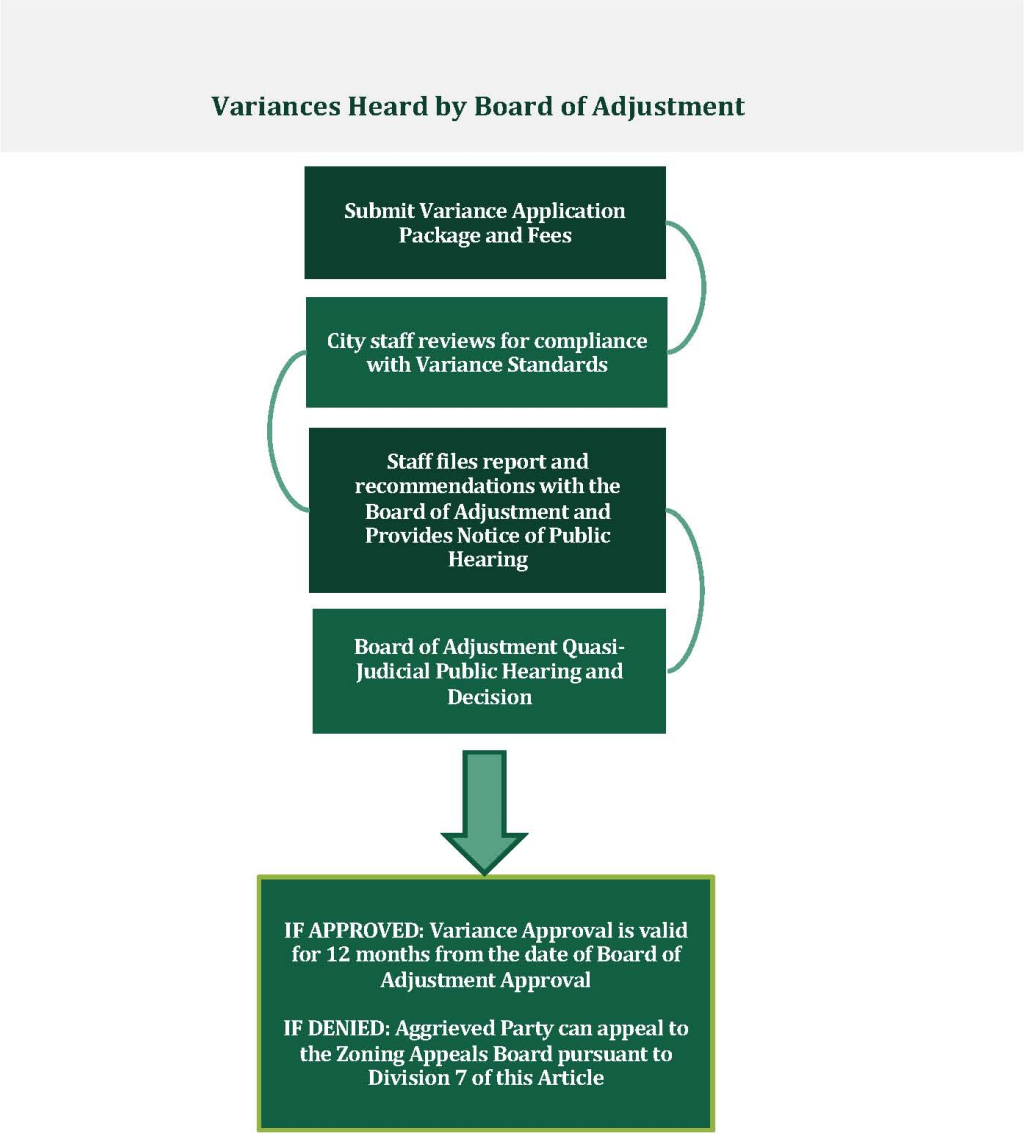
**Editor's note**—Ord. No. 1321, § 1, adopted September 27, 2011, changed the title of division 6 from "Variances" to "Variances heard by board of adjustment."



Sec. 3-601. - Purpose and applicability.

The purpose of this division is to establish a procedure for reviewing and granting variances from the literal terms of these LDRs where there are practical difficulties or unnecessary and undue hardships so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. No variances may be granted to permit a use not listed as a permitted use in the applicable zoning district and/or to permit a prohibited use.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-602. - Application.

An application for a variance shall be made in writing upon an application form approved by ~~the city~~the City staff, accompanied by such other information as required by ~~the city~~the City and by applicable fees.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-603. - Staff review, report and recommendation.

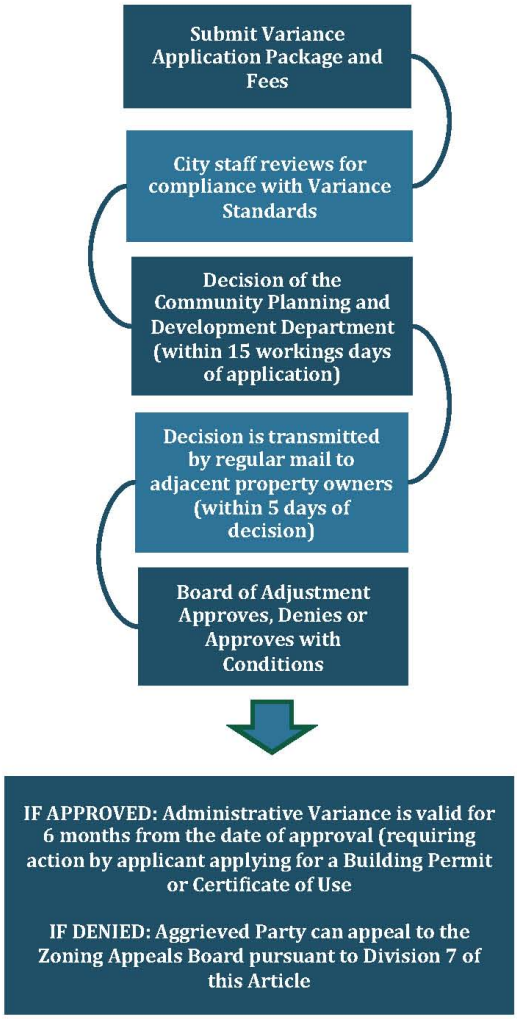
A. City staff shall review the application in accordance with the provisions of this division.

B. Upon completion of review of an application, city staff shall:

1. Provide a report that summarizes the application and the effect of the proposed variance, including whether the variance complies with each of the standards for granting administrative variances in section 3-604 or the standards for other variances in section 3-606.
2. Provide written recommended findings of fact regarding the standards for granting nonadministrative variances as provided for in section 3-606.
3. Provide a recommendation as to whether the application should be approved, approved with conditions or denied.
4. Schedule the application for hearing before the board of adjustment, if not an application for administrative variance.
5. Provide notice of the hearing in accordance with the provisions of ~~article~~Article 3, division 3 of these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

## Administrative Variances



Sec. 3-604. - Administrative variances.

A. Nonuse administrative variances may be granted by the ~~Community~~ community ~~Planning~~ planning ~~&~~ and ~~Development~~ development ~~Department~~ department for applications under the following circumstances:

1. For single-family, duplex, triplex or townhouse project a variance to setback requirements where the setback is not decreased by more than twenty (20) percent of what is required in the applicable zoning district.
2. A variance for setbacks for docks not to exceed ten (10) percent of the required setback.
3. A parking variance for the first restaurant in a shopping center which existed on the date of adoption of these LDRs. If a parking variance is required for the second restaurant in an existing center, the ~~board of adjustment~~zoning appeals board shall consider the variance in accordance with the provisions of section 3-~~605~~701.
4. For single-family, duplex, triplex, or townhouse lot, a variance to allow a driveway to maintain a side yard setback between two and one-half (2.5) feet and five (5) feet, provided that the driveway is composed of pervious or permeable materials.
5. A variance for the parking or storage of recreational vehicles pursuant to section 5-1405.
6. A variance for any carport structure within the required front and side setbacks pursuant to section 5-103.
7. A variance shall not be granted if the property has any open code violations or unpaid code enforcement fines, except that the granting of a variance whose purpose is to cure or assist in curing a code violation shall be permitted.

B. The granting of an administrative variance shall be based on the following:

1. The variance is in harmony with the character of the immediate neighborhood and is in keeping with community goals as they relate to quality of life; and
2. The variance will not adversely affect or be injurious to the adjacent uses, immediate neighborhood and the community as a whole.

C. Applications, and signed consent of neighboring property owners; mailed notices.

1. The applicant must file a request to the ~~Community Planning and Development~~Community planning and development Department, in a form approved by staff, containing all the information necessary for staff to make an administrative decision, which shall include, but is not limited to, identification of the specific provisions of this chapter from which a administrative variance is sought; the nature and extent of the variance; and the grounds relied upon to justify the approval of the variance, pursuant to subsection B.
2. Such application shall be accompanied by the required submittal documents and fee as determined by staff, which shall include the following:
   a. *Signed consent of neighboring property owners.*

1) The signed consent of all contiguous property owners, including those located across the street from the subject site, shall be submitted by the applicant on a form prescribed by the administrative official, and on the site plan submitted for consideration.

2) Said consent shall not be required from an abutting property when a separating public right-of-way measures 70 feet or greater, nor shall consent be required when a body of water completely separates the subject parcel from another parcel.

3) If the applicant for an administrative variance is unable to obtain either the signed consent or objection of a neighboring property owner, the signature of that owner shall not be required if the applicant demonstrates a good faith effort to comply with the requirements stated herein, or a hearing before the board of adjustment shall be required to review the application for a variance.

3. Mailed notices. Once an administrative decision has been rendered, ~~the City~~the City shall provide written mailed notice to the abutting property owners. Such notices shall be deemed sufficient if it accurately describes the administrative variance granted and informs the abutting property owners of the 30 day appeal process as outlined in Division 7 below.

C. A property owner receiving approval of an administrative variance shall not commence any of the improvements allowed by the administrative variance until after the expiration of time allowed for an appeal, in accordance with the provision of section 3-~~702~~701.

E. An administrative variance granted under these procedures shall be valid for six (6) months from the final date of approval, after which it shall become null and void unless a building permit is issued or a recreational vehicle (in the front yard) permit is granted or an extension is granted. The community planning and development department~~building and zoning department~~ is authorized to grant one (1) six-month extension. Any further extension shall require the application to be resubmitted as an entirely new application.

F. Appeals of decisions on an application for an administrative variance may be taken to the ~~board of adjustment~~zoning appeals board by an aggrieved party in accordance with the provisions of section 3-~~702~~701.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-605. - Review, hearing and decision by board of adjustment.

The board of adjustment shall review an application for all variances which are not administrative, the report, recommendation and proposed findings prepared by city staff, and conduct a quasi-judicial public hearing on the application in accordance with the requirements of section 3-303 and render a decision. The decision shall be based upon written findings of fact and the board of adjustment shall either grant, grant with conditions or deny the variance.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-606. - Standards for variances.

A. In order to authorize any variance from the terms of these LDRs, the board of adjustment shall find that the applicant has demonstrated compliance with four (4) of the following six (6) ~~of the following~~ standards:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.
3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of ~~the city~~the City.
4. The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.
5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure or building.
6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

B.

~~7.~~ No variance may be granted if the property has any open code violations or unpaid code enforcement fines, except that the granting of a variance whose purpose is to cure or assist in curing a code violation shall be permitted.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-607. - Time limit for variances.

Any variance granted under the provisions of this division shall become null and void and of no effect twelve (12) months from and after the date of approval, unless within such period of twelve (12) months a building permit is issued if required; or if no permit is required, unless the requested action permitted by the variance shall have taken place within the twelve-month period. An extension of six (6) months may be granted by the director of ~~building and zoning~~ community planning and development for good cause.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-608. - Effect of decision.

Approval of a variance shall be deemed to authorize only the particular use for which it is issued and shall entitle the recipient to apply for a building permit or any other approval that may be required by these LDRs, ~~the city~~the City or regional, state or federal agencies.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 3-609. - Appeals from board of adjustment.~~

~~An appeal from a decision of the board of adjustment regarding variances may be taken in accordance with the provisions of section 3-703.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1321, § 1, 9-27-11)

**Editor's note—** Ord. No. 1321, § 1, adopted September 27, 2011, changed the title of section 3-609 from "Appeals of board of adjustment decision to ~~city council~~City Council" to "Appeals from board of adjustment." The historical notation has been preserved for reference purposes.

DIVISION 7. - APPEALS

Sec. 3-701. – Purpose and applicability.

The purpose of this division is to set forth procedures for appealing the decisions of city staff and ~~the board of adjustment~~ other boards where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these LDRs. An action by any administrative official, development review committee, or any board made pursuant to the provisions the LDRs may be appealed to the zoning appeals board in accordance with the provisions of this ~~article~~Article.

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1321, § 1, 9-27-11)~~

Sec. 3-702. – Appeal period.

An appeal of the decision of the administrative official, development review committee, or any board within the scope of these LDRs may be made within 30 days from the date ~~of~~ such decision is filed with the clerk of that official or board. If filed, an appeal stays any further action on the permit until final resolution of the appeal, unless the administrative official, development review committee, or any board whose action is the subject of the appeal, certifies in writing that the stay poses an imminent peril to life or property, except that staff may review plans filed in furtherance of such approval appealed as long as no final action is taken to issue the permit allowed by the decision on appeal.

Sec. 3-703. - Applicability.

Any appealable decision may be appealed by an applicant, ~~the City~~the City, or any aggrieved party, including affected neighborhood, community and civic associations, whose name appears in the record of the official or board from which the appeal is made, by filing with the ~~community planning and development~~community planning and development department a petition in a form prescribed by ~~the City~~the City.

Appealable decisions include the following, but are not limited to:

1. Variances and waivers.
2. Special exception use approvals.
3. Conditional use permit approvals.
4. Plat approvals.
5. Amendments to conditions, or release of conditions, or release of a declaration of restrictive covenants accepted by resolution or ordinance.
6. Development agreement approvals.
7. Vested rights determination approvals.
8. Large scale development review.
9. Appeals of administrative decisions and interpretations as provided in Sec. 3-303.
10. Applications for extension of time of commencement or completion.

Sec. 3-704.- Application and contents of appeal.

An application for appeal must be filed with ~~the City~~the ~~Manager~~City Manager or designee and the body, office or department whose action is the basis for appeal, along with a fee for the processing of the appeal. The application shall be on a form provided by ~~the City~~the City and include a written statement specifying in brief, concise language the grounds and reasons for requesting a reversal of the ruling made by the lower ~~official~~ official or board. Such reasons for the appeal shall be based upon the evidence presented prior to the original decision. Failure of the appellant to present such reasons shall be deemed cause for denial of the appeal.

Sec. 3-705. - Time period of hearing.

Within 45 working days of receipt of a complete appeal application, ~~the city~~the ~~manager~~City Manager or designee shall schedule a public hearing before the zoning appeals board.

Sec. 3-706. - Notice of hearing.

The public hearing on the appeal shall be noticed as required by Sec. 3-302. The notice shall state that an appeal has been filed; describe the order being appealed; describe the lot, parcel, property or areas that are the subject of the appeal; describe the final decision on the original request; and note other pertinent information, as may be determined by the director of community planning and development.

Sec. 3-707. - Action by the zoning appeals board.

A. Upon the timely filing of an application for appeal, the director of community planning and development shall transmit to the zoning appeals board the petition for appeal, any associated documents which may be submitted on appeal, the original application and the decision and record of the lower official or board.
B. At a quasi-judicial public hearing, the zoning appeals board shall consider whether the decision of the administrative officer, development review committee, or any board, as the case may be, should or should not be sustained or modified. By resolution, the appellate body shall affirm, modify or reverse the lower decision and such action shall be

by a majority vote of all members present. Such hearing shall be limited to the record below and shall not be de novo. No new testimony or evidence shall be permitted. Arguments on appeal shall be limited to those on behalf of the appellant, appellee and ~~the city~~the City staff, or attorneys on their behalf.

C. In order to reverse, amend, modify, or remand for amendment, modification, or rehearing the decision of the lower board or authority, the Zoning Appeals Board shall find that the board or official below did not comply with any of the following:
1. Provide procedural due process;
2. Observe essential requirements of law; or
3. Base its decision upon substantial competent evidence.

The decision on the appeal shall be set forth in writing, and shall be promptly mailed to all parties to the appeal.

Sec. 3-708. - Effective Date.

The decision of the zoning appeals board on an appeal shall be effective immediately.

Sec. 3-709. - Appeals from the decisions of the zoning appeals board.

Any persons aggrieved by a decision of the zoning appeals board may appeal by petition for ~~common law~~ writ of certiorari to a court of competent jurisdiction for judicial relief within 30 days after a decision by the zoning appeals board is filed with the clerk of that board. The election of remedies shall lie with the appellant.

~~- Administrative appeals.~~

~~A. Zoning Appeals - An appeal from any zoning decision by the Community Planning and Development Department or the development review committee where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these LDRs, shall be taken by an aggrieved party to the board of adjustment. An aggrieved party may file a notice of appeal to the board of adjustment with the Community Planning and Development Department within ten (10) days of the administrative decision. The notice of appeal should be accompanied by any relevant documents related to the appeal and applicable fees; as such said fees may be amended from time to time by Resolution of the city council.~~

~~B. Administrative Variances – An appeal to an administrative variance granted under section 3-604 shall be submitted to the Community Planning and Development Department by an aggrieved party. Said party may file a notice of appeal for consideration before the board of adjustment within thirty (30) days of the administrative decision. More than one appeal arising from the same property, shall be consolidated into one hearing before the board of adjustment.~~

~~In addition to the regular application fee, the applicant property owner seeking the issuance of an administrative variance shall bear the cost of the applicable one time appeal fee.~~

~~C. Appeals to the board of adjustment shall require prior notice of the hearing in accordance with the provisions of article 3, division 3 of these LDRs.~~

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

~~Sec. 3-703. - Appeals from decisions of the board of adjustment.~~

~~Any person aggrieved by any decision or action taken under these LDRs by the board of adjustment may file a petition for writ of certiorari with the circuit court in accordance with the Florida Rules of Appellate Procedure within thirty (30) days of rendering of the decision.~~

~~Challenges to development orders based on consistency or inconsistency of the development order with the city comprehensive plan shall be governed by the provisions of F.S. § 163.3215.~~

~~(~~Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1321, § 1, 9-27-11)

**Editor's note—** Ord. No. 1321, § 1, adopted September 27, 2011, repealed the former section 3-703 in its entirety, which pertained to appeals from decisions of the board of adjustment, and derived from Ord. No. 1278, § 1(exh. 1), adopted April 28, 2009. Subsequently, Ord. No. 1321 redesignated the former section 3-704 as section 3-703. The historical notation has been preserved for reference purposes.

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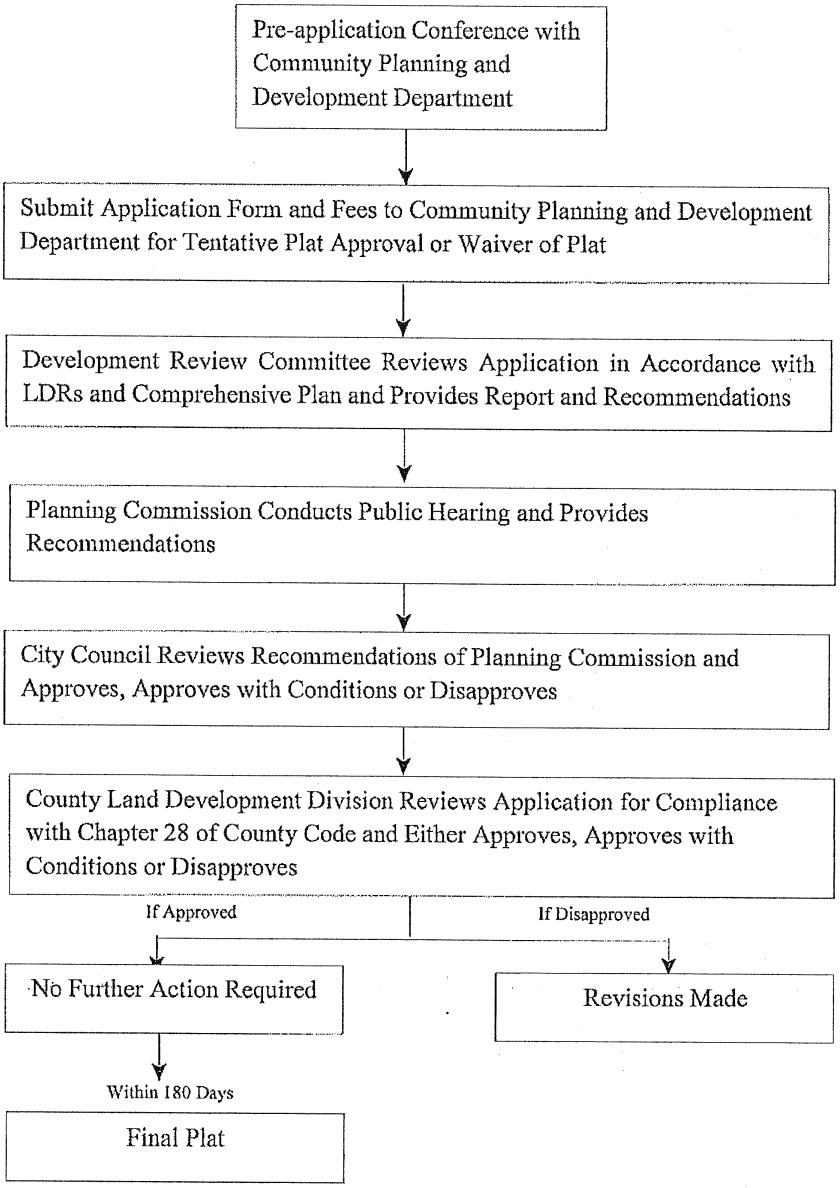
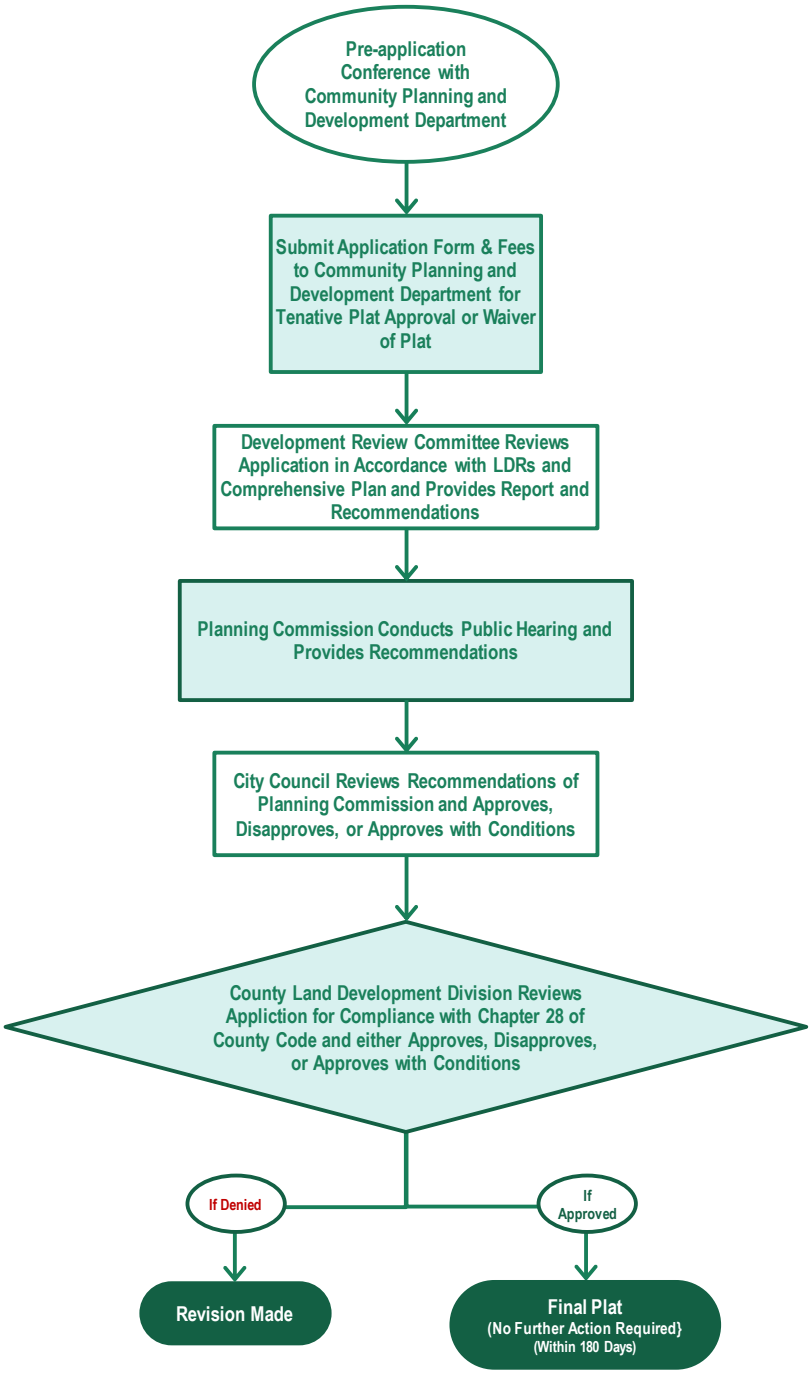
DIVISION 8. - ~~SUBMISSION OF~~ LAND PLATS



## Land Plat


Pre-application Conference with Community Planning and Development Department
Submit Application Form & Fees to Community Planning and Development Department for Tenative Plat Approval or Waiver of Plat
Development Review Committee Reviews Application in Accordance with LDRs and Comprehensive Plan and Provides Report and Recommendations
Planning Commission Conducts Public Hearing and Provides Recommendations
City Council Reviews Recommendations of Planning Commission and Approves, Disapproves, or Approves with Conditions
County Land Development Division Reviews Appliction for Compliance with Chapter 28 of County Code and either Approves, Disapproves, or Approves with Conditions
If Denied
If Approved
Revision Made
Final Plat
(No Further Action Required}
(Within 180 Days)

Sec. 3-801. - Purpose and applicability.

The purpose of this division is to provide application and review procedures for the subdivision of land within ~~the city~~the City. This division shall be applicable to any subdivision or re-subdivision of land that creates one (1) or more parcels. No building permit shall be issued for construction of any improvements on a parcel that was not legally created in compliance with these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-802. - Plats and platting, recording; exceptions. Whenever land is subdivided a plat must be recorded, except that the recording of a plat will not be required if:

(1) The subdivision involved consists only of the dedication of a road, highway, street, alley or easement, and due to unusual conditions and circumstances, the ~~community planning and development~~community planning and development department director finds that it is not necessary that a plat be recorded. In lieu of the recording of a plat, the dedication may be required by deed, and may be subject to compliance with such conditions the ~~community planning and development~~community planning and development department director deems appropriate under the particular circumstances, such as improvements of sidewalks, streets, or drainage facilities and the acceptance of the dedication by the governing body. Posting of bond or other surety acceptable to ~~the city~~the City may be required.

(2) The land to be subdivided is to be divided into no more than six lots, and because of:

a. Unusual conditions created by ownership or development of adjacent lands;

b. The isolation or remoteness of the land concerned in relation to other platted or improved lands; or

c. Improvements and dedications existing on the land substantially in accordance with the requirements of this chapter, the ~~community planning and development~~community planning and development department director determines that waiving the requirement for platting would not conflict with the purpose and intent of this ~~article~~Article.

In lieu of platting, the ~~community planning and development~~community planning and development department director may require any dedications, reservations, or improvements required in connection with platting under this ~~article~~Article, including the posting of a performance and maintenance bond, as may be necessary to carry out the intent and purpose of this chapter.

(3) The ~~community planning and development~~community planning and development department director determines that resubdivision of land heretofore platted is of such unusual size or shape, or is surrounded by such development or unusual conditions to justify the waiving of the requirement for recording a plat. In lieu of the recording of a plat, such conditions may be imposed as may be deemed necessary and appropriate to preserve the public interest.

Sec. 3-8032. - ~~Tentative plat or w~~Waiver of plat.

A. Procedure.

1. Preapplication conference. Prior to filing an application for ~~tentative plat or~~ waiver of plat approval, the applicant shall have a preapplication conference with the community planning and development department.

~~B~~ 2. Application. An applicant for subdivision approval shall submit an application for review of ~~a tentative plat or~~ waiver of plat upon an application form approved by city staff and shall include all applicable fees. The waiver of plat survey shall be prepared by a professional surveyor and mapper licensed in the state, and shall bear the embossed seal of the surveyor and mapper. The application for waiver of plat survey shall include the following items, unless waived by the community planning and development department director:

a. Legal description of the parent tract.

b. Legal description of each lot to be created.

c. Location of property lines, existing easements, buildings, watercourses and other essential features.

d. The location of any existing sewers and water mains, or any underground or overhead utilities, culverts and drains on the property to be subdivided.

e. Location, names and present widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other open public spaces and similar facts regarding property immediately adjacent.

f. Date of field survey, north point and graphic scale.

g. The width and location of all streets or other public ways proposed by the developer.

h. The proposed lot lines with dimensions.

i. Existing ground elevations of the property and extending not less than 25 feet beyond the boundaries of property.

j. Existing easements or restrictions shown on underlying plat shall be shown.

k. The location of all buildings, swimming pools, slabs, fences and other permanent structures on the adjacent properties that would be nonconforming with the creation of this division of land.

~~C~~ 3. Vested rights.

(a) Any property owner claiming a vested right to obtain action upon or approval of a tentative plat or waiver of plat contrary to this section may submit an application for a vested rights determination in accordance with ~~article~~Article 3, division 12 of these LDRs.

(b) The application shall have attached an affidavit setting forth the facts upon which the applicant bases his/her claim for vested rights. The applicant shall also attach copies

of any contracts, letters and other documents upon which a claim of vested rights is based. The mere existence of zoning shall not vest rights.

(c) The City, in addition to all review criteria set forth in section 3-1203, shall review the application and determine whether the applicant has demonstrated an act of development approval by an agency of Metropolitan Miami-Dade County or the City of North Miami upon which the applicant has in good faith relied to his detriment, such that it would be highly inequitable to deny the landowner the right to obtain action on or approval of a tentative plat or waiver of plat.

(d) Any appeal of ~~the city~~the City's determination shall be made following the procedures outlined in division 7 of this ~~article~~Article.

(e) The provisions of this section shall not prohibit the zoning appeals board from considering the issue of vested rights during other hearings where such rights are in issue, provided that a decision upon a claim of such rights shall be a final determination thereof and further administrative hearings thereon shall be neither required nor permitted.

Development review committee report and recommendation.

1. The development review committee shall review the application in accordance with the provisions of ~~article~~Article 3, division 2 of these LDRs and the comprehensive plan. Any such review by the development review committee shall, at a minimum, include a review and comment by the public works department.
2. Upon completion of review of an application ~~the city~~the City planner shall:
    a. Prepare a report that summarizes the application, including whether the application complies with these LDRs and the comprehensive plan;
    b. Provide written recommendations as to whether the application should be recommended for approval, approval with conditions or denial;
    c. Provide the report and recommendation, with a copy to the applicant and to the planning commission at least one (1) week prior to the next scheduled meeting of the planning commission;
    d. Schedule the application for hearing before the planning commission;
    e. Provide notice of the hearing before the planning commission in accordance with the provisions of ~~article~~Article 3, division 3 of these LDRs.

D. Planning commission review. Upon receipt of the recommendations of the development review committee, the planning commission shall conduct a public hearing on the ~~tentative plat or~~ waiver of plat and shall review to ensure that it conforms to the requirements of these LDRs and the comprehensive plan.

E. Planning commission recommendation. Upon completion of its review, the planning commission shall either recommend the ~~tentative plat or~~ waiver of plat for approval, approval with conditions or disapprove ~~the tentative plat~~, unless a continuance for more information is required.

F. ~~City council~~City Council. The ~~city council~~City Council shall review the recommendation of the planning commission and then approve, approve with conditions, or disapprove the

~~tentative plat~~ waiver of plat. If the ~~city council~~City Council approves the ~~tentative~~ waiver of plat, the mayor signs the plat document and it is transmitted to the Miami-Dade County ~~Land Development Division~~Platting & Traffic Review. The ~~city council~~City Council may continue the matter if it decides more information is needed.

G. Miami-Dade County ~~Land Development Division~~Platting & Traffic Review. After the ~~city council~~City Council hearing, the applicant shall deliver the signed plat or waiver, along with a signed copy of the approving resolution, with necessary copies, to Miami-Dade County ~~Land Development Division~~Platting & Traffic Review for its review. The county reviews the application for compliance with chapter 28 of the Code of Miami-Dade County and either approves, approves with conditions or disapproves the tentative plat. The county then notifies ~~the city~~the City and the applicant of its decision. If the waiver of plat is granted by the county no further action is required.

~~H. Expiration of tentative plat. The tentative plat shall expire and be of no further force and effect if a completed application for a final plat is not filed as set forth in section 3-803 below within one hundred eighty (180) days of approval by Miami-Dade County Land Development . After expiration of one hundred eighty (180) days, the applicant will be required to resubmit the tentative plat for staff and planning commission review as set forth in this section.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-80~~3~~4. – Tentative plat.

(A) Preliminary conference. The subdivider or his engineer, or land surveyor, prior to the preparation of the tentative plat, may informally seek the advice of the plat division of the appropriate authority in order that he may become familiar with the subdivision requirements and with the provisions of the master plan affecting the territory in which the proposed subdivision is located.

(B) Tentative plat. The tentative plat shall show on a map all of the facts and data required by the various departments to determine whether the proposed layout of the land in the subdivision is satisfactory from the standpoint of public interest.

(1) The following information shall be part of the tentative plat unless waived by the plat division of the appropriate authority.

(a) Proposed subdivision name and identifying title and the name of ~~the city~~the City, if any, in which the subdivision is located, and the section, township and range.

(b) Location of property lines, existing easements, buildings, watercourses, elevations, permits and other essential features.

(c) The names of all subdivisions immediately adjacent.

(d) The location of any existing sewers and water mains, or any underground or overhead utilities, culverts and drains on the property to be subdivided.

(e) Location, names and present widths of existing and proposed streets, highways, alleys, parks and other open public spaces and similar facts regarding property immediately adjacent.

(f) The width and location of any street or other public ways or places shown upon the official map or the master plan, within the area to be subdivided, and the width and locations of all streets or other public ways proposed by the developer.

(g) Date of field survey, north point and graphic scale.

(h) Legal description and plan of proposed layout made and certified by a Florida-licensed land surveyor.

(i) The proposed lot lines with approximate dimensions and in the case of odd or irregularly shaped lots, suggested location of building setback lines.

(j) Where the tentative plat submitted covers only a part of the subdivider's entire holding, a master tentative plat of the prospective future street system of the unsubdivided part will be required, and the street system of the unsubmitted part will be considered in the light of adjustments and connection with the street system of the plat submitted.

(k) A plat application signed by the owner and notarized on the form prescribed by the plat division of the appropriate authority.

(l) The numbering of all lots, blocks and the lettering of all tracts shall be shown on the tentative plat. All lots or tracts shall be numbered or lettered progressively. All blocks shall be progressively numbered except that blocks in numbered additions bearing the same name shall be numbered consecutively throughout the several additions.

(m) A location map at the scale of one (1) inch equals three hundred (300) feet showing existing and proposed rights-of-way.

(2) The following information shall be submitted in addition to the tentative plat if requested by the plat division of the appropriate authority.

(a) The names of owners of record of immediately adjacent property.

(b) Any changes in the use, height, area and density districts or other regulations under Chapter 33, Zoning, applicable to the area to be subdivided, and any boundaries of such districts, affecting the tracts; all parcels of land proposed to be dedicated to public use and the conditions of such dedications.

(c) Typical cross-section of the proposed grading and roadways or sidewalks and topographic conditions.

(d) Location of closest available subdivision or public water supply system.

(e) Location of closest available subdivision or public sewage disposal system.

(f) Provisions for collecting and discharging surface drainage.

(g) Preliminary designs of any bridges or culverts which may be required.

(h) A boundary survey.

(i) If required by these regulations or if proposed by the subdivider, the proposed location of any type of sidewalks, street lighting standards and species of street trees, the location of curbs, gutters, water mains, sanitary sewers and storm drains and the sizes and types thereof, the character, width and depth of pavement and sub-base, and the location of manholes and basins and underground conduits.

(j) The boundaries of proposed permanent utility easements over or under private property. Such easements shall provide satisfactory access to an existing public highway or other public open space shown upon the layout. Permanent drainage easements shall also be shown.

(k) All dimensions affecting public rights-of-way and proposed dedication of the public rights-of-way shall be established by a registered surveyor and shown on the grading and drainage plan accompanying approved and valid tentative plats when said plan is submitted for approval, with the same degree of accuracy as, and identical to, the corresponding dimensions shown on the final plat.

(l) A copy of owners' deed or a current opinion of title from any attorney authorized to practice law in the State.

(C) Filing copies of tentative plat and plat application. The subdivider shall file such copies as may be required of the tentative plat with the plat division of the appropriate authority, together with the plat application. All tentative plats filed shall be reviewed for approval weekly, or at the regular meeting of the plat division, and the tentative plats should be filed at least ten (10) days in advance of the meeting at which approval is sought.

(D) Checking and investigating. The subdivider shall pay such fees as may be prescribed by ordinance for checking the tentative plat and investigating such matters concerning it as may be required by law and this chapter.

(E) Approval of tentative plat. On plats that lie within the unincorporated areas of the County, copies of the tentative plat shall be distributed by the Department of Public Works to the Department of Planning and Zoning and the Department of Florida Health and to such other departments as may be necessary. Tentative approval shall confer upon the subdivider the right for a nine months period from the date of approval that the terms and conditions under which the tentative approval was granted will not be changed if the final plat is in accordance with the tentative approval.

(F) Appeal of the County's plat division decision. Decisions of the County's plat division may be appealed within 14 (fourteen) days to the Executive Council of the Developmental Impact Committee as defined in Section 33-303.1(B) of the Code of Miami-Dade County, Florida; and appeals of the Executive Council's decision shall be by application for variance from Chapter 28 (Section 28-19) or, if applicable, by appeal of administrative decision pursuant to Section 33-314(C)(1) Code of Miami-Dade County, Florida. The fourteen-day appeal period provided herein shall commence on the day after notification that the plat division has taken action on the particular matter, such notification to be given by the division through the posting of a short, concise statement of the action taken on a conspicuous bulletin board that may be seen by the public at reasonable times and hours in the office of the Public Works Department. Where the fourteenth day falls on a weekend or legal holiday the appeal period shall be deemed to extend through the next business day.

H. Expiration of tentative plat. The tentative plat shall expire and be of no further force and effect if a completed application for a final plat is not filed as set forth in section 3-804 below within one hundred eighty (180) days of approval by Miami-Dade County ~~Land Development Division~~ Platting & Traffic Review. After expiration of one hundred eighty (180) days, the applicant will be required to resubmit the tentative plat for staff and planning commission review as set forth in this section.

Sec. 3-805~~3~~. - Final plat.

A. Application. The application for final plat review shall be accompanied by all applicable fees including any associated cost recovery fees for external consultant review for checking and investigating the final plat and prepared on a form approved by city staff.

B. Incorporation of changes. The final plat shall have incorporated all of the changes or modifications recommended by the planning commission, the ~~city council~~City Council, and any changes or conditions imposed by Miami-Dade County ~~Land Development Division~~Platting & Traffic Review to make the tentative plat conform to the requirements of this ~~article~~Article. To the extent that any such modifications have not been made, the applicant shall indicate in writing as part of the application the grounds for any departure.

C. Preparation. The final plat shall be prepared by a professional surveyor and mapper licensed in the state. The final plat shall be clearly and legibly drawn, to a sheet size of 30 inches by 36 inches and to a scale of sufficient size to be legible, with letters and numbers to be no smaller than one-eighth of an inch in height. The final plat, insofar as preparation is concerned, shall comply with all applicable regulations and state laws dealing with the preparation of plats.

D. Contents.

(1) Name of the subdivision. The plat shall have a title or name. The title of the plat shall identify the location of the plat as being within ~~the city~~the City, and the applicable section, township and range. The ~~community planning and development~~community planning and development department director shall disapprove any name or title upon a finding that it is sufficiently similar to the name of any previously approved plat in ~~the city~~the City which may cause confusion as to the location of any platted property.

(2) Deed description; description written on map or plat. There shall be written or printed upon the plat a full and detailed description of the land embraced in the map or plat showing the township and range in which such lands are situated and the section and part of sections platted and a location sketch showing the plat's location in reference to the closest centers of each section embraced within the plat. The description must be so complete that from it, without reference to the plat, the starting point can be determined and the outlines run. If a subdivision of a part of a previously recorded plat is made, the previous lots and blocks to be resubdivided shall be given. If the plat be a resubdivision of the whole of a previously recorded plat, the fact shall be so stated. Vacation of previously platted lands must be accomplished in the manner provided by law.

(3) Names of adjacent subdivisions.

(4) Names or numbers and width of streets immediately adjoining plat.

(5) All plat boundaries.

(6) Bearings and distances to the nearest established street lines, section corners or other recognized permanent monuments which shall be accurately described on the plat.

(7) Section lines or other boundaries accurately tied to the lines of the subdivision by distance and bearing, as provided by state law.

(8) Accurate location of all monuments.

(9) Length of all arcs, radii, internal angles, points of curvature and tangent bearings.

(10) Where lots are located on a curve or when side lot lines are at angles less than 87 degrees or more than 93 degrees, the width of the lot at the front building setback line shall be shown.

(11) The name or numbering and right-of-way width of each street or other right-of-way shown on plat.

(12) The numbering of all lots and blocks shown on the plat. All lots shall be numbered either by progressive numbers, or in blocks progressively numbered, except that blocks in numbered additions bearing the same name shall be numbered consecutively throughout the several additions. Excepted parcels must be marked "not part of this plat."

(13) Plat restrictions to restrict type and use of water supply; type and use of sanitary facilities; use and benefits of water areas and other open spaces and odd-shaped and substandard parcels; resubdivision of parcels as "platted," and restrictions of similar nature.

(14) All areas reserved or dedicated for public purposes. No strip or parcel of land shall be reserved by the owner, unless the same is sufficient in size and area to be of some practical use or service.

(15) The dimensions of all lots and angles or bearings.

(16) Minimum building setback lines.

(17) Location, dimension and purpose of any easements.

(18) Certification by a professional surveyor and mapper licensed to practice in the state as to the accuracy of the monuments shown thereon, and their location.

(19) An acknowledgment by the owner of the land being platted, and a dedication statement identifying the dedication of streets and other public areas and the designated purposes therefore, and the consent of any mortgage holders to such adoption and dedication. If existing right-of-way is to be closed, the purpose of closing must be stated on the plat.

(20) The signature and seal of ~~the city~~the City. Where property is being replatted, the signatures of the ~~city council~~City Council shall be affixed or denied pursuant to the procedures established in F.S. § 177.101 (1971), unless the vacation of prior plats has previously been validly accomplished.

E. Other data required with plat.

(1) Restrictive covenants desired by the developer so long as they do not violate existing ordinances. Restrictive covenants shall be required covering the same restrictions controlling building lines, establishment and maintenance of buffer strips and walls, and restrictions of similar nature.

(2) The face of the plat (or certification from a professional surveyor and mapper licensed in the state, on a separate sheet, not to be recorded in the public records) shall show the Florida State Plane Coordinates (current readjustment) of at least two of the permanent reference monuments shown on the plat. This requirement may be waived by the community planning and development department director if:

a. Any portion of the land encompassed by the plat is more than one mile from the nearest station shown on the list on file in the county public works department's survey office, as updated; or

b. All stations within one mile of the plat have been lost.

A copy of the certified corner record (as defined in F.S. 177.503 (1993)), for the corners used shall be provided with the final plat.

(3) Current opinion of title from any attorney authorized to practice law in the state.

(4) Certification from ~~the city~~the City and county that all taxes and assessments have been paid on the land within the proposed subdivision or receipted tax bills.

(5) Clerk's fees for recording the plat.

(6) ~~The city~~The City shall be submitted a statement to the county's plat division certifying that all required improvements within the public right-of-way have been completed or that ~~the city~~the City is holding sufficient bond or other surety for the completion of the improvements. The certification shall also state that the plat appears to conform to all of the requirements of the county's platting regulations. Failure of the county to act on said plats within 45 days of the acknowledged receipt of the plat shall be deemed an approval of the plat.

(7) No plat shall be recorded in the clerk's office until the plat is signed by the director of the county department of public works, certifying that the plat appears to conform to all of the requirements of this chapter. A certification of the director of the county

department of public works need not appear if the community planning and development department director submits an affidavit to the clerk stating that the county has not acted on said plat within 45 days of the acknowledged receipt of the subject plat.

~~C~~E. Community planning and development department. Upon completion of its review, ~~the city~~the City planner shall:

1. Prepare a report that summarizes the application, including whether the applicant has complied with the recommendations of the planning commission, where applicable, the ~~city council~~City Council and Miami-Dade County ~~Land Development Division~~Platting & Traffic Review.
2. Provide written recommendations as to whether the final plat should be approved, approved with conditions or denied.
3. Provide the report, recommendation and a copy of all prior recommendations to the ~~city council~~City Council with a copy to the applicant, at least one (1) week prior to the next scheduled meeting of the ~~city council~~City Council. ~~The city~~The City planner shall also prepare a resolution accepting the plat.
4. Schedule the application for hearing before the ~~city council~~City Council.
5. Provide notice of the hearing before the ~~city council~~City Council in accordance with the provisions of ~~article~~Article 3, division 3 of these LDRs.

~~D~~F. Preliminary approval on final plat. Preliminary approval of a final plat may be given by the ~~city council~~City Council where bonds, engineering plans or specifications have not been completed by the applicant where conditions make it desirable for the applicant to obtain an expression from the ~~city council~~City Council before proceeding further. Preliminary approval vests the applicant for a period of six (6) months with the right to obtain final approval upon the terms and conditions under which said preliminary approval is given. At a quasi-judicial public hearing, ~~T~~the ~~city council~~City Council shall reserve discretion to disapprove the final plat in the event that missing items, such as the bonds, engineering plans or other specifications, do not comply with these LDRs. Except as otherwise provided in section 3-803H., no building permits shall be issued until the final plat is approved and recorded.

~~E~~G. Final action on final plat. At a quasi-judicial public hearing, ~~T~~the ~~city council~~City Council shall review the final plat for conformity to these LDRs and the comprehensive plan as well as the requirements from Miami-Dade County ~~Land Development Division~~Platting & Traffic Review. The ~~city council~~City Council shall either approve, approve with conditions or disapprove the final plat by resolution. Said resolution shall include any acceptance of dedications made on the plat. When approved, the mayor, city clerk and ~~community planning and development~~community planning and development director shall affix their signatures to the plat together with ~~the city~~the City seal and resolution number. If approval is granted, the final plat and a copy of the resolution are returned to the applicant for submission to Miami-Dade County ~~Land Development Division~~Platting & Traffic Review, together with four (4) copies for final review by the board of county commissioners. When disapproved ~~the city~~the City clerk shall attach to the plat a statement setting forth the reasons for such action and return it to the applicant.

H. Final approval; rejection, for plats. After approval has been given as provided in this division, the community planning and development department director shall inform the subdivider, or agent, as the case may be, that the plat has been given final approval and is ready for recording. In the event the plat has been rejected, the director of community planning and development will so notify the subdivider or agent in writing with all reasons for such rejection.

~~F~~I. Revisions after ~~city council~~City Council approval and prior to recordation.

1. Any changes, erasures, modifications or revisions to an approved plat prior to recordation may only be made by the director of community planning and development to correct scrivener's errors. Reflect accurate legal descriptions and locate right-of-way dedications, drainage ways and easements. However, no such request shall be considered unless the application is made by the preparer of the final plat.

2. No other changes, erasures, modifications or revisions to an approved plat shall be made prior to recordation unless resubmitted for new approval, provided however, the ~~city council~~City Council may after a quasi-judicial public hearing and based only on the recommendation of the community planning and development department, change, modify or revise dedicated road rights-of-way or drainage easements. No such change, modification or revision of the dedication of road rights-of-way or drainage easements shall be reviewed unless the application is made by the preparer of the final plat.

~~G~~J. Recording. Following approval of the final plat by the county, or if forty-five (45) days pass from receipt of the plat by the county without any action taken, the final plat shall be recorded, by the applicant, in the public records of Miami-Dade County at the expense of the applicant. A recorded copy of the plat should be filed with ~~the city~~the City no later than thirty (30) days from recording.

~~H~~K. Building permits.

1. Except as provided in this subsection, no building permits shall be issued until all subdivision improvements required in connection with the approval of the plat (e.g., monuments, streets, sidewalks, etc.) have either been completed or sufficiently bonded in a form approved by ~~the city~~the ~~attorney~~City Attorney. Proper indemnification must also be reviewed and approved by ~~the city~~the ~~attorney~~City Attorney prior to any building permit issuance.

2. No building permit shall be issued for construction of any improvements on a parcel that was not legally created in compliance with these regulations except permits for a construction trailer or sales office trailer, single-family homes and townhouses to be used as models. Permits for entrance features, perimeter walls, lift stations and commercial and industrial buildings, may be issued if the developer complies with the following requirements:

   a. For construction trailer or trailer used as sales office: No permits will be approved until at least a tentative plat or waiver of plat has been approved and the paving and drainage plans have been approved. In addition, no permit shall be issued unless the

trailer complies with requirements for providing potable water and sanitary facilities.

b. For permanent buildings to be used as single family or townhouse models: Permits for models will be approved when:

(1) The tentative plat or waiver of plat has been approved by the ~~city council~~City Council.

(2) Paving and drainage plans have been approved.

(3) All plans for public facilities required for the permanent buildings have been reviewed and approved.

(4) A letter signed by the property owner has been submitted to ~~the city~~the City, requesting the construction of models prior to final plat recording. The letter shall include the number of models being requested (only one (1) of each model will be allowed, or only one (1) townhome building) together with the lot and block numbers for each model. The letter shall state that the owner understands and agrees that the model home shall not be occupied until the plat is recorded in the public records and that the penalty for violation of this occupancy prohibition shall be the demolition of the model. The letter shall also state that the owner agrees and shall hold ~~the city~~the City and Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature and kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation.

(5) No certificate of completion shall be issued for any model until after the final plat is recorded except that a temporary certificate of completion may be issued by the community planning and development department~~building and zoning department~~.

c. Entrance features, perimeter wall and lift station permits may be issued after tentative plat approval and receipt of a letter signed by the owner requesting the permit prior to final plat recording and releasing and holding ~~the city~~the City and Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature or kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation.

d. For commercial and industrial buildings:

(1) The tentative plat has been approved by the ~~city council~~City Council.

(2) Only one (1) building permit may be issued, on a site, and only one (1) such permit may be issued within a subdivision.

(3) Paving and drainage plans (if required) shall have been approved by the public works department.

(4) At the time of request, there must be an active set of building plans pertaining to the site, with an active process number under the county's permitting system.

The plans must have approvals from the following disciplines or an indication that such approval(s) are nonapplicable: building, department of environmental resources management, electrical, energy, impact fees, mechanical, planning, plumbing, public works and structural.

(5) A letter, signed by the property owner, has been submitted to ~~the city~~the City requesting the permit prior to final plat recording. The letter shall state the proposed lot and block or tract for such permit, and the owner's acknowledgment and agreement that no certificate of occupancy will be sought or allowed until after the final plat is recorded. The letter shall also state that the owner agrees and shall release and hold ~~the city~~the City and Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature or kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation.

(6) No certificate of occupancy for the subject structure will be issued until the plat is recorded.

(7) The issuance of the building permit shall not modify or affect the concurrency capacity of the underlying tentative plat in any way.

e. For permanent buildings to be used as single family or townhouse production homes: Permits for single-family or townhouse production homes will be approved when:

(1) The tentative plat has been approved by ~~the city~~the City.

(2) Paving and drainage plans have been approved.

(3) All DERM requirements, including the approval of water and sewer extension plans are complied with.

(4) The proposed final plat for the subdivision in which the production homes are to be located has been listed on an agenda for approval by the ~~city council~~City Council.

(5) A letter, signed by the property owner, has been submitted to ~~the city~~the City requesting approval of production homes prior to final plat recording. The letter shall state that the owner understands and agrees that the production home shall not be occupied until the plat is recorded in the public records and that the penalty for violation of this occupancy prohibition shall be the demolition of the production home. The letter shall also state that the owner agrees and shall hold ~~the city~~the City and Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature and kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation.

(6) No certificate of completion shall be issued for any production home until after the final plat is recorded except that a temporary of certificate of completion may be issued by the department of planning and zoning.

L. Right-of-way dedication.

a. No permit shall be issued for a building or use on a lot, plot, tract, or parcel in any district until that portion of the applicant's lot, plot, tract, or parcel lying within the required official zoned right-of-way has been dedicated to the public for road purposes, and standard pavement improvements have been made, bonded for or an improvement agreement signed prior to building permit issuances except as otherwise provided by these LDRs. Any deviation from this section shall require an administrative variance or waiver pursuant to the provisions of section division 6 of this ~~article~~Article.

b. Where a site plan for a multiple-family housing development, apartment development, or apartment hotel development containing frontage on a public or dedicated road and containing interior private streets or roads within the development has been submitted to and approved by the department, it shall be exempt from the provisions of this section, except that if full right-of-way dedications or improvements as required by the public works department are lacking, the same shall be provided or a non-use variance obtained.

Sec. 3-80~~5~~6. - Public improvements and maintenance, withholding from subdivisions not approved or accepted.

~~The city~~The City shall withhold all public improvement of whatsoever nature, including the maintenance of streets and the furnishing of sewage facilities and water service from all subdivisions which have not been approved, and from all areas dedicated to the public which have not been accepted, in the manner prescribed herein.

Sec. 3-80~~6~~7. - Drainage.

(a) Master plan and manual of public works construction. The developer shall plan all drainage for the subdivision in accordance with the master plan entitled "County Water-Control Plan," recorded in Plat Book 64, page 114 and in accordance with the flood criteria map, recorded in Plat Book 53, pages 68, 69, and 70, or as such plan and map may be changed or modified. The drainage plans shall be subject to approval of the public works department for compliance with such plan.

(b) Permit to construct or alter drainage ways. No individual, partnership, or corporation shall construct, deepen, widen, fill, reroute, or alter any existing drainage way, ditch, drain, or canal without first obtaining a written permit from ~~the city~~the City's public works department, county's department of public works and/or the county's department of environmental resources management. Plans for all such work shall comply with the manual of county's public works department, and all such work shall be done under the supervision and subject to the approval of ~~the city~~the City's public work's department and county's department of public works and/or the county's department of environmental resources management. Rights-of-way for all such drainage works and maintenance thereof as prescribed by the manual of public works and construction and the county water control plan, must be dedicated to the use of the public, such dedication to be made prior to any such construction or alteration if so required by ~~the city~~the City's public works department and county's public works department and/or the county's department of environmental resources management.

(c) Rights-of-way and easements. Whenever any drainage way, stream, or surface drainage course is located or planned in any area that is being subdivided, the subdivider shall dedicate such stream or drainage course and an adequate right-of-way necessary for maintenance, future expansion and other purposes along each side of such stream or drainage course as is determined by uniform standards prescribed by the manual of public works construction.

(d) Stormwater. Adequate provision shall be made for the disposal of stormwater subject to standards prescribed in the manual of public works construction.

(e) Contour map and drainage of adjacent areas. A contour map shall be prepared for the area comprising the subdivision and such additional areas as may be required by ~~the city~~the City's public work department and/or county's department of public works and/or the county's department of environmental resources management, necessary to include all watersheds which drain into or through the property to be developed, provided that this map of the adjacent areas may be prepared from existing maps or other data available to and acceptable by ~~the city~~the City's public work department and/or county's department of public works and/or the county's department of environmental resources management. The design for drainage of the subdivision must be adequate to provide for drainage of adjacent water shed areas, and design of drainage structures must provide for drainage of adjacent water sheds after complete development of the total area. Where ditches and canals are required, rights-of-way shall be provided for future needs in accordance with uniform standards proscribed in ~~the city~~the City's and county's manual of public works construction. Provided, however, that the developers may be permitted by ~~the city~~the City's public work department and/or county's department of public works and/or the county's department of environmental resources management to excavate or open, or construct necessary drainage ways and structures only of sufficient capacity to provide for existing drainage needs whenever the developed or undeveloped status of adjacent water sheds may so warrant as determined by ~~the city~~the City's public works department and/or county's department of public works, and/or the county's department of environmental resources management.

(f) Off-site drainage. Off-site drainage shall be mutually coordinated by and between the subdivider, and ~~the city~~the City's public works department. ~~The city~~The City's floodplain management ordinance prohibits offsite drainage. DERM only allows this when needed through a DERM Class II permit.

Sec. 3-80~~7~~8. - Design standards.

(a) Conformity with master site plan. If a master site plan has been adopted for such area, the proposed subdivision shall conform in principle with such master site plan.

(b) Streets.

(1) Conformance. The arrangement, extent, width, grade and location of all streets shall conform to the master plan, if one has been adopted for the area, and shall be considered in their relation to existing and planned streets, topographical conditions, to public conveniences, safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Where not shown on the master plan, the arrangement and the other design standards of streets shall conform to the provisions found herein.

(2) Relation to adjoining street system. The arrangement of streets in new subdivisions shall make provisions for the continuation of existing streets in adjoining areas.

(3) Projection of street. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provisions for the proper projection of streets.

(4) Streets to be carried to property lines. When a new subdivision adjoins unsubdivided land then the new streets shall be carried to the boundaries of the tract proposed to be subdivided where required to promote reasonable development of the adjacent lands or provide continuity of road systems.

(5) Street jogs prohibited. Street jobs with center line offsets of less than 125 feet shall be prohibited unless because of unusual conditions ~~the city~~the City and/or plat division determines that a lesser center line offset is justified.

(6) Dead-end streets or cul-de-sacs. Dead-end streets or cul-de-sacs designated to be so permanently, shall not be longer than 600 feet, and at the closed end, a turnaround having an outside roadway diameter of at least 84 feet, and a street property line diameter of at least 100 feet, may be required. If a dead-end street is of a temporary nature a similar turnaround may be required, and provision made for future extension of street into adjoining property, as may be required by the plat division.

(7) Marginal access streets. Where a subdivision butts on or contains an existing limited access highway, freeway, parkway or arterial street, marginal access streets or other such treatment as may be necessary for adequate protection of residential property and to afford separation of through and local traffic may be required.

(8) Minor streets. Minor streets shall be so laid out that their use by through traffic shall be discouraged.

(9) Railroad on or abutting subdivision. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, a street approximately parallel to and on each side of such right-of-way may be required, at a distance suitable for the appropriate use of the intervening land for park purposes in residential districts or for commercial or for industrial purposes in appropriate districts. Such distances shall be determined with due regard for the requirements of approach grade and future grade separation in accordance with uniform standards prescribed by the manual of public works construction.

(10) A tangent of at least 100 feet long shall be introduced between reversed curves on arterial and collector streets.

(11) When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance and safe turning movement in accordance with uniform standards prescribed by the county's manual of public works construction.

(12) Streets shall be laid out so as to intersect as nearly as possible at right angles.

(13) Property lines at street intersections shall be rounded with a radius of 25 feet. A greater radius may be prescribed by ~~the city~~the City and/or county plat division in special cases in accordance with uniform standards prescribed by ~~the city~~the City's or county's

manual of public works construction. The county's plat division may permit comparable cutoffs or chords in place of rounded corners.

(14) Street rights-of-way widths shall be as shown on the master plan or where not so shown shall be not less than as follows:

a. Arterial: 100 feet right-of-way;

b. Collector: 70 feet right-of-way;

c. Minor, for apartments and residences: 50 to 60 feet right-of-way as may be determined in uniform standards prescribed by the county's manual of public works construction;

d. Marginal access: 45 feet where required in residential areas; 50 feet where access is limited by a limited access highway, a railroad or canal; 70 feet in industrial subdivision;

e. Minor for industrial areas: 70 feet right-of-way; unless because of unusual conditions the plat division determines that a lesser right-of-way width is justified.

(15) Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of these regulations, and where the community planning and development department director finds it will be practical to require the dedication of the other half when adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tracts.

(16) No street names or numbers shall be used which will be confused with or duplicate the names of existing streets. Street names shall be subject to the approval of the planning and zoning department as set forth in this ~~article~~Article.

(c) Alleys.

(1) Alleys may be dedicated in commercial and industrial districts, except that the community planning and development department director may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent and adequate for the uses proposed.

(2) The width of any alley shall not be less than 20 feet.

(3) Vacation and abandonment of rights-of-way, alleys, and/or platted easements, and nonplatted easements.

a. Procedure. The vacation and abandonment of any rights-of-way, alleys and/or platted easements, and the reversion thereof to abutting property owners shall be accomplished only through the platting procedure as set forth in ~~section 29-214~~these LDRs.

b. Nonplatted easements. Vacation and abandonment of nonplatted easements shall only be required to comply with requirements set forth in subsection (c)(5) below and subject to the review criteria set forth in subsection (4) below. Approval of such vacation and abandonment of non-platted easements shall be by resolution of the ~~city council~~City Council.

c. Requirements. All tentative plats involving vacation and abandonment shall be reviewed for compliance with all technical requirements of this section, and including the following criteria:

1. No tentative plat will be considered which includes only rights-of-way or easements to be vacated and closed. The properties on each side of the rights-of-way or easements to be vacated and closed shall be included in the plat, and all abutting property owners shall join in the plat and the disposition of the rights-of-way or easements shown.

3. Where the subdivider requests the vacation and abandonment of a portion of the right-of-way connecting two streets, the subdivider shall provide a cul-de-sac specified in this ~~article~~Article "design standards." The cul-de-sac shall be located fully within the property being platted. All property owners abutting the right-of-way between the two streets shall join in the abandonment of the plat and shall disclaim all right, title and interest in the portion of the right-of-way being abandoned.

4. Where the subdivider requests the vacation and abandonment of a portion of an alley, the subdivider shall provide on his/her property, suitable access from the closed end of the alley to the nearest public street, or streets, as may required. All property owners abutting the alley shall join in the plat.

5. Written consent to vacate and close the platted private easement(s), platted public easement(s) and/or platted emergency access easement(s) of the holder(s) of the easement(s), and for non-platted easements, (ii) written releases from all benefited specified individuals or public or private entities, or a certification that no such benefited individuals or public or private entities exist within the easement(s), and (iii) recommendations of approval from the police, public works, fire-rescue, planning and zoning, and building departments. The written consent that must be obtained from the holders of the easements, must specify that the holders of the easements consents to the vacation of the easements, must specify whether the holders of the easements have granted any type of interest in the easements to a third party, and must specify the third party's identity. In the event that a third party does have an interest in the easements, the applicant must also obtain the third party's written approval to vacate and close the easements. In addition, the applicant must submit an ownership and encumbrance search report prepared by a title company of the area encompassed by the easements that is to be vacated.

d. Criteria for review. Further consideration for vacations and abandonment. In addition to review for technical compliance, the Development Review Committee (DRC) shall also consider the request for vacation and abandonment with respect to the following:

1. Whether it is in the public interest to vacate or abandon the right-of-way or easement?

2. Whether, the right-of-way or easement is being used including use by public service vehicles such as trash and garbage trucks, police, fire and/or other emergency vehicles?

3. The adverse effect on the ability to provide police, fire or emergency services.

4. Whether the vacation or abandonment negatively affects pedestrian and vehicular circulation in the area?

(d) Easements.

(1) Easements across lots (not including drainage) and, where possible, centered along lot lines shall be provided for utilities where necessary.

(2) Where a subdivision is traversed by a watercourse, drainageway, or canal, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith in accordance with uniform standards prescribed by the manual of public works construction.

(e) Blocks.

(1) The length, width and shape of blocks shall be determined with due regard to:

a. Provision of adequate building sites suitable to the special need of the type of use contemplated.

b. Zoning requirements as to lot size and dimensions.

c. Need for convenient access, circulation, control and safety of street traffic.

d. Limitations and opportunities of topography.

(2) Block length shall not exceed 1,500 feet, or be less than 400 feet, unless a lesser or greater length is requested by the subdivider and is deemed advisable because of unusual conditions by the ~~community planning and development~~community planning and development department director.

(3) In blocks 900 feet in length or over, pedestrian crosswalks not less than ten feet wide may be required to provide circulation or access to school, playground, shopping center, transportation, and other facilities.

(f) Lots.

(1) The lot depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and on the type of development and use contemplated.

a. Lot dimensions shall conform to the requirements of the ~~article~~Article 4 of this chapter.

b. Each lot shall be provided, by means of a public street, with satisfactory access to an existing public street or in the case of units within a townhouse site, or cluster development, each lot shall be provided perpetual right of access by private street

or roadway to an existing public street in accordance with the provisions of subsection (b) of this section.

c. Double frontage or through lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation. An appropriate buffer as set forth in section 5-1203 shall be required along the rear property line, across which there shall be no right of vehicular access. This portion of the block line shall be shown as a limited access line on the final plat.

d. Side lot lines shall, where possible, be substantially at right angles or radial to street lines.

(g) Sidewalks. Sidewalks shall be designed and constructed in accordance with the manual of public works construction which shall require, but not be limited to the following:

(1) Minimum width of sidewalks shall be five feet, except that along the following roads, sidewalks shall be a minimum six feet wide, and shall be of material and design approved by the public works department, which may include stamped concrete, pavers, or other acceptable materials:

(2) The minimum six-foot width requirement shall apply to properties on intersections along said rights-of-way for a distance extending 100 feet along the intersecting right-of-way, or the distance of which the property extends along such intersecting right-of-way, whichever is greater.

(3) Contribution of funds in lieu of sidewalk requirements. Where a sidewalk requirement set forth in this section cannot be complied with, as determined by the community planning and development department director, an administrative waiver to contribute funds in lieu of complying with the requirement may be applied for. If a contribution of funds in lieu of the sidewalk requirement is granted, such requirement shall be required prior the recordation of the plat, or prior to the issuance of building permit for any development on the property.

(4) Exceptions. Except as may be granted by a administrative variance or waiver as set forth above, and in accordance to this section of this ~~article~~Article, sidewalks may not be required on roads that are not city maintained.

(h) Acceptance of dedication. The offer of dedication of public spaces shall not constitute an acceptance of the dedication by ~~the city~~the City and/or county. The acceptance of the dedication shall be indicated by a resolution of the applicable governing body, and by an indication on the plat.

(i) Waiver of standards. Those design standards enumerated within subsections (b), (c) and (f) of this section may be waived by the community planning and development department director as an administrative variance as set forth in section 29-50.

Sec. 3-8089. - Required improvements.

Prior to the granting of the final plat approval, the subdivider shall have installed or shall have furnished adequate bond, as provided for herein this ~~article~~Article, the amount equal to 110 percent of the cost of improvements for the ultimate installation of the following:

(1) Permanent reference monuments. Monuments shall be constructed and placed in accordance with F.S. ch. 177.

(2) Streets.

a. Construction; inspection; approval. All streets shall be constructed and surfaced in accordance with applicable standards specifications of the county entitled, "Specifications for Second Road Construction and Residential Streets," or in accordance with requirements indicated in ~~the city~~the City's and county's manuals of public works construction of the department of public works. Such construction shall be subject to the inspection by the governing body or their designated representatives, and subjected to issuance of permits. Where street construction complies in specifications, such installation shall be approved. No other permits of any kind for construction of streets shall be required.

b. Curbs, gutters and drainage. Curbs, gutters, drainage and drainage structures which are required by ordinance shall be provided in accordance with standard specifications or in accordance with the manual of public works construction of the department of public works. Such construction shall be subject to the inspection of the governing body or their designated representatives, and subjected to issuance of permits therefor.

c. Sidewalks. Sidewalks shall be required for all developments along all rights-of-way within ~~the city~~the City.

d. Street signs. Street name signs shall be placed at all street intersections within or abutting the subdivision. Such signs shall be of a type approved by ~~the city~~the City and county and shall be placed in accordance with the standards of ~~the city~~the City and county and the manual of public works construction. The type of street signs and their locations shall meet with the approval and inspection of the county's director of traffic and transportation.

e. Guardrails. On any street adjacent to or abutting a canal, a lake or other body of water a guardrail or other form of traffic barrier must be installed to protect any vehicle from entering the canal, lake or other body of water.

f. Water supply system.

1. Water supply system. Where a water supply system is required by the public health director, each lot within the subdivision area shall be provided with a connection thereto. All systems and extensions shall be subject to the approval of the directors of the department of public health and the public works department and the department of environmental resources management and shall be in accordance with all state and county regulations and standards governing their installation.

2. Individual wells. Where a water supply system is not required, individual wells may be permitted by the public health director and/or the director of environmental resources management if all county and state regulations and standards governing their installations and uses are adequately met.

3. Fire hydrants. Where required by the fire department chief, fire hydrants or fire wells shall be installed in all subdivisions in accordance with the uniform standards established by the public works manual.

g. Sewage disposal system.

1. Sewer systems. Where a sewer system is required by the director of environmental resources, each lot in the subdivision shall be provided with a connection thereto. All systems, extensions, and connections shall be subject to the approval of the director of environmental resources management and shall be in accordance with all city, county and state regulations and standards governing their installation.

2. Septic tanks. Septic tanks may be permitted upon approval by the director of environmental resources management in accordance with the provisions of chapter 24 of the ~~Metropolitan~~ Miami-Dade County Code. Septic tanks shall be installed in compliance with all of the requirements, specifications and standards of ~~the city~~the City, county and state governing their use.

h. Underground electric and communication lines.

1. Except as expressly provided hereinafter, all utility lines, including but not limited to those required for electrical power distribution, telephone and telegraph communication, street lighting and television signal service shall be installed underground. This section shall apply to all cables, conduits or wires forming part of an electrical distribution system including service lines to individual properties and main distribution feeder electric lines delivering power to local distribution systems; provided that it shall not apply to wires, conductors or associated apparatus and supporting structures whose exclusive function is in transmission of electrical energy between generating stations, substations and transmission lines of other utility systems. Appurtenances such as transformer boxes, pedestal-mounted terminal boxes, and meter cabinets may be placed aboveground but shall be located in conformance with the requirements of the manual of public works construction. In areas zoned for industrial use, all electrical and communication distribution systems may be installed overhead, but the service conductors from the utility pole to the building (structure) shall be an underground service lateral.

2. Easements shall be provided for the installation of utilities or relocating existing facilities in conformance with the respective utility company's rules and regulations.

3. Exception. In subdivisions of less than 21 lots, the community planning and development department director may waive the requirements for underground installations if the service to the adjacent area is overhead and it does not appear that further development will occur, as set forth in ~~article XV of this chapter~~these LDRs.

4. Any new service which is allowed by the provisions herein to be supplied by overhead utilities shall be connected to a service panel that is convertible for underground utility service at a future date.

5. The subdivider or developer shall make the necessary costs and other arrangements for such underground installation with each of the persons, firms or corporations furnishing utility services involved.

i. Street and alley lighting. Street lighting as required per the public works manual shall be installed. Street and alley lighting may be provided for through the establishment of a special taxing district.

Sec. 3-8~~09~~10. - Construction plans required.

(a) Preparation. The subdivider, shall confer with the appropriate agencies to determine the standards and specifications which will govern the proposed improvements. The subdivider shall submit complete construction plans prepared by an engineer and/or professional surveyor and mapper, as the case may be, licensed in the state, for the entire development of the area for which application to plat has been submitted, together with the complete and accurate contour map using U.S.C. and G.S. datum, to the appropriate agencies for their review and approval. The construction plans shall include the complete design of required sanitary sewer system, water supply system, storm drainage system and the street system for the entire area to be subdivided. Due consideration shall be given to the problems that may be created by the subdivision of adjacent lands, especially as pertains to drainage in order that conformance with the overall drainage plan will be obtained. The subdivider shall do no construction work until his completed construction plans have been approved by the appropriate agencies. Reasonable time must be allotted for the proper study of the plans submitted.

(b) Construction of improvements; employing engineer. After approved construction plans have been filed and approved, the subdivider may construct the required improvements, subject to obtaining the required permits from the appropriate agencies.

(c) Notification. On plats, the director of the department of public works, and if sewerage and water systems are involved, the director of the department of public health, shall be notified in advance of the date that such construction shall be commenced. Construction shall be performed under the supervision of the appropriate agencies and shall at all times be subject to inspection by these agencies. However, this in no way shall relieve the subdivider of close field supervision and final compliance with the approved plans and specifications.

(d) Employment of registered engineer; progress reports. Where deemed necessary, in accordance with ~~the city~~the City's and county's manual of public works construction, the appropriate agencies may require the subdivider to employ a registered engineer for complete supervision of the construction or installation of the improvements involved, and may require progress reports and final certificate of the construction or installation from such engineer. The appropriate agencies shall establish detailed regulations governing the inspections to be furnished by the developer or his engineer and may refuse to accept work which has been done without proper inspection. No construction work shall be undertaken prior to obtaining the required permits.

(e) Acceptance of improvements. When construction is complete in accordance with the approved plan and specifications and complies with the provisions of these regulations, the subdivider shall obtain written final approval and acceptance from the appropriate agencies.

Sec. 3-81~~0~~1. - Bond in lieu of immediate construction.

In lieu of immediate construction of improvements, the subdivider may file with ~~the city~~the City a cash bond or letter of credit for 110 percent of the work with the required fees in an amount approved by the department of public works, a company approved by ~~the city~~the City or the department authorized by them, to insure ~~the city~~the City the actual satisfactory completion of construction of proposed improvements within a period of not more than one year from the date of such bond. The bond for the installation of sidewalks may be a separate bond. Provisions shall be made for extension of all such bonds, such extension to be commensurate with the progress of the development. Provisions shall also be made for reduction of such bonds, such reduction to be commensurate with the percentage of improvements constructed in the subdivision concerned. This bond shall also include a maintenance provision for two years covering drainage and for one year covering all other improvements by the subdivider. The amount to be included for maintenance shall be outlined in the manual of public works construction. Bonds shall be subject to cancellation, reduction or renewal only by ~~the city~~the City upon written certification of ~~the city~~the City's public works department.

Sec. 3-8~~11~~12. - Subdivision of portion of tract.

The owner or developer of a tract may prepare a master plan for that entire tract and then may submit a tentative and final plat for only a portion of the tract. No construction of subdivision improvements shall be started until construction plans for the entire area covered by the final plat have been approved. Except as otherwise provided in these LDRs, improvements must be installed for all of that area for which a final plat is submitted before building permits will be issued. In such cases of partial subdivision of a tract, the street system, drainage systems, trunk sewers and sewage treatment plants and water plants shall be designed and built to serve the entire area, or designed and built in such a manner as to be easily expanded or extended to service the entire area.

Sec. 3-8~~12~~13. - Encroachment on or in streets.

(a) No building or any other type of structure shall be permitted on or in, a mapped street, except required and approved underground installations, and further excepting that pump houses for drip irrigation may be permitted to encroach into public rights-of-way subject to the granting of an administrative variance pursuant to division 6, ~~article~~Article 3, after a recommendation is made by the director of public works department, and further providing that a building permit is subsequently secured for such pump house placement. In addition to the criteria for administrative variance, the community planning and development department director shall determine whether the request will be contrary to the public interest based upon the following criteria:

(1) Safe and sufficient passing distance for motorists and pedestrians;

(2) Location of existing pavement, if any;

(3) Safe sight distance for motorists;

(4) The effect on adjacent land uses;

(5) Access to land in the area.

Upon the community planning and development department director determination that the pump house encroachment will not be contrary to the public interest the property owner shall execute and deliver a written covenant running with the land in favor of ~~the city~~the City committing that within 60 days after notice from the public works director that the pump house has become contrary to the public interest based on the above-mentioned criteria, the property owner shall remove the pump house at the owner's expense and terminate the encroachment. Said covenant shall be in a form approved by ~~the city~~the ~~attorney~~City Attorney, and shall be executed so as to be entitled to recording in the public records of the county. The property owner shall establish that there is no lien or encumbrance prior in right to such covenant except for non-delinquent ad valorem property taxes, failing which a removal bond satisfactory to the public works director shall additionally be posted. Upon the owner's compliance with the provisions of this section, the public works director shall issue written approval.

(b) For the purpose of this section, the term "drip irrigation" shall mean low volume irrigation, , intended and designed to deliver water and nutrients to the root area of a plant in quantities matching evapotranspiration requirements as closely as possible, and at a rate close to what the soil will absorb.

(c) Wire fences without barbed wire may be permitted to be constructed within the rights-of-way providing written approval is obtained from the director of the public works department, and further providing that a building permit is secured for such fence placement.

(1) An applicant for the public works director's approval of a wire fence shall submit the written consents of all the owners of all parcels abutting the subject property, and of all the owners of all parcels immediately across the street from the subject site.

(2) In the event the applicant is unable to submit such consents, approval of an application for an administrative variance and waiver as set forth in section division 6, ~~article~~Article 3 is required.

(3) The public works director shall send a notice to all property owners within 1,500 feet of the proposed site. The notice shall state that any interested party may respond in writing within 30 days and that no permit will be granted until after the 30-day period has expired.

(4) After considering the application and all statements of interested parties, the public works director shall determine whether the requested fence will be contrary to the public interest based upon the following criteria, and make a recommendation to the community planning and development department director:

a. Location of existing pavement, if any;

b. Safe sight distance for motorists;

c. Effect on adjacent land uses;

d. Access to land in the area; and

e. Safe recovery zone for vehicles.

(5) Under no circumstances shall any fence or wall be placed within the public right-of-way less than ten feet from the edge of any existing roadway pavement.

(6) Upon the director's recommendation, and the community planning and development department director 's determination that the fence will not be contrary to the public interest, the property owner shall execute and deliver a written covenant running with the land in favor of ~~the city~~the City, committing that, should the public works director find that the fence has become inconsistent with the public interest based on the above-mentioned criteria, the property owner shall remove the fence at the owner's expense within 60 days after notice from the public works director. Said covenant shall be in a form approved by ~~the city~~the ~~attorney~~City Attorney, and shall be executed so as to be entitled to recording in the public records of the county. The property owner shall establish that there is no lien or encumbrance prior in right to such covenant except for nondelinquent ad valorem property taxes, failing which a removal bond satisfactory to the public works director shall additionally be posted.

(7) The director shall publish notice of his determination regarding fence placement or removal in a newspaper of general circulation and shall provide mail notice to the same property owners who were entitled to be mailed notice in advance of the director's determination, as provided in this section. Appeal of the director's determination or decision may be made pursuant to division 7, ~~article~~Article 3. The public interest criteria contained in this section shall apply to any appeal regarding the placement in or removal from the right-of-way of any wire fence. No masonry wall or wood fence shall be permitted to be constructed on or in a right-of-way unless approved as an administrative variance and waiver as set forth in division 6, ~~article~~Article 3. The public interest criteria contained in this section shall [be] considered in granting the approval regarding the placement in or removal from the right-of-way of any masonry wall or wood fence.

(d) Appeals of the director's decision regarding pump house or fence placement or removal may shall be made in as set forth in division 7, ~~article~~Article 3.

Sec. 3-8~~13~~14. - Variances and waivers.

Variances from the provisions of this ~~article~~Article are subject to the rules and procedures for the granting of variances in division 6, ~~article~~Article 3 of this chapter.

Sec. 3-8~~14~~15. - City's regulations, effect.

In the event ~~the city~~the City's regulations provide, or are of a higher standards of subdivision regulations than those provided by the county, as have been adopted in accordance with law, ~~the city~~the City's standards shall be noticed to the county public works department, and those higher standards shall be enforced as a supplement to chapter 28 of the Miami-Dade Code and by the county departments concerned.

Sec. 3-8~~15~~16. - Excavations.

(a) Special exception use approval required for certain excavations. No excavations below the level of any street, highway or right-of-way shall be made except upon special exception use approval as set forth in division 5, ~~article~~Article 3.

(b) Exceptions. No special exception use approval shall be required for excavations for the following purposes:

(1) The foundation of a building or any structure to be constructed immediately after such excavations. All excavations shall be refilled after construction of such foundation in a manner which will prevent accumulation of stagnant water or other hazard.

(2) Swimming pools.

(3) Water hazard in a bona fide golf course.

(4) Canals which are part of the county or South Florida Water Management District canal system.

(5) Reflecting ponds and water features with a maximum depth of six feet of water so long as said amenities are completely lined with impervious material, a horizontal five-foot safety shelf is provided around the perimeter of the reflecting pond or water feature at an elevation where not more than 18 inches of water is provided on the shelf area and so long as backsloping or a perimeter berm is provided to prevent overland stormwater runoff from entering the water body.

(6) Retention drainage areas subject to first obtaining site plan approval from the planning and zoning department.

(c) All other excavations. All other excavations shall be subject to all applicable regulations as set forth in chapter 33-16 of the Miami-Dade County Code, and as amended.

~~Sec. 3-816. - Address assignments.~~

~~(a) Purpose and intent. It is the intent of this section and those pertaining to street names and addressing that follow, to promote, protect and improve the safety, services and welfare of the citizens of the citythe City by establishing a uniform system for the naming of streets and the numbering of buildings fronting all streets, avenues and public ways within the citythe City limits. Such a requirement will:~~

~~(1) Ensure greater public safety;~~

~~(2) Promote efficiency in the postal and other delivery services; and~~

~~(3) Improve the emergency call-response system for medical, fire and police services.~~

~~(b) Applicability. No person, firm, corporation or any other association, shall name, rename or codesignate any street, nor number or renumber any building anywhere in the citythe City except in conformity with the provisions of this articleArticle.~~

~~(1) No street naming, renaming or codesignation shall contain any restriction of any nature based on race, ethnicity, national origin, religion, sexual orientation or gender.~~

~~(2) All street signs shall be installed by the county per the Miami-Dade County Public Works Manual.~~

(3) All public and private streets shall be named, and all buildings and structures shall be numbered in accordance with the provisions of this articleArticle, and shall be approved by the planning and zoning department.

(4) Street names and building numbers approved by the community planning and development department director will be considered to be official street names, and building numbers will be included in the citythe City address system.

(5) This articleArticle establishes base lines and criteria for numbering all buildings or structures in the citythe City, and shall attempt to conform to the numbering system of other county neighboring communities to the south, east and west, where common streets form boundary lines.

(c) Authority to assign street names. The authority to assign street names rests with the community planning and development department director. The cityThe City clerk will be responsible for providing notification of the change, and its effective date, to the citizens concerned and all appropriate county, state and federal agencies.

(d) Authority to assign building numbers. All addresses and building numbers are to be assigned not later than the time of final plat as submitted for review to the planning and zoning department, or on the final site plan for non-subdivision development. In all cases, the planning and zoning department shall ensure that the developer/design engineer has provided sufficient information to properly address the new subdivision or site development plan. Addresses are to be assigned only by the planning and zoning department. Addresses assigned by any other entity are subject to being voided or otherwise changed. Platted subdivision addresses shall not be available or released until the plat has been recorded. All assigned addresses are to be entered into the automated city address system. Address assignment includes the assignment of unit numbers to shopping centers, apartments or condominiums, and office and warehouse developments consistent with the guidelines contained herein and as specified in the articleArticle.

(e) Official address maps and plats. The community planning and developmentcommunity planning and development department director is hereby directed to make, without delay, special maps or plats of the citythe City covering all additions or subdivisions recorded or generally known and available within the citythe City limits; designating the names of streets and number units by the numbers as herein provided. The said maps or plats shall be known as the street naming and numbering plat and be kept open to the public for reference in the planning and zoning department. Hereafter all buildings, houses, portions of land and lots adjacent to or abutting upon streets, avenues, places, terraces, courts, lanes and roads of the citythe City, county and state shall be known and designated by the numbers indicated on said plats referred to in this section.

(f) Unassigned addresses. In event a property, development, building, or any other structure requiring an address does not have an assigned address in accordance with this articleArticle, it shall be the property owner's sole responsibility to file an application for address assignment to the planning and zoning department on a form approved by the community planning and developmentcommunity planning and development department director accompanied by the applicable fee. Failure to obtain an address in accordance to this articleArticle is a violation of this chapter.

~~Sec. 3-817. - Uniform street naming system.~~

~~The public health, safety, comfort, and welfare require a uniform system for the naming of streets within the citythe City. In furtherance of this purpose, the following sections establish the criteria for the proper naming, renaming and codesignation of street within the citythe City.~~

~~(1) Base lines. N.W. 119th Street shall constitute the base line for numbering buildings or structures along all streets running northerly and southerly with the exception of such streets bearing non-numerical names. Miami Avenue shall constitute the base line for numbering buildings or structures along streets running easterly and westerly with the exception of such streets bearing non-numerical names.~~

~~(2) Names of avenues. The community planning and developmentcommunity planning and development department is hereby authorized to name avenues as follows:~~

~~a. Each avenue lying east of the base thoroughfare, Miami Avenue, shall bear the numerical name indicating the number of squares easterly that it may be removed from such base thoroughfare.~~

~~b. Each avenue lying west of the base thoroughfare, Miami Avenue, shall bear the numerical name indicating the number of squares westerly that it may be removed from such base thoroughfare.~~

~~(3) Names of courts. The Building and Minimum Housing Department is hereby authorized to name courts as follows:~~

~~a. Each court lying east of the base thoroughfare, Miami Avenue, shall derive its name from the next westerly avenue.~~

~~b. Each court lying west of the base thoroughfare, Miami Avenue, shall derive its name from the next easterly avenue.~~

~~(4) Names of places. The Building and Minimum Housing Department is hereby authorized to name places as follows:~~

~~a. Each place lying east of the base thoroughfare, Miami Avenue shall derive its name from the number of the next westerly avenue.~~

~~b. Each place lying west of the base thoroughfare, Miami Avenue shall derive its name from the number of the next easterly avenue.~~

~~(5) Naming of streets. The Building and Minimum Housing Department is hereby authorized to name streets as follows: N.W. 151st Street, being the southernmost boundary of the citythe City, shall be the base thoroughfare for naming streets. Each street lying north of this established base thoroughfare shall bear the numerical name indicating the number of squares northerly that it may be removed from such base thoroughfare.~~

~~(6) Naming of terraces. The Building and Minimum Housing Department is hereby authorized to name terraces as follows: N.W. 151st Street being the southernmost boundary of the citythe City, shall the base thoroughfare for naming terraces. Each terrace lying north of this established base thoroughfare shall derive its name from the number of the next southerly street.~~

~~(7) Naming of lanes. The Building and Minimum Housing Department is hereby authorized to name lanes as follows: N.W. 151st Street being the southernmost boundary of the citythe City, shall be the base thoroughfare for naming terraces. Each lane lying north of this established base thoroughfare shall derive its name from the number of the next southerly street.~~

~~(8) Names of drives, roads and avenue roads.~~

~~a. The thoroughfares now known as East Bunche Park Drive, West Bunche Park Drive, Golden Glades Drive, Northwest Railroad Drive, and School Drive shall continue to be called by their current names.~~

~~b. The thoroughfare now known as Musick Road between N.W. 42nd Avenue and N.W. 40th Avenue shall continue to be called Musick Road.~~

~~c. All roads shall derive their names from the streets or avenues at which they shall commence, except as otherwise named in this section.~~

Sec. 3-8187. - Street signs.

(a) Incorrect street signs. No person shall put up or cause to be put up any sign designating a street, avenue or other public place by a different name than that by which it is generally and legally known, or refuse to move the same from his property when requested to do so by any officer of ~~the city~~the City.

(b) Injuring, defacing, etc., street signs. No person shall willfully and maliciously injure, deface or remove any of the street signs posted in ~~the city~~the City.

Sec. 8-819. - Proposed street names on plats and plans.

(a) The approval process for new street names shall be administered during the tentative plat, or plan review. Street names are required to be submitted for each new street, whether the street is to be dedicated to public use, a private street, or an ingress/egress easement that meets the criteria stated below. Plats or plans submitted without street names, or with generic names, such as "Street A", are to be rejected and returned to the developer/design engineer until compliance with the requirements for labeling street names is achieved. The approved street names will appear on all subsequent submissions of plats or plans for review by ~~the city~~the City.

(b) The following streets or traveled ways require city approved street names:

(1) Federal and primary state highways.

(2) Street proposed for acceptance into the secondary state highway system - dedicated to public use.

(3) Private streets to be maintained by homeowners' association or other private firm or organization.

(4) Ingress/egress easements that serve more than one address.

(c) New street names may be required when an insufficient number of addresses remain on an existing street for addressing new townhouse, condominium, apartment, or retail

developments. In such cases, the access entrance to the development from the existing street is to be named, with addresses assigned to the named entrance and traveled way.

(d) Tentative reservation of street names.

(1) Tentative approval. Developers and engineers may receive tentative approval of street names by reserving the names with the planning and zoning department. By reserving a proposed street name, ~~the city~~the City has not formally approved the street name for use, but has given conditional approval, subject to formal review during the tentative plat or plan review process. The department reserves the right to disallow use of tentatively approved street names upon formal plat or plan review.

(2) Two-year reservation. Proposed street names may be tentatively reserved for two years only. After expiration of the two year reservation, if plats or plans showing such reserved names have not been submitted to ~~the city~~the City by the developer reserving the name, the name may be used by any other developer in ~~the city~~the City.

(3) Duplication of existing street names. No duplication of existing street names is to occur within ~~the city~~the City. Street names with the same name, but different street type designations will be considered duplicate street names and will not receive approval with the exception of cul-de-sacs that intersect directly with a street of the same name. To ensure that street names are not duplicated, proposed street names will be reviewed against ~~the city~~the City address system as the primary source for existing street names.

(4) Near spelling duplications, confusing spellings, phonetically similar names. Near duplications in spelling, confusing spellings, or names that are phonetically similar to existing names are not to be approved. Near duplications of spelling are to be identified by reviewing ~~the city~~the City address system. Confusing spellings include those names that are difficult to spell, obscure names, or twists on conventional spelling of familiar names. Proper names are not to be approved, except for special recognition as approved by the ~~city council~~City Council, nor will the names of commercial establishments be utilized.

(5) Length of street names. New street names will not contain more than 16 characters, not including the type designation. Names shall not contain hyphens, apostrophes, nor any other non-letter characters. Street names will not consist of more than two words, exclusive of street type.

(6) Continuation of street names. Streets continuing through an intersection will keep the same name. Exceptions may be granted if the street crosses a major arterial road. Commercial, multifamily, or townhouse developments having an entrance or access through a publicly maintained cul-de-sac are to have a separate street name for the entrance or access road in the event that it serves or is intended to serve more than one address.

a. Cul-de-sacs directly opposite each other, intersecting with a common street are to have different names.

b. Street names will not change due to a change in direction of the street, nor will a new prefix be used for those streets that meet the criteria for using compass points in the street name.

(7) Use of compass points in street names. Compass points, such as north or west, shall not be used as a part of a street name, including as a prefix or suffix except as follows:

a. Where streets cross the east/west or north/south zero baseline for address assignment, with no change in base name and type, compass points shall be used to ensure that the correct portion of such streets is correctly identified. For those streets that meet the criterion for this exception, the compass point direction is to made part of the official name of that street.

b. Where a street is constructed in stages from two ends and does not connect, compass points may be used until the street is physically connected. At that time, any such prefixes will be removed from the official street names. This process is to be automatic and is the responsibility of the planning and zoning department.

Sec. 3-82018. - Street type designations.

Street type designations will be approved or assigned by the planning and zoning department. Street names submitted for review must include street type designations and must be evaluated. If meeting the criteria for street types, they will be approved. Street types appearing on tentative, final check subdivision plats, site plans, or the subdivision record plats, which do not meet criteria shall be noted for change by the developer/design engineer and approvals will be withheld until such changes are implemented. The following are the criteria for street type designation assignment or approval:

(1) Major roadways such as an interstate, multi-lane federal highway - normally four or more lanes, limited access, and divided:

a. Highway.

b. Pike.

c. Freeway.

d. Expressway.

e. Throughway.

f. Turnpike.

(2) Major roadways - multi-lane, non-limited access, usually the main arterial roadways carrying high volumes of traffic:

a. Highway.

b. Avenue.

c. Road.

d. Boulevard.

e. Parkway.

1. Local connector roads, usually two lanes:

(i) Avenue.

(ii) Street.

(iii) Road.

(iv) Drive.

(v) Extension.

2. Local roadway providing access to individual lots within a subdivision or commercial area:

(i) Lane.

(ii) Drive.

(iii) Way.

(iv) Circle.

(v) Trail.

(vi) Loop.

(vii) Bend.

(viii) Heights.

(ix) Hill.

(x) Knoll.

(xi) Ridge.

(xii) Run.

(xiii) Crossing.

3. Local street which have only one way in and out, such as cul-de-sacs:

(i) Court.

(ii) Place.

(iii) Terrace.

(iv) Mews.

(v) Common.

(vi) Commons.

(vii) Crescent.

(viii) Green.

(ix) Landing.

(x) Manor.

(xi) Point.

(xii) Pointe.

(xiii) Summit.

(xiv) Trace.

(xv) View.

(xvi) Vista.

Sec. 3-8~~21~~19. - Alternatives to renaming streets.

(a) The ~~city council~~City Council shall consider three alternatives to renaming or codesignating streets as follows:

(1) Marker, by which a plaque or sign bearing a designation shall be mounted separately on a stone or post in the right-of-way.

(2) Plaza, by which only the intersection of two streets shall be designated. The designation shall be mounted on the post under the street signs at the intersection.

(3) Codesignation, by which a numbered street shall receive an additional designation over the numbered street designation on the street signs. The police department and department of fire-rescue and United States Postal Service shall be notified of codesignation.

(b) Procedure to rename or codesignate streets. The ~~city council~~City Council may, by resolution adopted after a public hearing, name, rename or co-designate any city road, street or public way. The following criteria shall be considered for street codesignation:

(1) Named or numbered streets shall not be so renamed or codesignated in a manner that will be confused with or duplicate the names of existing streets.

(2) Named streets, e.g., as in Honeyhill Drive, N.W. 199 Street, shall not be changed where there is an historical tradition attached to the existing name. North Miami Drive, N.W. 183rd Street shall not be renamed or codesignated.

(3) Named streets shall not be codesignated because of the resulting confusion.

(4) Numbered streets shall not be codesignated for merely commercial purposes.

(5) Numbered streets shall only be codesignated if there is significant historical, neighborhood or community benefit to the codesignation.

(6) Numbered street codesignations shall not exceed five blocks in length.

(7) There shall be a hiatus at least five blocks in length between consecutive codesignations in numbered streets.

(8) In order for a resolution renaming or codesignating a street with a person's name to be approved, the unanimous vote of the ~~city council~~City Council shall be required.

(9) Persons whose names are considered for the renaming or codesignation of a street shall meet the following criteria:

a. Such persons must have demonstrated extraordinary service to ~~the city~~the City and its residents; or

b. Such persons shall have brought exceptional credit or recognition to ~~the city~~the City and its residents; or

c. Such persons shall be of significant prominence nationally or internationally.

(10) Only the mayor and members of the ~~city council~~City Council may sponsor a resolution for the renaming or codesignation of a street.

(11) Block numbers shall be added to any new street signs that reflect codesignations, markers or plazas.

(12) ~~City council~~City Council must approve a resolution for renaming or codesignation of streets. This resolution must be submitted to the county's traffic engineer division for final approval and sent to the county's public works department for fabrication and installation. The county commission will need to approve the sign prior to installation. A county fee will be charged to provide and install the signs.

(c) The criteria outlined above shall also apply when the ~~city council~~City Council considers whether to recommend the renaming or codesignation of county, state or federal streets.

(d) Upon adoption of a resolution naming, renaming or co-designating any city road, street or public way, ~~the city~~the City clerk shall provide a certified copy of the adopted resolution to ~~the city~~the City's planning and zoning department, building department, public works department, the police department, and the United States Postal Service. Additionally, ~~the city~~the City clerk shall publish notice of any street name change in a newspaper of general circulation within ~~the city~~the City in substantially the following form:

NOTICE OF STREET NAME CHANGE

Public notice is hereby given that the ~~City Council~~City Council of ~~the City~~the City of North Miami, Florida has enacted a resolution changing the name of _____/_____/_____to _____/_____/_____. This name change is effective immediately and has been duly recorded with the United States Postal Service.

(e) Expenses.

(1) All expenses on the part of ~~the city~~the City or any other governmental agency resulting from requests for street codesignations, markers or plazas shall be borne by the applicant.

(2) Initial expenses include, but are not limited to, newspaper advertising, posting of notification placards, and postal correspondence to the applicant. Upon approval by the ~~city council~~City Council of a request for street codesignation or a marker or a plaza, the applicant shall pay all additional expenses related to the permits, manufacture and installation of the appropriate signs and related appurtenances. A nonrefundable deposit in the amount determined by the director of public works toward the initial expenses outlined in this section shall accompany any request for a street codesignation or for a designation of a marker or a plaza.

(f) Schedule of fees. Any request for a street codesignation or for a designation of a marker or a plaza shall also be accompanied by an application fee in the amount set forth in ~~the city~~the City's fee schedule.

Sec. 3-8~~22~~20. - Uniform building numbering system.

The public health, safety, comfort, and welfare require a uniform system for the numbering of buildings within ~~the city~~the City. In furtherance of this purpose, the numbering of all buildings within the corporate limits of ~~the city~~the City shall be in conformity with the following system:

(1) Address grid system. Each new subdivision, parcel, commercial unit, apartment or condominium, or townhouse will be assigned and address based on the street providing access to the property. Vehicular parcel access will determine street name and address number assignment as opposed to the direction the building may be facing. Addresses will be assigned based on the county-wide grid system, which is a quadrant grid extended from ~~the City~~the City of North Miami.

(2) The centerline of N.W. 119th Street shall be taken as the basis of numbering from the south to the north on a unit basis of 25 feet per address number; and the buildings on the north and south avenues and thoroughfares which intersect that street shall begin to be numbered at that street and run north to ~~the city~~the City limits.

(3) The centerline of Miami Avenue shall be taken as the basis of numbering from the east to the west and from the west to the east on a unit basis of 25 feet per address number; and the buildings on the east and west streets and other thoroughfares which intersect Miami Avenue shall begin to be numbered at that avenue and run east to ~~the city~~the City limits and west to ~~the city~~the City limits.

(4) All numbering of number units shall begin from the base thoroughfares, the north and east sides of the streets having the odd numbers and the south and west sides having the even numbers.

(5) Address number units in a square shall increase in an arithmetical progression of two as the address number units recede from the base thoroughfare.

(6) The address numbers in the first squares adjoining a base thoroughfare shall begin with one on the north and east sides and two on the south and west sides, and progress arithmetically by two for each successive address number unit space from the base thoroughfare, to the next street or avenue.

(7) The numbering of address number units in each square shall begin with that hundred number indicating the number of squares it may be removed from the base thoroughfare, and numbers shall advance by hundreds only by squares.

(8) In case of diagonal streets, avenues or places, or in case of streets, avenues or places which do not lend themselves to the designation or description of north and south or east and west, the planning and zoning department is hereby authorized and empowered to assign numbers which will be in keeping with the general plan set forth herein as applied to and contrasted with the numbers assigned in the vicinity.

(9) All buildings, houses, portions of land and lots adjacent to or abutting (joining end to end) upon streets, avenues, places, terraces, courts, lanes and roads of ~~the city~~the City shall be known and designated by the numbers indicated on the appropriate plats as retained by ~~the city~~the City clerk's office.

(10) Buildings on streets with similar names, such as cul-de-sacs with the same base name, but different type designations, shall not have identical numbering sequences.

Sec. 3-8~~23~~21. - Building numbering for specific uses.

(a) Addressing of single-family homes. Addresses for single lots within subdivisions are to be assigned consecutively, as appropriate, on the odd and even sides of the street. A separate street address is to be assigned for each single-family lot, to include open space parcels. This information is to be entered and stored, with ancillary data, in the automated city address system.

(b) Addressing of duplexes/two-family homes. Addresses for duplex lots are to be assigned consecutively, as appropriate, on the odd and even sides of the street. Two separate street addresses are to be assigned for each duplex lot, to include open space parcels. This information is to be entered and stored, with ancillary data, in the automated city address system.

(c) Addressing of townhouse developments. Addresses for townhouse lots are to be assigned consecutively, as appropriate, on the odd and even sides of the street. A separate street address is to be assigned for each townhouse lot, to include open space parcels. This information is to be entered and stored, with ancillary data, in the automated city address system. No unit numbers, such as apartment numbers, are to be assigned in townhouse developments.

(d) Addressing of vacant parcels. Each vacant parcel outside of a subdivision shall have an address assigned using the lowest number available across the road frontage of the parcel. If, at a later date, a building permit is applied for on that parcel, the actual location of the driveway entrance will be shown the time of permit application and the building number adjusted to correspond to the location of the driveway. This information is to be entered and stored, with ancillary data, in the automated city address system.

(e) Addressing land locked parcels. Land locked pieces of property shall be addressed from the nearest road unless there is a major creek or stream between the nearest road and the property and the property lies in its entirety on the far side of the creek or stream from the road. In such cases, the next adjacent road to the property will be used to assign an address. The street address number shall be derived from the appropriate address on the grid system closest to the center of the property. If, at a later date, a building permit is applied for on that land-locked parcel and a proper legal right of ingress/egress has been obtained, the actual location of the ingress/egress will be shown the time of permit application and the building number adjusted to correspond to the location of the driveway. This information is to be entered and stored, with ancillary data, in the automated city address system.

(f) Addressing commercial, office, and warehouse developments. Assignment of addresses for shopping centers will vary depending on whether it is a strip center or mall. Commercial developments with variable retail space are to be evaluated for addressing based upon the minimum frontage and the maximum potential number of units. The requirements for addressing office and variable warehouse are the same as for strip shopping centers. Finalized assigned address information is to be entered and stored, with ancillary data, in the automated city address system.

(1) Strip shopping centers, variable office and warehouse spaces. Strip shopping centers are to have an individual address for the center itself and each unit shall be addressed in the manner prescribed for townhouses. Strict adherence to the 25 foot frontage dimension shall be followed. Site development plans for all strip shopping centers shall be required to include the maximum number of potential units within the center in order that allowances can be made for proper addressing. The location of the door providing primary public access is the determining factor in address assignment. In the event that a strip shopping center may require more street addresses than are available within the segment of street, the planning and zoning department may assign one street address to the strip shopping center as a whole and assign unit numbers for each of the potential units within the center. Unit numbers shall run as consecutive whole numbers in the same direction as the addresses on the street. Unit numbers shall begin with 101 and progress higher. The same procedures and information are to be used in assigning addresses and unit numbers to variable office and warehouse spaces.

(2) Enclosed shopping malls. Enclosed shopping malls are to be addressed with one street address number assigned to the street intersecting with the main entrance. Separate address numbers are not to be assigned to each entrance of enclosed shopping malls. The maximum number of retail units is to be included on the site development plans as well as the minimum retail unit frontage. Unit numbers are to be assigned using an odd and even numbers distribution on either side of the mall corridor. Unit numbers will begin with 1001 on the odd side and 1002 on the even side. In malls having multiple corridors and/or levels, each corridor is to be assigned numbers in higher hundreds divisions within a range of 1001 to 1999. Additional levels shall be numbered similarly within the next highest thousands range. For example, retail spaces in one corridor may run from 1001 to 1028, retail spaces in an adjoining corridor would resume the sequence and run from 1029 to 1046, and stores on the next level up would be numbered 2001 to 2028 and 2029 to 2046, respectively.

(3) Office parks. Office park address assignment shall be in accordance with the established address grid system. Each building will be numbered as with townhouses with each exterior entrance receiving a separate address.

(g) Addressing multifamily dwellings and multi-unit office building types. These requirements include residential and office buildings of the same type construction design as apartment buildings.

(1) Multifamily housing units, such as apartments and condominiums, are to have a separate street address for each entry providing primary access to units within the building, as defined by the development plans. Street addresses are to be assigned based on the established criteria for assignment in accordance with the grid system and using an appropriate odd and even scheme for building entrance. Finalized assigned address information is to be entered and stored, with ancillary data, in the automated city address system.

(2) Plans for multifamily dwellings, such as apartments and condominiums, to include conversions, and multi-unit office building types shall have unit numbers assigned by the planning and zoning department in conjunction with the grid based street address. Plans submitted for review and address assignment must clearly identify the location of

all entrances to each building and each unit therein and depict the physical relationships between these entrances.

(3) Within vertical, multi-level structures, a consecutive whole unit number shall be assigned for each separate unit. Numbers shall be assigned from left to right as viewed from the common primary entrance. The lowest floor shall begin with 101 and progress in increments of one (102, 103, 104, etc.), until all units on that level have been assigned unit numbers. Unit numbers on successively higher floors are to be incremented by 100, such as 201, 202, 203, for the second level, 301, 302, 303, for the third floor and so on. The official complete street address for each unit will consist of the building number, street name, street type, and unit number in accordance with United States Postal Service regulations.

(4) The submitted site development plans, or condominium plats, must include a top view schematic of the buildings in their proper relationship to the streets providing access, as well as an elevation view or perspective diagram showing the relationship of unit entrances to the entry providing primary access from the exterior of the building. Final approval of plans will not be granted until the developer/design engineer has provided the planning and zoning department with information suitable for assigning addresses for these types of structures.

Sec. 3-8242. - Building numbers specifications.

Numbers on buildings shall conform to the following specifications.

(1) Address numbers for single-family, townhouses, and multifamily dwellings.

a. Size. The numbers shall have a minimum height of four inches. It is recommended that the height of the numbers exceed four inches.

b. Location. All numbers shall be securely mounted on the building front, or any fixed accessory located in front of the building within five feet of the main entry way or main path of travel which leads to the main entrance of the said building from a public or private road. Such numbers shall otherwise be separately mounted in the same manner upon the face of a wall or fence or upon a post in the front yard of the property. Whenever a building is more than 50 feet from the street, or when the primary access doorway is not clearly visible from the street, the number is to be placed on appropriate signage at the street end of the driveway or other street access point and will be visible from both directions of street approach. Placement of numbers on a roadside mailbox, conforming to size requirements, in such cases, will be acceptable.

(2) Address numbers for commercial, office, and warehouse facilities.

a. Size. Numbers will be not less than ten inches in height.

b. Location. Numbering shall be placed above the exterior primary access entrance. In the event that a strip shopping center, variable office structure, or warehouse structure has had unit numbers assigned, unit numbers shall be posted in a like manner as well and will, also, be not less than ten inches in height.

c. Numbering on signage. Commercial properties such as, but not limited to, strip shopping centers, shopping malls, and office parks, displaying approved identifying signage will display an address number on that signage. In the case of shopping malls, the number shall be the actual number of the mall's address. In the case of strip shopping centers, shall be the lowest number of all numbers assigned to the facility. Numbers displayed on signage shall not be less than ten inches in height and may be placed above or below the signage and attached to that signage. Numbers must be clearly visible from the street.

(3) Addressing of vacant parcels. Each vacant parcel outside of a subdivision shall have an address assigned using the lowest number available across the road frontage of the parcel. If, at a later date, a building permit is applied for on that parcel, the actual location of the driveway entrance shall be shown the time of permit application and the building number adjusted to correspond to the location of the driveway. This information is to be entered and stored, with ancillary data, in the automated city address system.

(4) Addressing land locked parcels. Land locked pieces of property shall be addressed from the nearest road unless there is a major creek or stream between the nearest road and the property and the property lies in its entirety on the far side of the creek or stream from the road. In such cases, the next adjacent road to the property shall be used to assign an address. The street address number shall be derived from the appropriate address on the grid system closest to the center of the property. If, at a later date, a building permit is applied for on that land locked parcel and a proper legal right of ingress/egress has been obtained, the actual location of the ingress/egress shall be shown the time of permit application and the building number adjusted to correspond to the location of the driveway. This information is to be entered and stored, with ancillary data, in the automated city address system.

(5) Additional requirements.

a. Legibility. Numbers shall be sufficiently legible as to contrasting background, arrangement, size, spacing, and uniformity of numerals, so that the numbers may be read with ease during daylight hours by a person possessing at least 20/40 vision upon viewing said numbers from the center line of the adjacent road. The numbers shall be placed such that trees, shrubs, and other obstructions do not block the line of sight of the numbers from the centerline of the adjacent road.

b. Proximity to light source. Wherever practicable and in accordance with this ~~article~~Article, the building numbers shall be placed as close as possible to a light source, in order to make them more visible at night. If no light source is in proximity, the numbers shall be made of a reflective material.

c. Adjusting and specifying numbers. Such numbers shall not be changed without the consent of the community planning and development ~~department~~ director; and it shall be the duty of the community planning and development ~~department~~ director to adjust such numbers, or to number such streets from time to time, if such numbering may be required.

d. Plats on file. For the purpose of facilitating a correct enumeration, plats of all streets, avenues, courts, terraces and highways within ~~the city~~the City, showing the proper number of all lots or houses fronting upon all thoroughfares (except alleys) shall be prepared and kept on file in the office of ~~the city~~the City clerk, which plats shall be available during regular office hours, for public inspection.

e. Placement by owner or occupant. It shall be a violation of this chapter for any owner or occupant of any building to fail to number or renumber such building in conformity with the provisions of this ~~article~~Article, and with the plan for numbering buildings, within 30 days after receipt of written notice from the community planning and development ~~department~~ director of the proper number of such building. Such violation shall be subject to the imposition of a monetary fine that may be collected in the same manner and with the same penalties as violations for failure to pay city taxes.

Sec. 3-8~~25~~23. - Authority for changing building numbers.

(a) The community planning and development ~~department~~ director shall have the authority to change the numbering of any existing or new address upon determining that such change is a necessity based on health, safety, and welfare of the citizenry. The community planning and development department director shall determine appropriate new address numbers to supplant those to be changed. The community planning and development department director shall notify the owners of the property by mail as to the impending change. In all cases, changes shall become effective not less than 60 days subsequent to the notification letter mailing date. The community planning and development department director shall coordinate notification of changes with appropriate county agencies and the U.S. Postal Service.

Sec. 3-8~~26~~24. - Duty of building owners relative to building numbering.

It shall be the duty of the owner of any dwelling unit, building or place of business to which a number has been assigned, to display such number in numeral form in accordance with the following standards:

(1) All buildings constructed, erected or removed shall, upon completion of their construction, erection or removal, be numbered in accordance with the plat referred in the preceding section.

(2) All street numbers assigned pursuant to this section shall be clearly legible and shall be visible from any distance up to 100 feet from the centerline of the street, roadway, or alley fronting the property. Such numbering shall be done by the owner and the numbers thereof shall conform to and be in accordance with the plat referred to in the preceding section.

(3) Numerals shall be placed on a sharply contrasting background if placed on a freestanding address display stand or shall be of a sharply contrasting color if placed on the building wall or other structure.

(4) Street numbers shall be placed in such a location mounted on a permanent structure or freestanding address display stand so as to be visible from the centerline of the street, roadway or alley facing the numerals.

(5) The maximum setback for street numbers mounted on a building or other permanent structure shall be 100 feet from the centerline of the street or roadway fronting the property.

(6) Street numbers mounted on a fence, wall or freestanding address display stand shall be placed within 25 feet of the driveway, walkway or other obvious entry onto the premises from the fronting street or roadway.

(7) All building numbers as herein provided shall be maintained in good condition.

(8) Failure by any owner of a building to number, renumber, maintain such building address numbers, or use any number other than that assigned by the planning and zoning department constitutes a violation of this chapter, which may result in the imposition of a monetary fine that may be collected in the same manner and with the same penalties as violations for failure to pay city taxes. ~~The city~~The City shall not issue any building permit until the official building number has been issued, nor shall ~~the city~~the City issue any certificate of occupancy until permanent and proper address numbers have been affixed to the structure in accordance with this ~~article~~Article.

(9) It shall be unlawful for any person to tamper with, deface or take down numbers placed on any property in accordance with this ~~article~~Article, except for repairs or replacement of such numbers.

(10) The word "owner" as used in this section shall include owners of the fee, lessee and agent in charge.

(11) All costs for the address numbering or renumbering materials shall be borne by the property owner, whether or not the address change was initiated by ~~the city~~the City.

(12) It shall be unlawful for any person to use any number other than that designated or assigned by the planning and zoning department.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

## DIVISION 9. - VACATION ~~AND~~ OR ABANDONMENT OF RIGHT-OF-WAY AND EASEMENTS

### Sec. 3-901. - Purpose and applicability.

The purpose of this division is to establish a uniform procedure for the abandonment of real property interests of ~~the city~~the City. This division applies to city streets, alleys, sidewalks, easements and other fee or non-fee property interests of similar character.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1329, § 1, 4-10-12)

Sec. 3-902. - Application and fees.

A property owner whose property abuts a public right-of-way or alleyway may apply to ~~the city~~the City for the abandonment, in whole or in part, of the abutting right-of-way or alleyway. The fee simple right-of-way or alleyway to be abandoned shall be appraised by an independent appraiser to determine the fair market value.

The applicant is required to pay a cost recovery fee for the independent appraisal. Once appraised the applicant will have the option to purchase the property for no less than ninety (90) percent of the appraised value of said lands in accordance with ~~Article~~Article 1, Section 3 of ~~the City~~the City Charter. All requests for abandonment of city streets, alleys, sidewalks, easements and other fee or non-fee interests which ~~the city~~the City may have in real property shall be made in writing upon an application form approved by city staff and shall be accompanied by applicable fees, and shall be filed with the ~~community planning and development~~community planning and development department.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1329, § 1, 4-10-12)

**Editor's note—** Ord. No. 1329, § 1, adopted April 10, 2012, changed the title of section 3-902 from "Application" to "Application and fees." The historical notation has been preserved for reference purposes.

Sec. 3-903. - Standards.

Applications for vacation or abandonment of city streets, alleys, sidewalks, easements and other fee or non-fee interests which ~~the city~~the City may have in real property shall be approved provided that it is demonstrated that:

A. The fee or non-fee property interest sought to be vacated or abandoned:

1. Does not provide a benefit to the public health, safety, welfare or convenience, in that:

a. It is not being used by ~~the city~~the City for any of its intended purposes; and

b. No comprehensive plan, special purpose plan or capital improvement program anticipates its use; or

2. Provides some benefit to the public health, safety, welfare or convenience, but the overall benefit anticipated to result from the vacation or abandonment outweighs the specific benefit derived from the nonfee property interest, in that:

a. The purpose of the interest sought to be vacated or abandoned will be adequately and appropriately served in an alternative manner when the interest is vacated or abandoned;

b. The vacation or abandonment will not compromise the delivery of emergency services;

c. The vacation or abandonment will not compromise pedestrian or vehicular safety;

d. The vacation or abandonment will not interfere with solid waste removal services;

e. The vacation or abandonment will not frustrate any comprehensive plan, special purpose plan or capital improvement program of ~~the city~~the City;

f. The vacation or abandonment will not interfere with any planning effort of ~~the city~~the City that is underway at the time of the application but is not yet completed; and

g. The vacation or abandonment will provide a material public benefit in terms of promoting development or redevelopment of abutting property, removing blighting influences or improving ~~the city~~the City's long-term fiscal position.

B. The proposed vacation or abandonment will be accomplished in accordance with all applicable standards of local, state and federal authorities.

C. The proposed vacation or abandonment will promote development or redevelopment that will maintain or enhance the character of the surrounding area.

D. The proposed vacation or abandonment will not have a negative fiscal impact on ~~the city~~the City or result in development that will have a negative fiscal impact on ~~the city~~the City.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1329, § 1, 4-10-12)

Sec. 3-904. - Staff review, report and recommendation.

A. Upon receipt of an application pursuant to this division, the community planning and development department director shall review the application to determine whether it is complete.

B. The application package shall be distributed either by regular mail or by hand, to all public utility companies and city-operated utilities that have facilities within the area of the interest sought to be vacated or abandoned. The notice shall request their review and comment within twenty (20) days, and shall be delivered to:

1. ~~City manager~~City Manager;
2. Community planning and development department;
3. Public works department;
4. Police department;
5. Parks and recreation department;
6. City clerk;
7. ~~City attorney~~City Attorney; and

8. Such other agencies as determined by the director of community planning and development.

C. Within forty-five (45) days of distribution of the application to public utility companies and city-operated utilities, the director of ~~community planning and development~~community planning and development shall:

1. Review the application for compliance with the standards set out in section 3-903;
2. Provide a report which addresses the application's compliance with the standards set out in section 3-903 and summarizes all comments submitted with regard to the application;
3. Provide a proposed resolution granting approval or approval with conditions;
4. Forward the entire record of the application, including all application materials, the report, the proposed resolution and all correspondence related to the application to the planning commission;
5. Schedule the application for hearing before the planning commission; and
6. Provide notice of the planning commission hearing pursuant to ~~article~~Article 3, division 3.

D. After the public hearing of the planning commission, the director of ~~community planning and development~~community planning and development shall:

1. Schedule the application for hearing before the ~~city council~~City Council;
2. Forward the entire record of the application, including all application materials, the staff report and recommendation, the proposed resolution, all correspondence related to the application, the findings and recommendation of the planning commission, and the transcript of the planning commission proceeding to the ~~city council~~City Council; and
3. Provide notice of the ~~city council~~City Council hearing pursuant to ~~article~~Article 3, division 3.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-905. - Planning commission review and recommendation.

The planning commission shall:

A. Review the application at a public hearing;

B. Make written findings with respect to whether the application complies with the standards set out in section 3-903; and

C. Make a written recommendation to the ~~city council~~City Council with regard to whether the application should be approved, approved with conditions or denied.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-906. - ~~City council~~City Council review and decision.

The ~~city council~~City Council shall review the application at one (1) public hearing. At the public hearing, the ~~city council~~City Council shall:

A. Decide whether the application should be approved, approved with conditions, denied or deferred;

B. If the application is not deferred, make written findings of whether the application complies with the standards set out in section 3-903;

C. If the application is approved or approved with conditions, cause notice of the approval to be published in accordance with section 3-908.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-907. - Effect of vacation or abandonment.

A. The effective date of any resolution pursuant to this division shall be the date of adoption of any resolution or in the event the resolution is subject to conditions, the effective date will be compliance with those conditions.

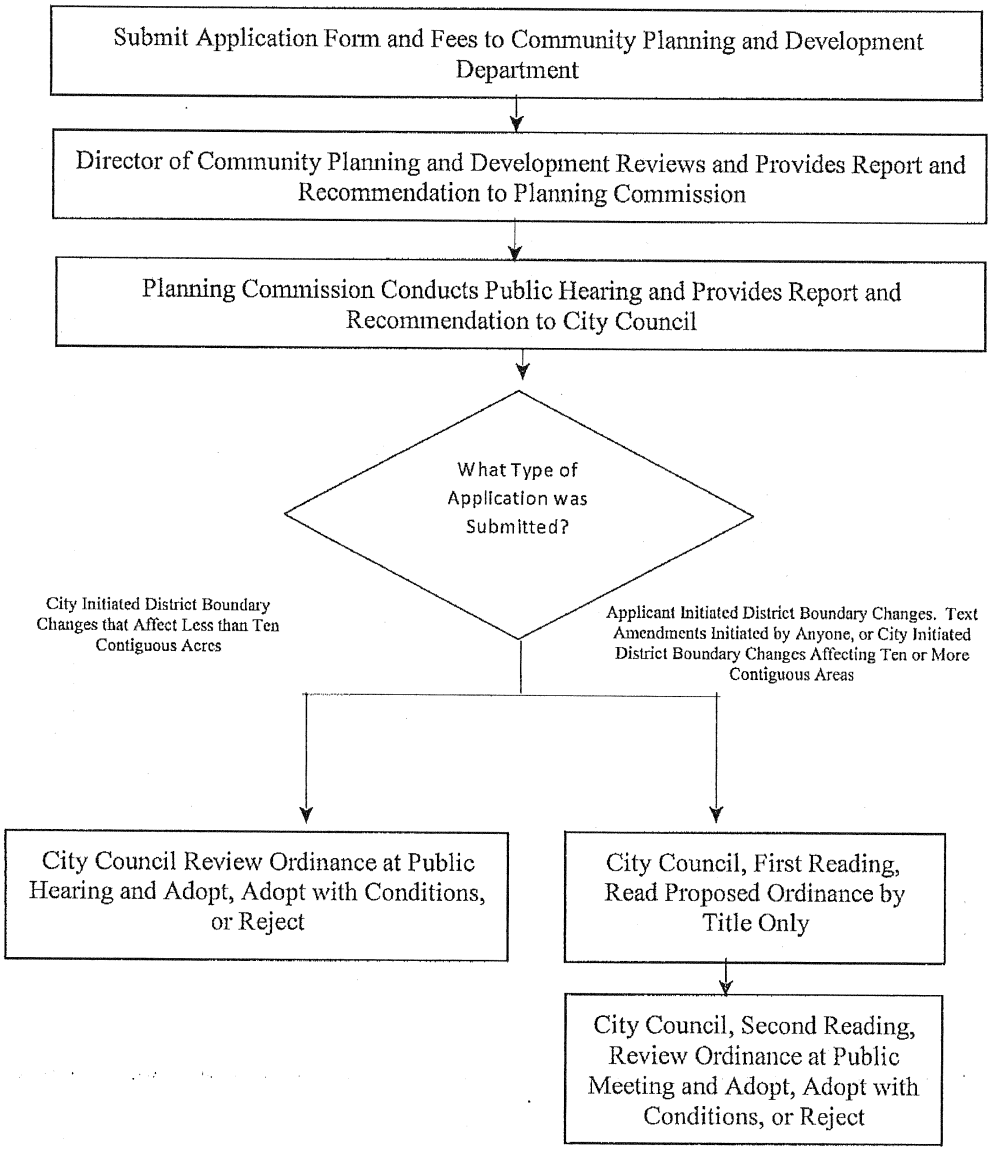
B. A vacation or abandonment pursuant to this division shall renounce and disclaim any rights in any land delineated on any recorded map, and shall abrogate the easement theretofore owned, held, claimed or used by or on behalf of the public. The title of fee owners shall be freed and released therefrom, and if the fee of road space has been vested in ~~the city~~the City, it is surrendered and will vest in the abutting fee owners to the extent and in the same manner as in case of termination of an easement for road purposes.

C. Whenever any street, alley or other public way is vacated or abandoned, the zoning regulations governing the property abutting upon each side of such street, alley or public way shall be automatically extended to the center of the former street, alley or public way.

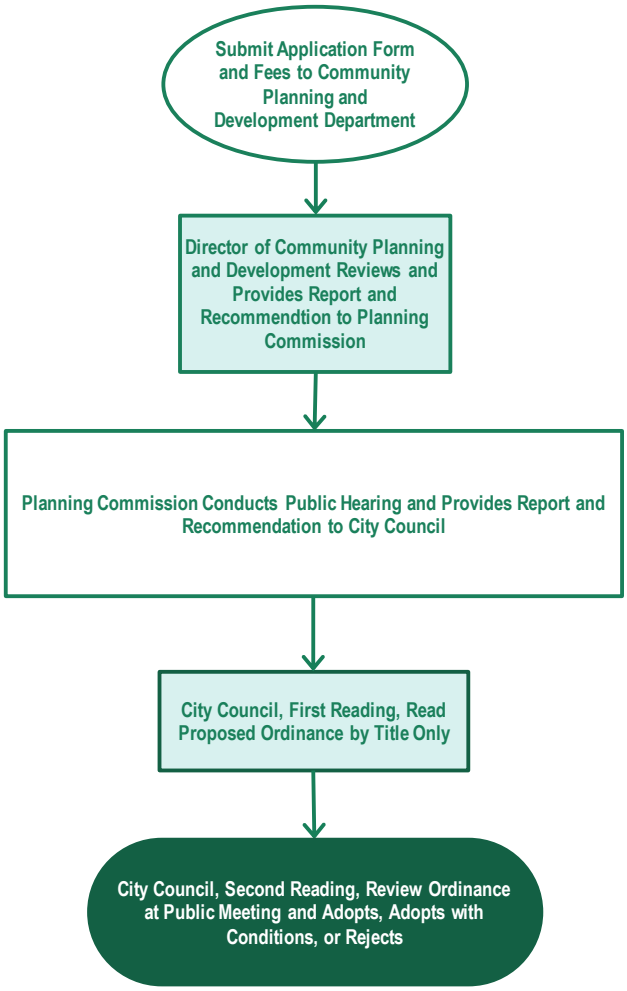
D. Whenever land that is the subject of a vacation or abandonment has been built-up by fill of formerly submerged lands, the zoning regulations applying to the land immediately adjoining such built-up land shall be automatically extended thereto.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 10. - AMENDMENTS TO TEXT OF LDRS AND CHANGES TO THE OFFICIAL ZONING MAP


Submit Application Form and Fees to Community Planning and Development Department
Director of Community Planning and Development Reviews and Provides Report and Recommendation to Planning Commission
Planning Commission Conducts Public Hearing and Provides Report and Recommendation to City Council
What Type of Application was Submitted?
City Initiated District Boundary Changes that Affect Less than Ten Contiguous Acres
Applicant Initiated District Boundary Changes. Text Amendments Initiated by Anyone, or City Initiated District Boundary Changes Affecting Ten or More Contiguous Areas
City Council Review Ordinance at Public Hearing and Adopt, Adopt with Conditions, or Reject
City Council, First Reading, Read Proposed Ordinance by Title Only
City Council, Second Reading, Review Ordinance at Public Meeting and Adopt, Adopt with Conditions, or Reject

**Amendments to Text or LDRs and Changes to the Official Zoning Map**

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Sec. 3-1001. - Purpose and applicability.

The purpose of this division is to establish a uniform procedure for zoning map changes and for text amendments to these LDRs. This division applies to all such changes and amendments, whether initiated by ~~the city~~the City or by one (1) or more private property owners.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1002. - Application.

All applications for district boundary changes or text amendments to these LDRs shall be made in writing upon an application form approved by ~~the city~~the City, and shall be accompanied by applicable fees.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1003. - Standards for ~~applicant initiated~~ zoning map changes.

A. ~~An applicant-initiated zoning map change shall be approved if it is demonstrated that the application satisfies all of the following:~~ Consideration of zoning map changes shall include consideration of the following factors:

1. C~~It is c~~onsistency~~t~~ with the comprehensive land use plan. ~~in that it:~~

~~a. Does not permit uses which are prohibited in the future land use category of the parcel proposed for development;~~

~~b. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use category of the parcel proposed for development;~~

~~c. Will not cause a decline in the level of service for public infrastructure to a level of service that is less than the minimum requirements of the comprehensive land use plan;~~

~~d. Does not directly conflict with any goals, objective or policy of the comprehensive land use plan;~~

~~e. Is physically suitable for the use permitted in the proposed district;~~

~~f. Is compatible with the surrounding areas, zoning designations(s) and existing uses.~~

2. Whether the application contributes to the following factors: ~~ill provide a benefit to the city in that it will achieve two (2) or more of the following objectives:~~

a. Improve mobility by reducing vehicle miles traveled for residents within a one-half (½) mile radius by:

i. Balancing land uses in a manner that reduces vehicle miles traveled;

ii. Creating a mix of uses that creates an internal capture rate of greater than twenty (20) percent; or

iii. Increasing the share of trips that use alternative modes of transportation, such as public transit ridership, walking or bicycle riding.

b. Promote high-quality development or redevelopment in an area that is experiencing declining or flat property values;

c. Create affordable-workforce housing opportunities for people who work in ~~the City~~the City of North Miami;

d. Implement specific objectives and policies of the comprehensive land use plan;

e. Promote development patterns that will not interfere with hurricane evacuation;

f. Promote high quality environmental safety design techniques or promotes crime prevention through defensible space design approaches (CPED).~~;~~ and

g. Improve environmental quality by adopting "green initiatives." ~~through leadership in energy and environmental design (LEED) consistent with the Green Building Rating System Version 2.2 as amended; and~~

3. Will not cause a diminution of the market value of adjacent property or materially diminish the suitability of adjacent property for its existing or approved use.

B. An applicant may propose limitations regarding the use, density or intensity which will be permitted on the parcel proposed for development in order to achieve compliance with the standards of this section. Such limitations shall be offered by a restrictive covenant or declaration of use that is provided to ~~the city~~the City in recordable form acceptable to ~~the city~~the ~~attorney~~City Attorney. It is within the discretion of the ~~city council~~City Council to accept or reject the proffered covenant or declaration of use or restrictions.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1004. - Standards for text amendments to these LDRs ~~and for city-initiated zoning map changes.~~

~~The planning commission shall not recommend adoption of and the city council~~City Council ~~shall not recommend or adopt text amendments to these LDRs or city-initiated zoning map changes unless the text amendment or zoning map change:~~ Consideration of text amendments to these LDRs shall include consideration of the following factors:

A. Whether the amendment p~~P~~romotes the public health, safety and welfare;

B. Whether the amendment ~~Does not~~ permits uses the comprehensive land use plan prohibits in the area affected by the zoning map change or text amendment;

C. Whether the amendment ~~Does not~~ allows densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;

D. Whether the amendment causes ~~Will not cause~~ a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the comprehensive land use plan;

E. Whether the amendment directly conflicts ~~Does not directly conflict~~ with a~~n~~ goal, objective or policy of the comprehensive land use plan; and

F. Whether the ~~The~~ ~~proposed~~ amendment furthers the orderly development of ~~the City~~the City of North Miami.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1005. - City staff review, report and recommendation.

A. Upon receipt of an application pursuant to this division, the director of community planning and development shall review the application in accordance with the provisions of this division.

B. Upon completion of review of an application, the director of community planning and development shall:

1. Review the application for compliance with the standards of this division.
2. Provide a report with regard to the application's compliance with the standards of this division.
3. Provide a recommendation as to whether the application should be approved, approved with conditions, or denied.
4. Schedule the application for hearing before the planning commission.
5. Provide notice of the planning commission hearing pursuant to ~~article~~Article 3, division 3.

C. Upon receipt of the recommendation of the planning commission, the director of community planning and development shall:

1. Schedule the application for hearing before the ~~city council~~City Council.
2. Forward the staff report and recommendation and the findings and recommendation of the planning commission to the ~~city council~~City Council.
3. Provide notice of the ~~city council~~City Council hearing pursuant to ~~article~~Article 3, division 3.

D. If a second public hearing of the ~~city council~~City Council is required, the director of community planning and development shall provide timely notice of the public hearing pursuant to ~~article~~Article 3, division 3.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1006. - Planning commission review and recommendation.

The planning commission shall:

A. Review the application at a public hearing;

B. Make written findings with respect to whether the proposed zoning map change or text amendment to these LDRs is consistent with the comprehensive land use plan; and

C. Make a written recommendation to the ~~city council~~City Council with regard to whether the application should be approved, approved with conditions or denied. The planning commission may continue the item if more information is needed for a decision.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1007. - ~~City council~~City Council review and decision.

A. For ~~applicant-initiated~~ zoning map changes, and text amendments to these LDRs and ~~city-initiated~~ district boundary changes ~~that affect ten (10) acres or more contiguous acres of property,~~ the ~~city council~~City Council shall hold two (2) advertised public hearings as follows:

1. At the first public hearing, which shall be held at least 7 days after the day that the first advertisement is published, the ~~city council~~City Council shall read the proposed ordinance by title only.

2. At the second hearing, which shall be held at least 10 days after the first hearing and advertised at least 5 days prior to the public hearing, the ~~city council~~City Council shall~~:~~

   ~~a. If the proposed ordinance is applicant-initiated,~~ review the application for compliance with the standards set out in section 3-1004 and decide whether to adopt, adopt with conditions or deny the proposed ordinance~~; or~~

   ~~b. If the proposed ordinance is city-initiated, review the application for compliance with the standards set out in section 3-1004 and decide whether to adopt, adopt with conditions or deny the proposed ordinance~~.

3. If the proposed amendment is a zoning map change, changes the list of permitted, conditional or prohibited uses in a district, then one (1) of the public hearings shall be held after 5:00 p.m. on a weekday, unless the ~~city council~~City Council, by a majority plus one (1) vote, elects to conduct that hearing at another time of day.

~~B. For city-initiated zoning map changes that affect less than ten (10) contiguous acres of property, the city council shall hold one (1) public hearing, at which it shall:~~

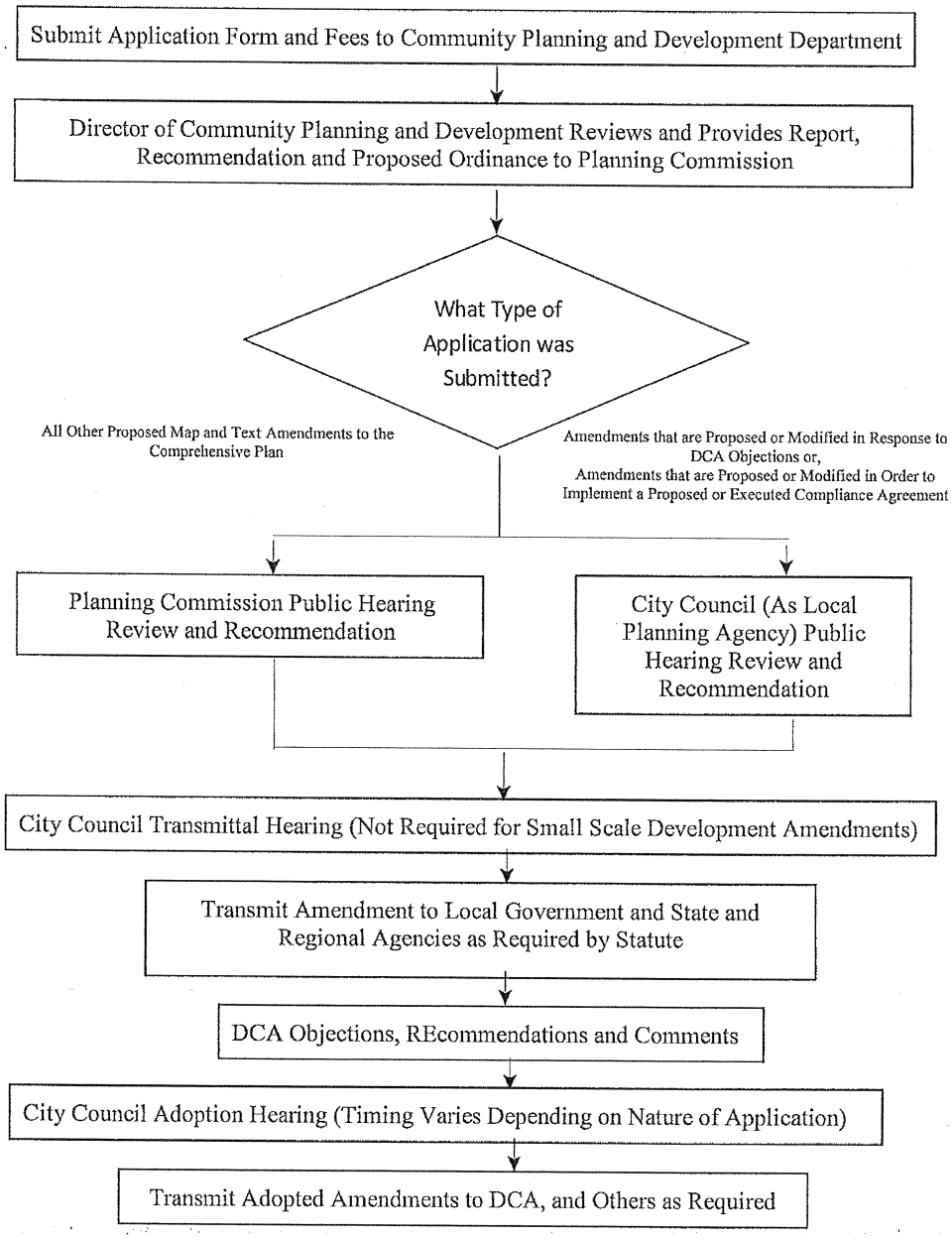
~~1. Review the proposed ordinance for compliance with the standards set out in section 3-1004; and~~

~~2. Adopt, adopt with conditions or deny the proposed ordinance.~~

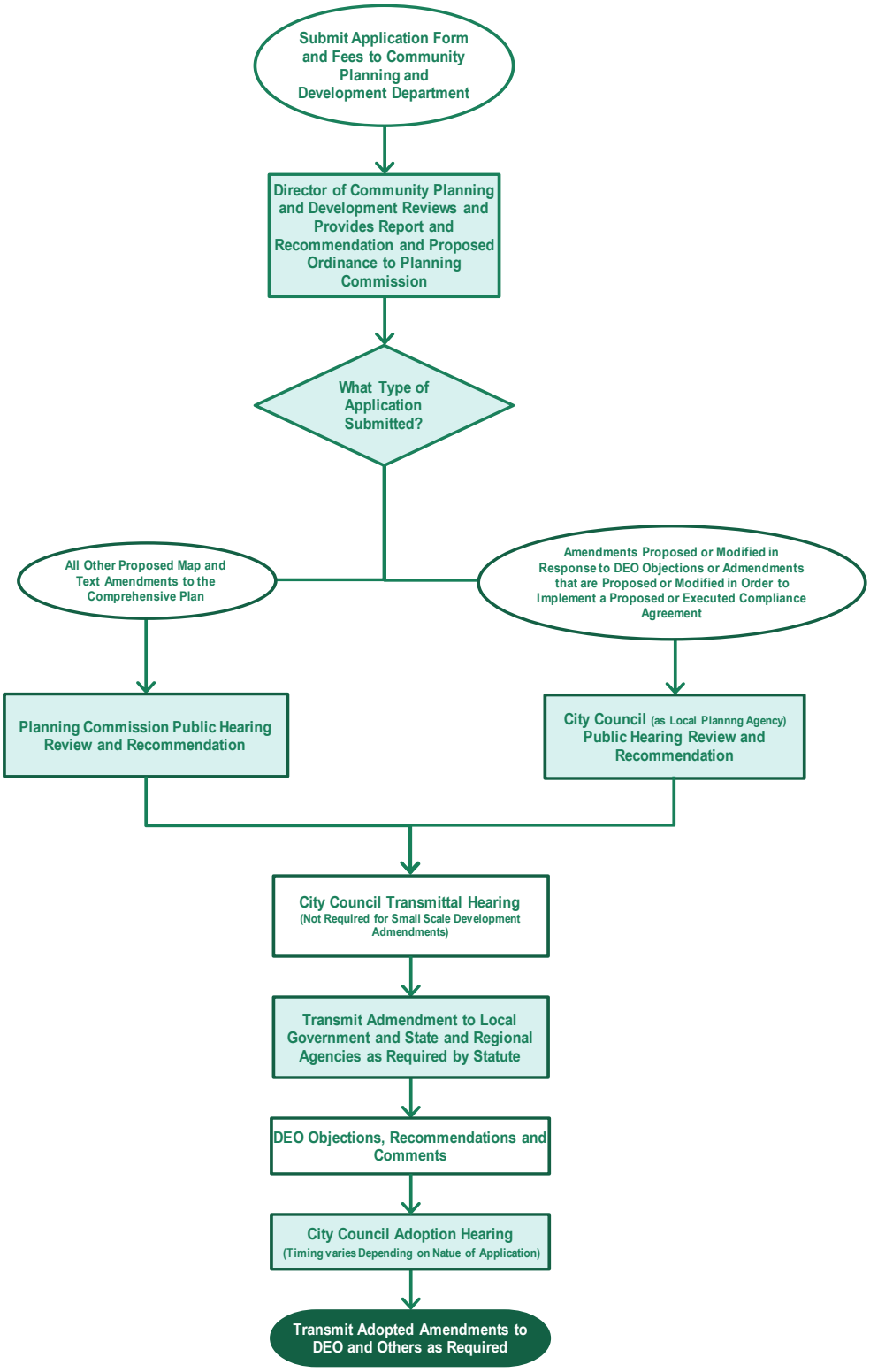
~~C~~B. Approval of a zoning map change shall require an affirmative vote of four (4) members of the ~~city council~~City Council. The ~~city council~~City Council may continue a hearing if it determines it needs additional information for a decision.

~~D~~C. Where there has been a denial of a zoning map change or text amendment, no subsequent application for a district boundary change or text amendment affecting the same parcel of property shall be permitted for the period of one (1) year from the date of the denial by the ~~city council~~City Council, unless the denial was without prejudice. If the denial was without prejudice, reapplication may be made at any time. At the time of denial the ~~city council~~City Council may state that it is with prejudice but reduce the one-year period to another specified period.

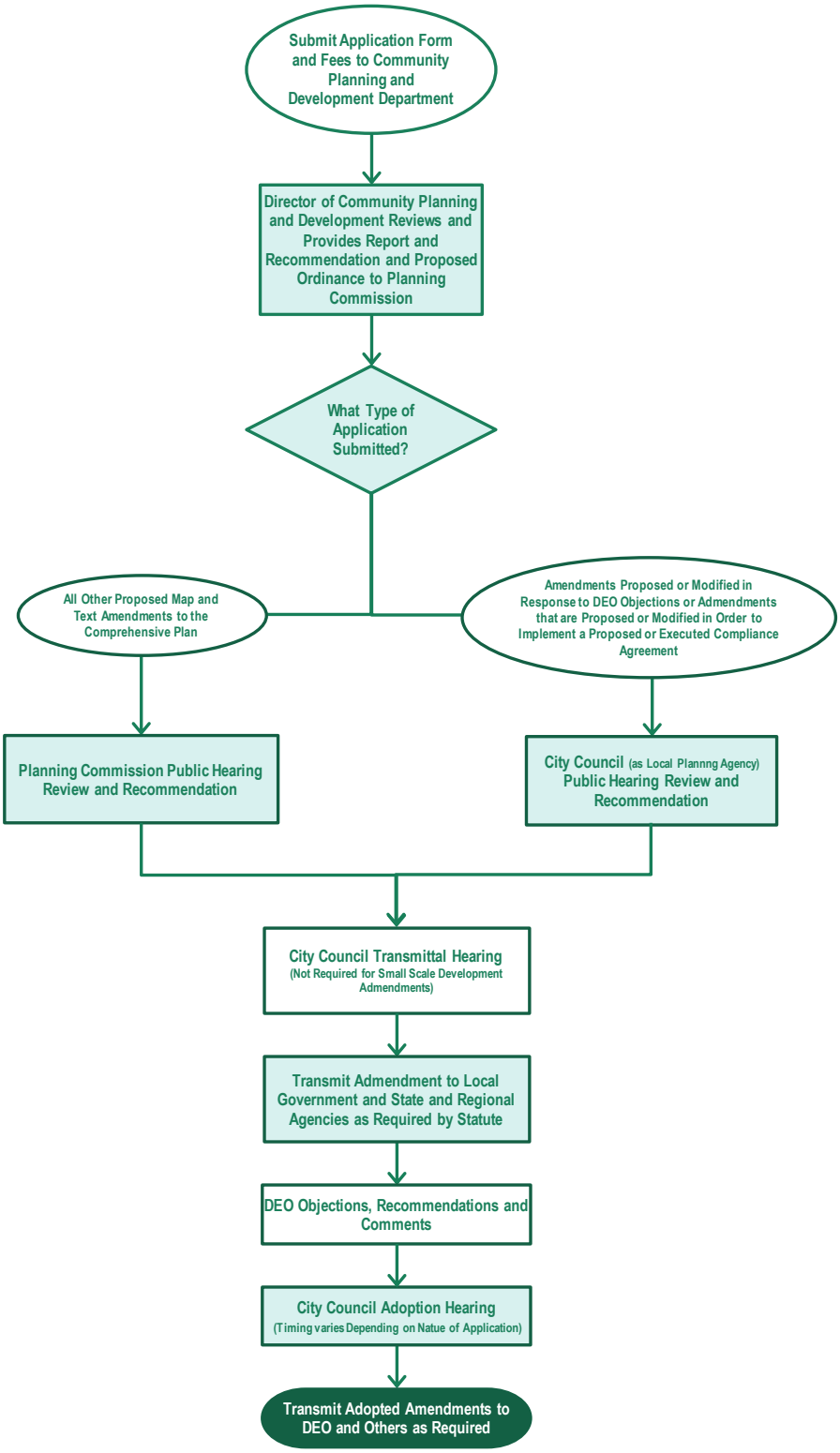
(Ord. No. 1278, § 1(exh. 1), 4-28-09)


Submit Application Form and Fees to Community Planning and Development Department
Director of Community Planning and Development Reviews and Provides Report, Recommendation and Proposed Ordinance to Planning Commission
What Type of Application was Submitted?
All Other Proposed Map and Text Amendments to the Comprehensive Plan
Amendments that are Proposed or Modified in Response to DCA Objections or, Amendments that are Proposed or Modified in Order to Implement a Proposed or Executed Compliance Agreement
Planning Commission Public Hearing Review and Recommendation
City Council (As Local Planning Agency) Public Hearing Review and Recommendation
City Council Transmittal Hearing (Not Required for Small Scale Development Amendments)
Transmit Amendment to Local Government and State and Regional Agencies as Required by Statute
DCA Objections, REcommendations and Comments
City Council Adoption Hearing (Timing Varies Depending on Nature of Application)
Transmit Adopted Amendments to DCA, and Others as Required

Comprehensive Plan Map and Text Amendment



Comprehensive Plan Map and Text Amendment



Sec. 3-1101. - Purpose and applicability.

The purpose of this division is to establish a uniform procedure for amending the text and maps of the comprehensive land use plan. This division does not supersede the requirements of F.S. Ch. ~~§~~ 163, Part II. If any part of this division conflicts with F.S. ~~§~~ Ch. 163, Part II, the statutory requirement shall control. This division applies to all text and map amendments to the comprehensive land use plan, whether initiated by ~~the city~~the City or by one (1) or more private property owners.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1102. - ~~Comprehensive land use plan amendment cycles.~~Plan and map amendment processing.

A. Expedited state review process. ~~The city~~The City shall accept ~~provide two (2) comprehensive plan amendment cycles per calendar year for proposed amendments that are not exempt from the two (2) amendments per year limitation of F.S. § 163.3187(1)~~comprehensive plan amendment applications at any time. With the exceptions noted herein, all plan and map amendment applications shall follow the expedited state review process as prescribed in F.S. §163.3184(3).

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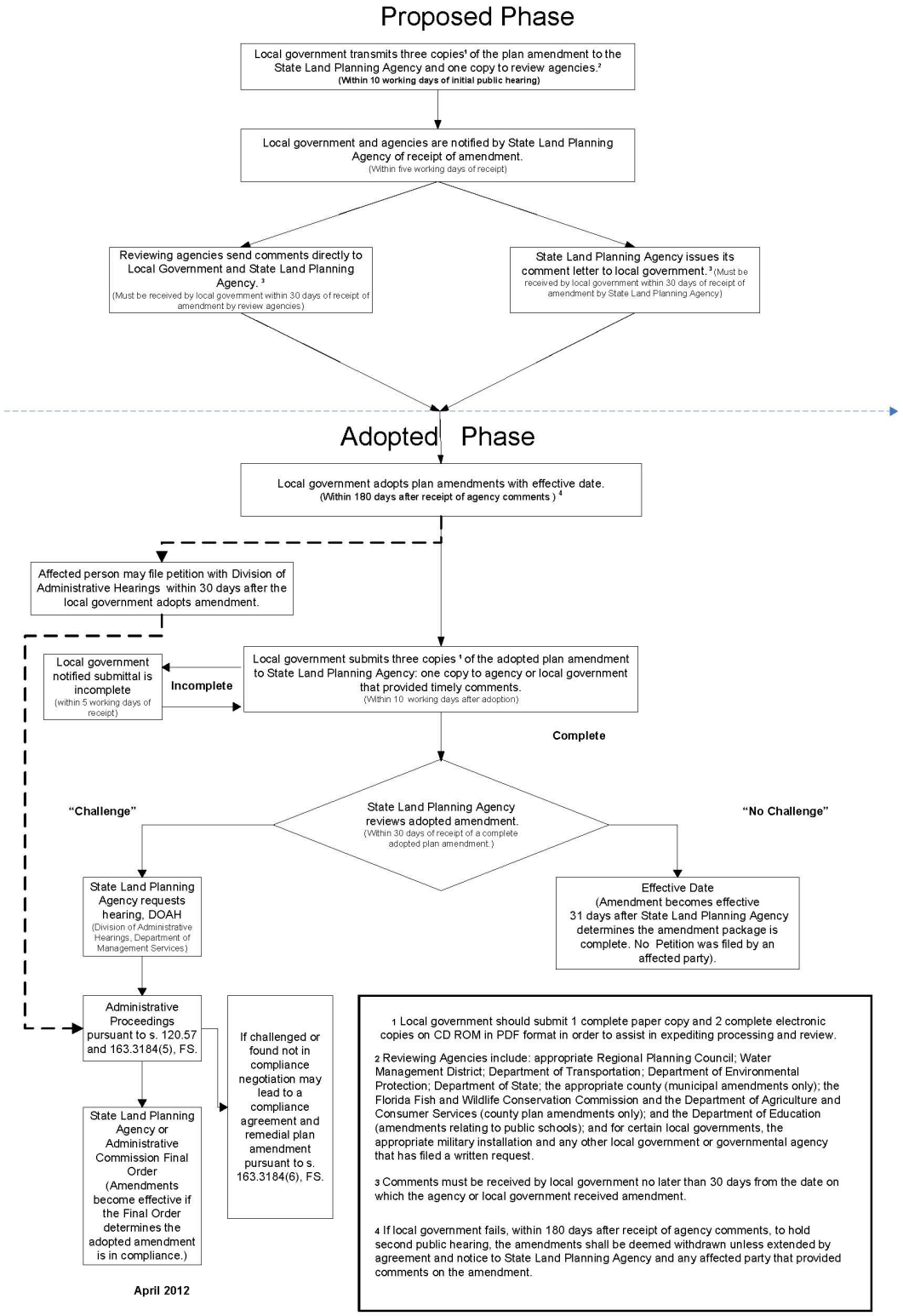
# Expedited State Review Amendment Process
# Section 163.3184(3) and (5), Florida Statutes




1 Local government should submit 1 complete paper copy and 2 complete electronic copies on CD ROM in PDF format in order to assist in expediting processing and review.

2 Reviewing Agencies include: appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

3 Comments must be received by local government no later than 30 days from the date on which the agency or local government received amendment.

4 If local government fails, within 180 days after receipt of agency comments, to hold second public hearing, the amendments shall be deemed withdrawn unless extended by agreement and notice to State Land Planning Agency and any affected party that provided comments on the amendment.

B. State coordinated review process. The following plan amendments must follow the state coordinated review process established in F.S. §163.3184 (4):

1. Those based on an evaluation and appraisal pursuant to F.S. §163.3191.

2. Propose development subject to the requirements of F.S. §380.06.

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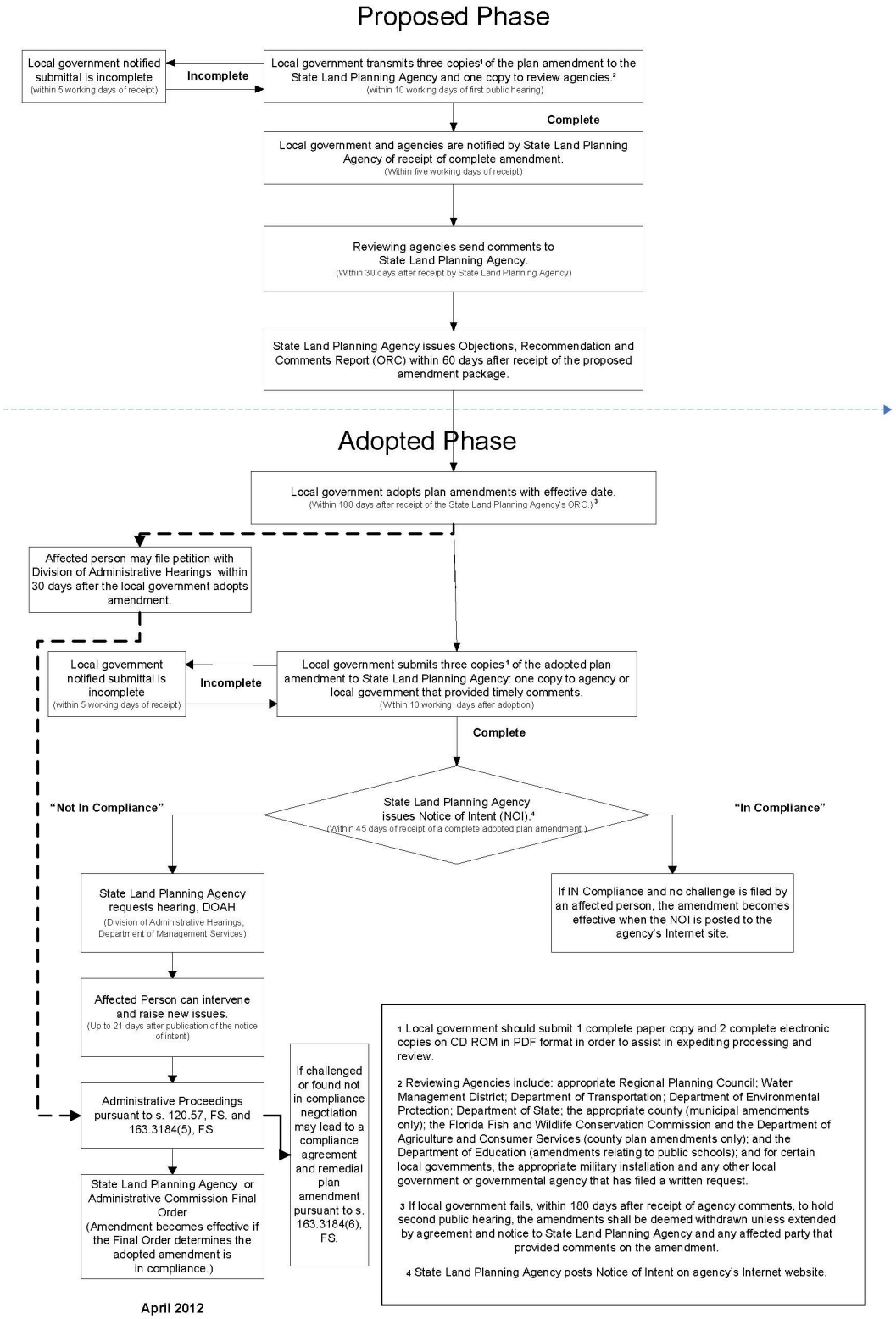
# State Coordinated Review Amendment Process
# Section 163.3184(4) and (5), Florida Statutes



C. Small-scale amendment review process. ~~If a proposed amendment is directly related to small scale development activities or is otherwise exempt from the two (2) amendment per year limitation pursuant to F.S. § 163.3187(1), the proposed amendment may be considered at any time during the calendar year~~Plan amendments that qualify as small-scale development amendments are subject to the small-scale review process established in F.S. §163.3187 .~~–~~A small scale development amendment may be adopted if the proposed amendment:

1. Involves a use of ten (10) acres or less;

~~2. Does not involve the same property granted a change within the previous twelve (12) months;~~

~~3. Does not involve the same owner's property within two hundred (200) feet of property granted a change within the previous twelve (12) months;~~

~~4~~2. Does not involve a text change to the goals, policies and objectives of the comprehensive land use plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity; however, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible; and

~~5. Does not involve property within an area of critical concern; and~~

~~6~~3. The cumulative annual effect of acreage for all small scale amendments does not exceed one hundred twenty (120) acres ~~in areas~~ . ~~specifically designated as transportation concurrency exception areas, pursuant to F.S. § 163.3180(5).~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1103. - Application.

All applications for amendments to the text or maps of the comprehensive land use plan shall be made in writing upon an application form approved by city staff and shall be accompanied by applicable fees.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1104. - Conditions of approval.

A. An applicant may propose additional limitations regarding the use, density or intensity which will be permitted on a parcel proposed for development. Such limitation shall be offered by executed restrictive covenant or declaration of use that is provided to ~~the city~~the City in a recordable form that is acceptable to ~~the city~~the ~~attorney~~City Attorney, and if the amendment is approved with the restrictive covenant or declaration of use, the recording information shall be set out on the comprehensive land use map.

B. The ~~city council~~City Council may condition the grant of a zoning map amendment upon the timely development of the parcel proposed for development, and may include provisions that the district boundary change does not become effective until a complete application for development approval is accepted by city staff.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1105. - City staff review, report and recommendation.

A. Upon receipt of an application pursuant to this division, ~~the city~~the City staff shall review the application in accordance with the provisions of ~~article~~Article 3, division 2.

B. Upon completion of review of an application, the director of community planning and development shall:

1. Provide a report that summarizes the application and the effect of the proposed amendment, including:

a. Whether it specifically advances any goal, objective or policy of the comprehensive plan;

b. Its effect on the level of service of public infrastructure;

c. Its effect on environmental resources;

d. Its effect on hurricane evacuation;

e. Its effect on the availability of housing that is affordable to people who work in ~~the City~~the City of North Miami; and

f. Any other effect that city staff determines is relevant to the ~~city council~~City Council's decision on the application;

2. Provide a recommendation as to whether the application should be approved, approved with conditions or modifications, or denied;

3. Provide a proposed ordinance that could be used to adopt the proposed amendment;

4. Schedule the application for a hearing before the planning commission; and

5. Provide notice of the planning commission hearing pursuant to ~~article~~Article 3, division 3.

C. Upon receipt of the decision of the planning commission where a planning commission hearing was required, ~~the city~~the City staff shall:

1. Schedule the application for hearing before the ~~city council~~City Council;

2. Forward its report and recommendation and the recommendation of the planning commission, as applicable, to the ~~city council~~City Council; and

3. Provide notice of the ~~city council~~City Council hearing in accordance with the provisions of ~~article~~Article 3, division 3.

D. Notwithstanding the requirements of division 11, sections 3-1105 through 3-1107, if the proposed amendment is a small scale amendment~~, the following public hearing and notice requirements shall be applicable:~~ .

~~1. The requirements of F.S. § 163.3184(15)(c), regarding a sign-in form advising people of the availability of a courtesy informational statement, do not apply to the proposed amendment.~~

2. ~~The city~~The City shall send copies of the notice and plan amendment to the ~~DCA~~Department of Economic Opportunity (DEO), ~~the South Florida Regional Planning Council~~ and any other person or entity requesting a copy. The information shall include:

~~a statement advising whether the property subject to the proposed plan amendment is located within a coastal high-hazard area~~.

1. A statement indicating that ~~the city~~the City is submitting the adopted amendment as a small-scale amendment under section 163.3187(1), Florida Statutes.
2. A statement identifying the number of acres of the small-scale amendment.
3. A statement identifying the cumulative total number of acres for small-scale amendments ~~the city~~the City has approved for the calendar year.
4. A statement identifying whether the amendment is within an area of critical state concern. If the amendment is within an area of critical state concern, certify that the amendment involves the construction of affordable housing units meeting the criteria of section 420.0004(3), Florida Statutes.
5. A statement indicating that the amendment has been submitted to the DEO Bureau of Economic Development (if the amendment is being adopted pursuant to Section 163.3187(3), Florida Statutes)
6. The name, title, address, telephone and fax number of the local contact.

3. Small scale development amendments require only one (1) public hearing before ~~city council~~City Council, which shall be scheduled in accordance with section 3-1109. Small scale amendments are not subject to division 11, sections 3-1106 through 3-1108 except for subsections 3-1106A.3. and A[A.3.a.].
4. Small scale amendments shall become effective thirty-one (31) days after adoption unless an appeal is filed in accordance with F.S. § 163.3187(~~3~~5).

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1106. - Local planning agency review and recommendation.

A. The planning commission shall:

1. Review the application at a public hearing that is held before the transmittal hearing, or if no transmittal hearing is required, before the adoption hearing; and
2. Make a written recommendation to the ~~city council~~City Council with regard to whether the proposed amendments should be adopted, adopted with conditions, or rejected;
3. Whenever the planning commission votes to recommend approval of a proposed amendment to the comprehensive plan, or when ~~the city~~the City sends a copy of the notice and plan amendment to the ~~DCA~~DEO if the amendment is a small scale amendment, ~~the city~~the ~~manager~~City Manager shall issue an administrative order setting forth the proposed amendment and establishing a moratorium during which any city employee, board or department is prohibited from granting an approval or permit which would be prohibited, or prohibited without variances, in the event that the

proposed amendment is enacted by the ~~city council~~City Council. The administrative order shall be effective until the proposed amendment is enacted or rejected by the ~~city council~~City Council. Any administrative order shall be deemed expired in the event the ~~city council~~City Council fails or declines to:

a. Adopt a small scale amendment;

b. Transmit a proposed amendment to ~~DCA~~DEO; or

c. Reject an amendment within ninety (90) days after a favorable recommendation by the planning commission; or

d. Fails to enact or reject an amendment within one hundred ~~twenty~~ eighty (~~120~~180) days after receiving comments on the proposed amendment from ~~DCA~~DEO.

4. Notwithstanding subsection 3. above, no administrative order shall affect any project which has a validly issued building permit, zoning approval, or has completed an application meeting all submission requirements for city approval, board of adjustment approval, or building permit approval prior to a vote by the planning commission in favor of the proposed amendment.

B. The ~~city council~~City Council shall serve as the local planning agency with respect to:

1. Amendments that are proposed or modified in response to ~~DCA~~ DEO objections, comments or recommendations;

2. Amendments that are proposed or modified in order to implement a proposed or executed compliance agreement.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1107. - Transmittal hearing.

A. A transmittal hearing by the ~~city council~~City Council shall be held on each proposed comprehensive plan amendment.

B. All transmittal hearings shall be on weekdays.

C. If the ~~city council~~City Council approves the plan amendment at the transmittal hearing, within 10 working days ~~the city~~the City shall ~~immediately~~ transmit the amendment to those local governments and state and regional agencies to which transmittal is required by state statute or administrative rule.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1108. - ~~DCA~~DEO objections, recommendations and comments.

A. If ~~DCA~~DEO comments on and/or formally objects to a privately initiated amendment, ~~the city~~the City shall promptly notify the applicant in writing which shall include a copy of the objections, recommendations and comments report.

B. The applicant may submit a draft response to ~~the city~~the City within fifteen (15) days. If city staff determines that the draft response is appropriate and responsive to the objection, city staff shall forward the response to ~~DCA~~DEO.

C. ~~The city~~The City may respond to ~~DCA~~DEO objections on behalf of an applicant who does not provide an appropriate and responsive objection, but shall not be obligated to do so.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1109. - Adoption hearing.

A. The adoption hearing by the ~~city council~~City Council shall be scheduled ~~as follows:~~

~~1. W~~within ~~sixty~~ one hundred, eighty (~~60~~180) days of:

a. Receipt of ~~DCA~~DEO's Objections, recommendations and comments report if ~~DCA~~DEO provides said report; or

b. The date the ~~DCA~~DEO review period ends if the amendment:

i. Was transmitted to ~~DCA~~DEO; and

ii. ~~DCA~~DEO did not object; and

iii. No affected person requested review within thirty ~~five~~ (~~35~~30) days of the date the ~~proposed~~ amendment was ~~transmitted~~adopted.

~~2. If submitted as part of the statutory evaluation and appraisal process, within one hundred twenty (120) days of receipt of DCADEO's objections, recommendations and comments report if DCADEO provides said report.~~

B. At the adoption hearing, the ~~city council~~City Council shall adopt the proposed amendment, adopt the proposed amendment with amendments that respond to ~~DCA~~DEO objections, recommendations or comments, or reject the proposed amendment. Adoption shall require the affirmative vote of a super-majority of the members of ~~city council~~City Council.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1110. - Transmittal of adopted amendments.

~~The city~~The City shall ~~transmit~~ submit all adopted comprehensive plan and future land use map amendments to ~~DCA~~DEO, ~~the South Florida Regional Planning Council,~~ and any other unit of local government or governmental agency that provided timely comments ~~which has requested the amendment in writing~~ within ten (10) working days after the adoption hearing pursuant to the requirements established in F.S. §163.3184. If the amendment is a small-scale development amendment, ~~the city shall~~the transmittal requirements established in section 3-1105 ~~include copies of the public notices with the transmitted material.~~shall apply.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1111. - Compliance agreements.

The ~~city council~~City Council may enter into a compliance agreement with ~~DCA~~DEO with regard to any proposed or adopted comprehensive plan amendment, as follows:

A. If ~~the city~~the City elects to commence negotiation of a compliance agreement with ~~DCA~~DEO, it shall mail notice to all parties that have intervener status in proceedings before ~~DCA~~DEO at least seven (7) days before substantive negotiations commence. Parties that have intervener status in proceedings before ~~DCA~~DEO shall be afforded a reasonable opportunity to participate in the negotiation process.

B. All negotiation meetings with ~~the city~~the City and/or the parties with intervener status in proceedings before ~~DCA~~DEO shall be open to the public.

C. No compliance agreement shall be executed by ~~the city~~the City unless such execution is considered at a public hearing of the ~~city council~~City Council.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 12. - PROTECTION OF LANDOWNER'S RIGHTS; VESTED RIGHTS DETERMINATIONS

Sec. 3-1201. - Purpose and applicability.

It is the purpose of this division to provide an administrative remedy for applicants who allege that their vested rights have been abrogated in the event of destruction and/or redevelopment or by a final action of ~~the city~~the City. This division sets out a process for obtaining an official and binding determination of vested rights to use or develop property in a particular manner.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1202. - Application.

A. All applications for a determination of vested rights pursuant to this division shall be made in writing upon an application form approved by the community planning and development department, and shall be accompanied by applicable fees.

B. Applications pursuant to this division shall be filed no later than thirty (30) days from the date a final action is taken that allegedly abrogates rights the applicant claims to be vested pursuant to the standards in section 3-1203.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1203. - Standards.

The ~~city council~~City Council ~~shall~~ may grant an application for a determination of vested rights if it is demonstrated that:

A. A valid, unexpired government act of ~~the City~~the City of North Miami authorizes the specific development for which the determination is sought;

B. Expenditures or obligations were made or incurred in reliance upon the authorizing act that are not reasonably usable in a development that is permitted by these LDRs;

C. It would be highly inequitable to deny the applicant the opportunity to complete the previously approved development, in that:

1. Actual construction has commenced;

2. The injury suffered by the applicant outweighs the public cost of allowing the applicant's development to proceed;

3. The development was economically viable at the time it was approved;

4. The expenses or obligations incurred in good faith and without notice of a pending change in regulations that would prohibit the development for which vested rights are sought; and

5. The applicant cannot make a reasonable return on its previous expenditures on the project by developing according to the requirements of the current LDRs.

D. The relief granted is the minimum relief necessary to provide the applicant with a reasonable rate of return on his investment made before the effective date of the regulations that the applicant alleges have abrogated its vested rights.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1204. - Staff review, report and recommendation.

Staff review of the application for vested rights shall be conducted pursuant to this division.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1205. - ~~City council~~City Council review and decision.

The ~~city council~~City Council shall review the application at a quasi-judicial public hearing, and shall decide whether the application should be approved, approved with conditions or denied. The ~~city council~~City Council may continue the matter if it determines it needs more information.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1206. - Effect of vested rights determination.

A. A vested rights determination shall be set out in writing and specifically set forth the rights that have been recognized as vested.

B. Vested rights shall be utilized within two (2) years of the date the determination is rendered. If substantial development pursuant to the vested rights determination has not begun within said time period the vested rights shall be extinguished without further notice or hearing.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 13. - DEVELOPMENT AGREEMENTS

Sec. 3-1301. - Purpose and applicability.

The ~~city council~~City Council may enter into development agreements in accordance with the provisions of this division and applicable Florida law to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development. Development agreements shall be required for all developments within the Planned Corridor Overlay District, and Planned Community Urban Design Overlay District. Development agreements for university campus master plans shall also be subject to the requirements of F.S. §1013.30.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1302. - Application.

All applications for a determination of a development agreement pursuant to this division shall be made in writing upon an application form approved by the director of community planning and development, and shall be accompanied by applicable fees.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1303. - Staff review and report.

The director of community planning and development shall review the application for a development agreement with the development review committee in accordance with the provisions of ~~article~~Article 3, division 2, and shall prepare a written recommendation to the planning commission.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1304. - Planning commission review.

The planning commission shall conduct a quasi-judicial public hearing and review the proposed development agreement, the recommendation of staff, and the testimony at the public hearing, the standards for review in section 3-1306 and shall issue a recommendation to the ~~city council~~City Council for approval or denial of the development agreement.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1305. - ~~City council~~City Council review.

The ~~city council~~City Council shall conduct a quasi-judicial public hearing on the proposed development agreement. Upon conclusion of the public hearing, the council shall review the proposed development agreement, the recommendation of the planning commission, the recommendation of staff and the testimony at the public hearing. The council shall approve,

approve with modifications, or deny the proposed development agreement. The council may continue the matter if it determines it needs more information.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1306. - Standards of review.

In reaching a decision as to whether or not the development agreement should be approved, approved with modifications, approved with conditions, or denied, the ~~city council~~City Council shall determine whether the development agreement is consistent with and furthers the goals, policies and objectives of the comprehensive land use plan.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1307. - Contents of development agreement.

The approved development agreement shall contain, at a minimum, the following:

1. A legal description of the land subject to the development agreement.
2. The names of all persons having legal or equitable ownership of the land.
3. The duration of the development agreement, which shall not exceed ~~ten(10)~~ thirty (30) years.
4. The development uses proposed for the land, including population densities, building intensities and building height.
5. A description of the public facilities and services that will serve the development, including who shall provide such public facilities and services; the date any new public facilities and services, if needed, will be constructed; who shall bear the cost of construction of any new public facilities and services; and a schedule to assure that the public facilities and services are available concurrent with the impacts of the development. The development agreement shall provide for a cashier's check, a payment and performance bond or letter of credit in the amount of one hundred fifteen (115) percent of the estimated cost of the public facilities and services, to be deposited with ~~the city~~the City to secure and fund construction of any new public facilities and services required to be constructed by the development agreement, as permitted by applicable law. The development agreement shall provide that such construction shall be completed prior to the issuance of any certificate of occupancy.
6. A description of any reservation or dedication of land for public purposes.
7. A description of all local development approvals approved or needed to be approved for the development.
8. A finding that the development approvals as proposed is consistent with the comprehensive land use plan and these LDRs.
9. A description of any conditions, terms, restrictions or other requirements determined to be necessary by the ~~city council~~City Council for the public health, safety or welfare of

the citizens of ~~the City~~the City of North Miami. Such conditions, terms, restrictions or other requirements may be supplemental to requirements in these LDRs or other ordinances of ~~the city~~the City.

10. A statement indicating that the failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.
11. The development agreement may provide, in the discretion of the ~~city council~~City Council, that the entire development or any phase thereof be commenced or be completed within a specific period of time. The development agreement may provide for liquidated damages, the denial of future development approvals, the termination of the development agreement, or the withholding of certificates of occupancy for the failure of the developer to comply with any such deadline.
12. A statement that the burdens of the development agreement shall be binding upon, and the benefits of the development agreement shall inure to, all successors in interest to the parties to the development agreement.
13. All development agreements shall specifically state that subsequently adopted ordinances and codes of ~~the city~~the City which are of general application not governing the development of land shall be applicable to the lands subject to the development agreement, and that such modifications are specifically anticipated in the development agreement.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1308. - Recording of development agreement.

No later than fourteen (14) days after the execution of a development agreement by all parties thereto, ~~the city~~the City shall record the development agreement with the Clerk of the Circuit Court in Miami-Dade County. The applicant for a development agreement shall bear the expense of recording the development agreement. Additionally, ~~the city~~the City shall submit a recorded copy of the development agreement to the State of Florida Department of Community Affairs no later than fourteen (14) days after the development agreement is recorded.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1309. - Effect of decision.

A. The codes and ordinances of ~~the city~~the City governing the development of land subject to a development agreement in existence at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement. Upon the expiration or termination of a development agreement, all codes and ordinances of ~~the city~~the City in existence upon the date of expiration or termination shall become applicable to the development regardless of the terms of the development agreement.

B. ~~The city~~The City may apply codes and ordinances adopted subsequent to the execution of a development agreement to the subject property and development only if the ~~city council~~City Council, upon holding a public hearing, has determined that such subsequent codes and ordinances are:

1. Not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities or densities in the development agreement.
2. Are essential to the public health, safety or welfare, and expressly state that they shall apply to a development that is subject to a development agreement.
3. ~~Are~~ If of general application not governing the development of land they are by general reference specifically anticipated and provided for in the development agreement as provided in section 3-1307.13. above.
4. ~~The city~~The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement.
5. The development agreement is based on substantially inaccurate information supplied by the developer.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1310. - Changes to development agreements.

A development agreement may be amended by mutual consent of the parties, provided the notice and public hearing requirements of division 3 of this ~~article~~Article are followed. A party to a development agreement may request one (1) extension of the duration of the development agreement, not to exceed one (1) year from the date of expiration of the initial term of the development agreement, by submitting an application to the community planning and development department at least sixty (60) days prior to the expiration of the initial term of the agreement. The application shall address the necessity for the extension and shall demonstrate that the extension is warranted under the circumstances. The community planning and development director shall schedule the requested extension as a proposed amendment to the development agreement for public hearing before the planning commission in accordance with division 3 of this ~~article~~Article.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 3-1311. - Termination or revocation of approval.

~~The city~~The ~~manager~~City Manager shall review all lands within ~~the city~~the City subject to a development agreement at least once every twelve (12) months to determine if there has been demonstrated good-faith compliance with the terms of the development agreement. ~~The city~~The ~~manager~~City Manager shall make an annual report to the ~~city council~~City Council as to the results of this review. In the event the ~~city council~~City Council finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the development agreement may be revoked or modified by the ~~city council~~City

Council upon giving at least fifteen (15) days' written notice to the parties named in the development agreement. Such termination of a development agreement shall occur only after compliance with the public hearing and notice requirements of division 3 of this ~~article~~Article.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 14. - NEW DEVELOPMENT; IMPACT FEES

Sec. 3-1401. - Short title.

This chapter shall be known and may be cited to as the "City of North Miami Development Impact Fees Act."

(Ord. No. 1302, § 2, 9-15-10)

Sec. 3-1402. - Findings.

A. The ~~city council~~City Council hereby finds and declares that:

1. New development generates increased demands upon city public facilities and services and requires additional facility capacity and capital equipment in order to accommodate those demands.
2. The potential for development of properties is a direct result of city policy as expressed in ~~the city~~the City comprehensive plan and as implemented via ~~the city~~the City zoning ordinances and map.
3. It is the policy of ~~the city~~the City that new development should bear its fair share of the costs of providing public facilities, facility capacity, increased services and capital equipment needed to accommodate the demand generated by new development.
4. The amount of the "impact fee" to be imposed shall be based upon the average amount of the public facility capacity demand attributable to new development and the average cost of additional capital facilities, capital improvements, services and capital equipment needed to provide additional capacity.
5. The impact fees established in this ~~article~~Article are applicable to development submitting building permit applications accepted as complete by ~~the city~~the City on or after October 1, 2010 and are based on the methodology and data presented in the Impact Fees Study prepared by TischlerBise, Fiscal, Economic and Planning Consultants, dated April 17, 2007, (hereinafter referred to as "impact fees study"—2007). The ~~city council~~City Council hereby adopts and incorporates by reference the impact fees study—2007. A copy of the impact fees study—2007 was submitted as a part of the record of the public hearings on the ordinance, and a copy of the impact fees study—2007 shall be maintained on file in the office of ~~the city~~the City clerk.

B. The ~~city council~~City Council hereby finds and declares that the impact fees imposed herein upon new development as further described below, in order to finance public facilities and capital equipment needed to accommodate the demand created by new development are in the best interest of ~~the city~~the City and its residents, are equitable, and do not impose an

unfair burden on such development. The ~~city council~~City Council hereby finds and declares that all new development, as defined herein, within ~~the city~~the City generates an increased demand for system improvements for police, general government, and water/sewer and that all new residential development within ~~the city~~the City also generates an increased demand for parks and recreation facilities, library facilities and transportation. The ~~city council~~City Council hereby finds and declares that the system improvements to be funded by the impact fees imposed herein will provide benefit to all new development in ~~the city~~the City.

(Ord. No. 1302, § 3, 9-15-10)

Sec. 3-1403. - Intent.

This chapter is intended to impose impact fees, payable at the time of building permit issuance, in order to fund capital improvements, capital facility capacity, and capital equipment needed to address demand for public facilities attributable to new development. This chapter is not intended to authorize imposition of fees related to capital facility or equipment needs attributable to existing development. This chapter is intended to allow new development in compliance with the comprehensive plan and to provide a mechanism for new development to help address the burdens created by new development.

(Ord. No. 1302, § 4, 9-15-10)

Sec. 3-1404. - Authority.

The ~~city council~~City Council is authorized to establish and adopt an impact fees act pursuant to the authority granted by the Florida Constitution, ~~Article~~Article VII, sections 1(f), 1(g) and 2(b), the Municipal Home Rule Powers Act, F.S. Ch. 166, as amended, ~~the City~~the City of North Miami Charter, and the ~~Local Government Comprehensive Planning and Land Development Regulation Act (F.S. § 163.3161 et seq., as amended)~~Community Planning Act, as amended. In addition, the ~~Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3202(3)~~Community Planning Act, as amended, encourages the use of innovative land development regulations, including impact fees. The provisions of this chapter shall not be construed to limit the power of ~~the city~~the City to adopt such ordinance pursuant to any other source of local authority nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this chapter.

(Ord. No. 1302, § 5, 9-15-10)

Sec. 3-1405. - Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Applicant shall mean the property owner, or duly designated agent of the property owner, of land on which an application for a building permit is submitted and impact fees are due pursuant to this chapter, or shall mean the property owner or duly designated agent of the property owner

of land identified in a credit agreement pursuant to section 3-1411(e) where such property owner or agent is responsible for the provision of system improvements.

Appropriation shall mean, for purposes of this chapter, funds identified in the capital budget related to a system improvement.

~~Building permit shall mean the permits issued by the city's building and zoning department, authorizing the construction of buildings according to standards set out in all applicable development regulations and the State of Florida Building Code. The term "building permit", as used herein, shall not be deemed to include permits required for demolition of an existing structure. For purposes of this chapter, a building permit application shall be considered complete and accepted by the city as of the date and time of original submittal if complete building plans have been filed as prescribed by city's zoning ordinance, as amended.~~

Call of service shall mean calls recorded by the police department as "dispatch calls," which require a response by a sworn officer, and may require the filing of a written report by the officer.

Capacity fees shall mean the portion of the impact fee imposed at building permit issuance for the development's proportionate share of the average cost of water system improvements and sewer system improvements.

Capital budget shall mean ~~the city~~the City's current fiscal year capital budget which is the first year of the five-year capital improvements program and which identifies capital projects that are proposed to be initiated in that fiscal year or to receive any changes in funding in that fiscal year.

Capital improvement program (CIP) shall mean ~~the city~~the City's current five-year program of proposed capital improvements which identifies all capital projects that are proposed to be initiated during the five-year period.

~~City shall mean the City of North Miami, Florida.~~

~~Council shall mean the city council of the City of North Miami, Florida.~~

~~Comprehensive plan shall mean the city's plan for future development adopted by city ordinance, and as may be amended and updated from time to time, and any successor comprehensive plan.~~

~~Development shall have the meaning given it in F.S. § 380.04, subject to the exclusions contained herein.~~

General services system improvements shall mean system improvements that add capacity to ~~the city~~the City's administrative office space, capital equipment, parking/garage space and vehicle fleet for all the departments of ~~the city~~the City.

~~Government uses shall mean buildings or facilities owned and operated by the United States of America or any agency thereof, a sovereign state or nation, the state or any agency thereof, a county, a special district, a school district, a municipal corporation, or a charter school organized and approved as a public school under F.S. § 228.056.~~

Impact fee shall mean a fee imposed at building permit issuance and calculated based upon a new development's proportionate share of the average cost of new development.

Library system improvement shall means land, capital improvements, capital facilities and capital equipment that add capacity to ~~the city~~the City's library system.

Multifamily high rise shall mean any group of fifty (50) or more units occupying a single building site.

Multifamily low rise shall mean one (1) unit attached and any set of units up to nineteen (19) units.

Multifamily mid rise shall mean any group of twenty (20) to fifty (50) units occupying a single building site.

New development shall mean the carrying out of any building activity or the making of any material change in the use of a structure or land that requires the issuance of a building permit and which generates demand for capital facilities and equipment over and above the previously existing documented use of the structure or land, but excluding governmental uses and deminimis development under section 3-1406.

Nonresidential development shall mean all new development other than residential development and governmental uses, as herein defined, and including, but not limited to, industrial, manufacturing, warehousing, mini-warehousing, lodging, schools and daycare, hospital, nursing home, general office, medical-dental office, business park, and commercial uses.

Owner occupied units shall mean dwelling units for individual sale by a developer and intended for occupancy by an owner as owner's principal or primary residence or homestead, as opposed to rental residential development.

Parks and recreation system improvement shall mean land, capital improvements, capital facilities, and capital equipment that add capacity to ~~the city~~the City-wide park system, or public pools/gymnasiums. City-wide parks include those parks that have capital improvements that draw patrons from the entire geographic area of ~~the city~~the City, including but not limited to, ball fields used for league play, swimming pools and buildings used for recreation programs.

Police system improvement shall mean land, capital improvements, capital facilities, and capital equipment that add capacity to ~~the city~~the City's police system.

Sewer system improvement shall mean land, capital improvements, capital facilities and capital equipment that add capacity to ~~the city~~the City's sewer treatment and collection system.

Single-family shall mean detached one (1) unit dwellings.

Transportation system improvement shall mean land, capital improvements, capital facilities, and capital equipment that add capacity to ~~the city~~the City's bike path, pedestrian and transit system.

Water system improvements shall mean land, capital improvements, capital facilities, and capital equipment that add capacity to ~~the city~~the City's water treatment/distribution system.

(Ord. No. 1302, § 6, 9-15-10)

Sec. 3-1406. - Applicability of impact fee.

This ~~article~~Article shall be uniformly applicable to all new development, and the appropriate impact fees shall be collected prior to issuance of a building permit except where a building permit is issued for:

1. Additions, remodels, rehabilitation or other improvements to an existing structure and reconstruction of a demolished structure which results in:
   a. No net increase in the number of residential dwelling units for residential structures.
2. Any development which is government-owned and operated facility.

(Ord. No. 1302, § 7, 9-15-10)

Sec. 3-1407. - Imposition of impact fee: ~~review and adjustment; time of payment.~~

A. Fees: ~~The following i~~Impact fees are hereby levied on all new development, as set forth in section 3-1406, and as included in the Impact Fee Schedule that may be adjusted by the City Council from time to time~~:~~.

~~Impact Fee Schedule~~
~~(Police, General Government, Transportation, Parks and Library)~~

| | ~~Police~~ | ~~General Govt.~~ | ~~Transportation~~ | ~~Parks~~ | ~~Library~~ | ~~TOTAL~~ |
|---|---|---|---|---|---|---|
| ~~Residential~~ | | | | | | |
| ~~Single-family~~ | ~~$325.00~~ | ~~$653.00~~ | ~~$140.00~~ | ~~$4,100.00~~ | ~~$386.00~~ | ~~$5,604.00~~ |
| ~~Multi: Low-rise~~ | ~~$235.00~~ | ~~$478.00~~ | ~~$105.00~~ | ~~$3,075.00~~ | ~~$285.00~~ | ~~$4,176.00~~ |
| ~~Multi: Mid-rise~~ | ~~$235.00~~ | ~~$390.00~~ | ~~$83.50~~ | ~~$2,510.00~~ | ~~$231.00~~ | ~~$3,449.50~~ |
| ~~Multi: Hi-rise~~ | ~~$235.00~~ | ~~$365.00~~ | ~~$80.00~~ | ~~$2,326.00~~ | ~~$224.00~~ | ~~$3,230.00~~ |
| ~~Nonresidential~~ | | | | | | |
| ~~820 Com/shop ctr 25,000 s.f. or less~~ | ~~$0.65~~ | ~~$0.24~~ | ~~$0.05~~ | | | ~~$0.94~~ |
| ~~820 Com/shop ctr 25,001—50,000~~ | ~~$0.56~~ | ~~$0.21~~ | ~~$0.04~~ | | | ~~$0.81~~ |

| | | | | | | |
|---|---|---|---|---|---|---|
| s.f. | | | | | | |
| 820 Com/shop ctr 50,001—100,000 s.f. | $0.47 | $0.18 | $0.04 | | | $0.69 |
| 820 Com/shop ctr 100,001—200,000 s.f. | $0.40 | $0.16 | $0.03 | | | $0.59 |
| 820 Com/shop ctr 200,001—400,000 s.f. | $0.34 | $0.15 | $0.03 | | | $0.52 |
| 710 Office/inst 10,000 s.f. or less | $0.24 | $0.33 | $0.07 | | | $0.64 |
| 710 Office/inst 10,001—25,000 s.f. | $0.19 | $0.30 | $0.06 | | | $0.55 |
| 710 Office/inst 25,001—50,000 s.f. | $0.17 | $0.29 | $0.06 | | | $0.52 |
| 710 Office/inst 50,001—100,000 s.f. | $0.14 | $0.27 | $0.06 | | | $0.47 |
| 720 Medical-dental office | $0.38 | $0.30 | $0.06 | | | $0.73 |
| 610 Hospital | $0.19 | $0.25 | $0.05 | | | $0.49 |
| 770 Business Park | $0.14 | $0.23 | $0.05 | | | $0.42 |
| 110 Light Industrial | $0.08 | $0.17 | $0.04 | | | $0.29 |

| | | | | | | |
|---|---|---|---|---|---|---|
| ~~140 Manufacturing~~ | ~~$0.04~~ | ~~$0.13~~ | ~~$0.03~~ | | | ~~$0.20~~ |
| ~~150 Warehousing~~ | ~~$0.05~~ | ~~$0.10~~ | ~~$0.02~~ | | | ~~$0.17~~ |
| ~~Other Residential~~ | | | | | | |
| ~~320 Lodging (per room)~~ | ~~$58.50~~ | ~~$52.00~~ | ~~$10.50~~ | | | ~~$121.00~~ |
| ~~565 Day Care (per student)~~ | ~~$46.50~~ | ~~$11.50~~ | ~~$2.50~~ | | | ~~$60.50~~ |
| ~~620 Nursing Home (per bed)~~ | ~~$24.50~~ | ~~$26.00~~ | ~~$5.00~~ | | | ~~$55.50~~ |

B. Capacity fees for water system improvements and sewer system improvements shall be levied pursuant to the schedule set forth in Chapter 19, Division 4, Section 19.98 Water/Sewer Capacity Fee, in the Code of Ordinances of the City of North Miami.

C. Triennial adjustments. This chapter shall be reviewed by the ~~city council~~City Council every three (3) years to ensure that the methodologies, assumptions, and cost factors used in the calculations are still valid and accurate and to determine if changes in costs, facility needs, development patterns, demographics and any other relevant factors indicate a need to update the impact fees calculations, data, methodology or other components of the impact fee system. The triennial report shall be distributed to the ~~city council~~City Council by ~~the city~~the ~~manager~~City Manager. The report should present any recommendations related to the impact fee system including but not limited to, the need for any updates to the impact fee calculations and ordinance. In reviewing the impact fee system, ~~the city~~the City may consider:

1. Development occurring in the prior two (2) years;
2. Construction of proposed public facilities;
3. Changing facility needs;
4. Inflation and other economic factors;
5. Revised cost estimates for public facilities, land and/or improvements;
6. Changes in the availability of other funding sources applicable to impact-fee-related capital improvements; and

7. Such other factors as may be relevant. The data in the triennial report may be organized based on ~~the city~~the City's fiscal year or calendar year. Nothing in this chapter shall be construed to limit the ~~city council~~City Council's authority to amend this chapter at any time.

Changes, if any, to the impact fee system, including updating fee calculations, should be adopted by ordinance within a year of completion of the triennial report.

(Ord. No. 1302, § 8, 9-15-10; Res. No. R-2010-103, § 1, 9-28-10; Ord. No. 1409, § 1, 12-13-16)

Sec. 3-1408. - Administration of impact fee.

A. Collection of impact fee. Impact fees due pursuant to this chapter shall be collected by the building ~~and~~ services ~~zoning~~ department prior to issuance of a building permit.

1. Upon receipt and acceptance of a complete application for a building permit for a new development, the building and ~~zoning~~ department shall determine the amount of the impact fee due.

2. The building and ~~zoning~~ department shall determine whether or not the development is exempted for the levying of impact fees.

~~The city~~The ~~manager~~City Manager shall determine whether or not the development is entitled to any credits for the impact fees as set forth in section 3-1410 of this chapter.

B. Transfer of funds to finance department. Upon receipt of impact fees, the building ~~and~~ services~~zoning~~ department shall transfer such funds to ~~the city~~the City finance department which shall be responsible for placement of such funds into the appropriate separate accounts by type of impact fee. All such funds shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of city funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account. The funds of these accounts shall not be commingled with other funds or revenues of ~~the city~~the City.

C. Establishment and maintenance of accounts. ~~The city~~The City finance department shall establish separate accounts and maintain records for each such account, whereby impact fees collected are segregated by type of impact fee. A separate account shall be maintained for each type of impact fee as follows: Police impact fees; general government impact fees; transportation impact fees; parks and recreation impact fees; and library impact fees. ~~The city~~The City shall use its best efforts to appropriate and expend those funds within the appropriate funds.

D. Maintenance of records. ~~The city~~The City finance department shall maintain and keep adequate financial records for each such account which shall show the source and disbursement of all revenues, which shall account or all moneys received, including revenue by building permit, and which shall document and ensure that the disbursement of funds from each account shall be used solely and exclusively in accordance with provisions of this chapter. For purposes of petitions for refunds under section 3-1410 of this chapter, the expenditure and appropriation of impact fees shall be deemed to occur in the same sequential order as the collection of impact fees, in other words, the first fee in shall be the first fee out.

E. Impact fee expenditures. Impact fees collected pursuant to this chapter shall be expended only for the type of system improvements for which the impact fee was imposed. Impact fees shall not be expended to eliminate any deficiencies in facilities, land or equipment that may result from adoption of an increased level of services.

(Ord. No. 1302, § 9, 9-15-10)

Sec. 3-1409. - Administrative fees.

Expenses to be incurred by ~~the city~~the City in connection with the administration of the development impact fee ordinance have been estimated and budgeted and have been determined to be of benefit to the properties therein and shall be reimbursed to impact fee administration fund of ~~the city~~the City out of the revenues accruing through the imposition of a service charge in the amount of three (3) percent of the impact fee due. The nonrefundable service charges are in addition to and shall be paid separately from the impact fees but shall be payable at the time of application for the building permit and shall be for the sole purpose of defraying expenses as provided herein.

(Ord. No. 1302, § 10, 9-15-10)

Sec. 3-1410. - Administrative procedures for petitions for impact fee determinations, refunds, credits and deferments.

A. Petition process.

1. Petitions for an impact fee determination, refund of impact fees and/or credit against impact fees shall be submitted using the petition process, requirements and time limits provided herein. All petition requests except petitions for refunds under subsection (c) below, shall be accompanied by a fee of two hundred fifty dollars ($250.00). Any officer, department, board, commission or agency of ~~the city~~the City (collectively referred to as city "entities") submitting a petition shall not be required to pay said fee.

2. All petitions shall be submitted to ~~the city~~the ~~manager~~City Manager's office for processing and preparation of a staff report and recommendation on the petition, and the final determination on the petition shall be issued at the reasonable discretion of ~~the city~~the ~~manager~~City Manager and subject to the criteria set forth herein. ~~The city~~The ~~manager~~City Manager's office may obtain an analysis of the petition request from any and all appropriate city departments and staff in order to provide a complete and detailed review of and recommendation on the petition request to ~~the city~~the ~~manager~~City Manager. The staff report and recommendations shall be forwarded to ~~the city~~the ~~manager~~City Manager no later than sixty (60) days after filing of a completed petition. ~~The city~~The ~~manager~~City Manager shall, no later than ninety (90) days of filing of the complete petition issue a written determination on the petition, with the reasoning for the determination based upon the petition data, the provisions of this chapter and applicable law, and, if needed, direct the appropriate city staff to take the actions necessary to implement the determination. The petitioner shall demonstrate the following:

a. The necessary facilities are in place at the time the development permit is issued or an agreement has been approved subject to the condition that th necessary facilities will be in place when the impacts of the development occur; or

b. The necessary facilities are under construction concurrently with the development; or

c. The necessary facilities are the subject of a binding contract executed for the construction of those necessary facilities at the time a city development permit is issued or at the discretion of the city manager; or

d. The developer demonstrates, to the satisfaction of the ~~city~~ City ~~manager~~Manager, through objective evidence that the development will not cause a deterioration in levels of service or that any such deterioration can be mitigated by actions of the developer, which actions shall be reduced to a written agreement satisfactory to the city.

3. Upon written agreement by ~~the city~~the ~~manager~~City Manager's office and the petitioner the time limits in this section may be waived for any reason, including, but not limited to, the submittal of additional data and supporting statements by the petitioner. ~~The city~~The ~~manager~~City Manager's designee is authorized to determine whether a petition is complete and whether additional data or supporting statements by appropriate professionals are needed. If ~~the city~~the ~~manager~~City Manager's designee determines that the petition is not complete, a written statement detailing the insufficiencies of the petition shall be provided to the petitioner within thirty (30) days of initial filing of the petition. The date of such written determination of insufficiency shall toll the time limits established in the section until submittal of a complete petition. Any insufficiency not corrected during such time will cause the petition to not be considered, and it will be returned without the necessity of further action.

4. The filing of a petition shall stay action by ~~the city~~the City on the application for building permit and any other city action related to the development. No building permit shall be issued for development for which a petition has been filed and is pending unless the total impact fees due have been paid in full or a sufficient bond or letter of credit satisfactory to ~~the city~~the ~~attorney~~City Attorney has been filed with ~~the city~~the City.

B. Petitions for impact fee determination. Any applicant, prior to or in conjunction with the submission of an application for a building permit, or within thirty (30) days of the date of payment of impact fees, may petition ~~the city~~the ~~manager~~City Manager for a determination that the amount of the impact fees imposed on the new development is inappropriate based on any or all of the following factors the specific land use category applied to the residential or nonresidential development and the amount of development (dwelling units and/or gross square footage). The petition shall specify in detail the basis on which the applicant asserts that the amount of the impact fees is inappropriate. The petition shall be on a form provided by ~~the city~~the City and shall, at a minimum, include identification of the disputed factor(s), a detailed statement by a qualified professional engineer, planner or other appropriate professional, and, if filed after payment of impact fees, a dated receipt for payment of the impact fees issued by ~~the city~~the City's building services department. Failure to timely file a petition for impact fee determination shall waive any right to review or recalculation to decrease the impact fee payment.

C. Petitions for refund of impact fees.

1. The current owner of property on which an impact fee has been paid may apply for a refund of such fees if ~~the city~~the City has failed to appropriate or spend the collected fees by the end of the calendar quarter immediately following, five (5) years of the date of payment of the impact fee, if the building permit for which the impact fee has been paid has lapsed for non-commencement of construction, if the project for which a building permit has been issued has been altered resulting in a decrease in the amount of the impact fee due.

2. Only the current owner of property may petition for a refund. A petition for refund must be filed within ninety (90) days of any of the above-specific events giving rise to the right to claim a refund. Failure to timely file a petition for refund shall waive any right to an impact fee refund.

3. The petition for refund shall be submitted to ~~the city~~the ~~manager~~City Manager's office on a form provided by ~~the city~~the City for such purpose. The petition shall contain a notarize affidavit that petitioner is the current owner of the property, a certified copy of the latest tax records of Miami-Dade County showing the owner of the subject property, a copy of the dated receipt for payment of the impact fee issued by ~~the city~~the City's building department and a statement of the basis upon which the refund is sought.

4. Any money refunded pursuant to this subsection shall be returned with interest in an amount of at least seventy-five (75) percent of the annualized average interest rate payable on such account or interest at the rate of three (3) percent per year simple interest, whichever ~~the city~~the City elects.

D. Petition for credits against impact fees.

1. Any applicant as defined in this ~~article~~Article who elects to construct or dedicated all or a portion of a system improvement as defined in this ~~article~~Article, or who escrows money with ~~the city~~the City for the construction of a system improvement shall, if all criteria in this ~~article~~Article and this subsection E. are fulfilled, be granted a credit for such contribution against the impact fees otherwise due for the same type of system improvement. The applicant must, prior to the applicant's construction, dedication or escrow of the system improvement, submit a petition on a form provided by ~~the city~~the City, obtain a determination of credit eligibility and the amount of any credit, and enter into a credit agreement with ~~the city~~the City. The petition for credit shall contain, at a minimum, the following; a certified copy of the most recently recorded deed for the subject property, a preliminary engineering plans and certified costs estimates by an architect, engineer or other appropriate professional for proposed schedule for completion of any construction/dedications identification of the proposed improvement in the current adopted CIP and the amount of impact fee funding for the improvement and identification in detail of the development against which the credits are to apply or which will pay the impact fees to be used for the credit including the land use type(s), number of units/gross floor area, anticipated development schedule, and legal descriptions of the subject property. Any and all improvements required to be conveyed to the city pursuant to a Development Agreement, Conditional Use Permit, or other binding agreement or requirement with or by the city shall be considered included as

part of the city's CIP, for purposes of this Section. Any appeal of petition determinations on credits must be filed, heard, and determined prior to the applicant's construction, dedication or escrow for which the credit is requested. Failure to timely file a petition for impact fee credits shall waive any right to impact fee credits.

2. A credit shall be granted and the amount of the credit shall be determined by ~~the city~~the ~~manager~~City Manager, in his/her reasonable discretion, if it is determined that the system improvement is in the adopted, current capital improvement plan and is funded in whole or in part with impact fee revenue or is considered to part of the adopted CIP as noted in paragraph 1, above. The amount of the credit shall be based on actual costs certified by a professional engineer or architect submitted by the applicant and reviewed and approved by the appropriate city department. In no event shall the credit exceed the amount of impact fees budgeted for that system improvement or the amount of the impact fees for the same type of system improvements that are due from the development requesting the credit whichever amount is smaller. If the impact fees exceed the amount of credit granted, at the time of issuance of the building permit, the applicant shall pay the difference between the amount of the impact fees and the credit.

3. If a credit petition is approved the applicant and ~~the city~~the City shall enter into a credit agreement which shall provide for, but is not limited to the following process to be used to verify actual costs the value of any dedicated land or methodology to determine the value of any dedicated land the obligations and responsibilities of the applicant, including but not limited to:

   a. Public bidding or solicitation requirements or engineering estimate;

   b. Engineering, design and construction standards and requirements to be complied with;

   c. Insurance bonding and indemnification requirements;

   d. Project inspection standards and responsibilities;

   e. Timing of the actions to be taken by the applicant;

   f. Transfer of title to land and improvements;

   g. Process for submittal of credit payment requests; and

   h. Timing of payments by ~~the city~~the City.

   No impact fee credit shall be paid or provided until any land has been dedicated and conveyed to ~~the city~~the City and/or the facilities have been constructed and accepted or alternatively until a bond has been posted to ensure the conveyance and/or construction. Any bond shall be issued by a state surety and in a form acceptable to ~~the city~~the ~~attorney~~City Attorney and risk manager. ~~The city~~The City's obligation to pay impact fee credits shall be limited to the impact fees collected from the development for a period not to exceed ten (10) years from the date of approval of the agreement. The credit agreement shall provide for forfeiture of any impact fee credit remaining at the end of such ten-year period. The credit applicant shall agree to provide recorded notice to subsequent purchasers/owners of the property receiving the credit, if any, that may be

available to such purchasers and shall agree to indemnify ~~the city~~the City for any and all costs and liabilities arising from any claims by others related to the impact fee credit.

E. Deferral of impact fees for affordable and workforce housing.

1. In order to encourage the provision and retention of affordable housing and workforce housing for owner-occupancy and for rental, there shall be a deferral of impact fees due on affordable housing and workforce housing dwelling units developed within the city. T~~t~~he city shall require, under the program, a deed covenant covering the assignment of affordable and workf~~s~~orce housing, annual reporting due prior to September 30th, and any other requirements deemed necessary or appropriate for participation in the affordable housing and workforce housing impact fee deferral program. A~~a~~n applicant shall submit a petition for affordable housing and workforce housing determination with any development review application. If the petition for affordable housing and workforce housing deferral determination is submitted incomplete and/or too close in time to allow determination prior to issuance of the building permit, then the total impact fees due shall be paid prior to issuance of the building permit, and a petition for refund may be submitted if the development is approved for the deferral program.

2. Affordable housing or workforce housing impact fee deferral shall apply to the following:

a. Such development shall consist of 100 percent affordable housing units for families and/or individuals.

b. If the project is providing affordable rental housing, then such development shall have secured its necessary low-income housing tax credits from Florida Housing Finance Corporation and shall submit proof of such to the city manager or his designee; and

c. If the project is providing affordable home ownership, then, prior to the issuance of building permits, the applicant shall provide the city with a covenant and deed restrictions, in forms acceptable to the city attorney, which assure that such units remain affordable for a period of at least thirty (30) years and the home owner(s) be responsible for submitting proof of such to the city manager, or his designee, on an annual basis, the required covenants shall include enforcement and penalty language to address non-compliance.

3. At such time that the property is sold or transferred the impact fees will be due to the city in their entirety.

No impact fee credit shall be paid or provided until any land has been dedicated and conveyed to the city and/or the facilities have been constructed and accepted or alternatively until a bond has been posted to ensure the conveyance and/or construction. Any bond shall be issued by a state surety and in a form acceptable to the city attorney and risk manager. The city's obligation to

pay impact fee credits shall be limited to the impact fees collected from the development for a period not to exceed ten (10) years from the date of approval of the agreement. The credit agreement shall provide for forfeiture of any impact fee credit remaining at the end of such ten-year period. The credit applicant shall agree to provide recorded notice to subsequent purchasers/owners of the property receiving the credit, if any, that may be available to such purchasers and shall agree to indemnify the city for any and all costs and liabilities arising from any claims by others related to the impact fee credit.

(Ord. No. 1302, § 11, 9-15-10; Ord. No. 1409, § 1, 12-13-16)

Sec. 3-1411. - Appeal to ~~city council~~zoning appeals board.

A. A petition determination by ~~the city~~the ~~manager~~City Manager shall be final unless a written notice of appeal to the ~~city council~~ Zoning Appeals Board is filed with the director of ~~the department of building and zoning~~ community planning and development within thirty (30) ~~twenty (20)~~ days of the date ~~of~~ the written determination by ~~the city~~the ~~manager~~City Manager is filed with the clerk of the department, together with payment of a five hundred dollar ($500.00) fee. Such appeal may be filed by the applicant, the petitioner, or by any officer, department, board, commission, or agency of ~~the city~~the City. The above-specified city entities shall not be required to pay said fee. Failure to timely file a request for review of a petition determination shall waive any right to any further review of the petition determination.

B. The director of ~~building and zoning~~ community planning and development ~~department~~ shall then certify such appeals through the office of ~~the city~~the ~~manager~~City Manager.

C. Appeals shall be filed on a form provided by ~~the city~~the City and accompanied by five (5) copies of all documents for consideration by the ~~city council~~ Zoning Appeals Board including but not limited to the petition submittal and all accompanying documents, the petition determination and any additional documents, exhibits, technical reports, or other written evidence the appellant wants the ~~city council~~ Zoning Appeals Board to consider. Should the appellant want to submit additional written material after the initial filing of notice of appeal, five (5) complete copies of such material shall be submitted to the director of building and zoning no later than thirty (30) days prior to the hearing date. If any material is submitted after that date the ~~city council~~ Zoning Appeals Board shall reschedule the hearing to a later date to provide adequate time for review of the material by city staff and ~~the city~~the ~~manager~~City Manager notwithstanding the ninety-day period established under subsection D.

D. The ~~city council~~ Zoning Appeals Board on review shall have full power to affirm, reverse, or modify the action of ~~the city~~the ~~manager~~City Manager so long as such council action is based on applicable law and the provisions of this ~~article~~Article. The appeal shall be heard by the ~~city council~~ Zoning Appeals Board not more than ninety (90) days after the appeal is filed by the appellant. The hearing before the ~~city council~~Zoning Appeals Board shall be de novo.

(Ord. No. 1302, § 12, 9-15-10)

Sec. 3-1412. - Judicial review.

Any request for review of a decision by the ~~city council~~City Council under this ~~article~~Article shall be made by filing an appeal within thirty (30) days of said decision being filed with ~~the city~~the City clerk, with the circuit court in accordance with the Florida Rules of Appellate Procedure.

(Ord. No. 1302, § 13, 9-15-10)

Sec. 3-1413. - Effect of impact fee on planning, zoning, subdivision, and other regulations.

This ~~article~~Article shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements or any other aspect of the development of land or provision of public improvements subject to ~~the city~~the City's comprehensive plan, zoning regulations, subdivisions regulations, or other regulations of ~~the city~~the City, all of which shall be operative and remain in full force and effect without limitation with respect to all such development.

(Ord. No. 1302, § 14, 9-15-10)

Sec. 3-1414. - Impact fees as additional and supplemental requirement.

The payment of impact fees imposed pursuant to this ~~article~~Article is additional and supplemental, and not in substitution, to any other requirements imposed by ~~the city~~the City on the development of land or the issuance of building permits. It is intended to be consistent with and to further the objectives and policies of the comprehensive plan, the ~~zoning ordinance~~ land development regulations, and to be coordinated with ~~the city~~the City's capital improvement program, and other city policies, ordinances and resolutions by which ~~the city~~the City seeks to ensure the provision of public facility improvements in conjunction with the development of land. In no event shall a property owner be required to pay impact fees for the same improvements in an amount in excess of the amount calculated pursuant to the chapter, provided, however, that a property owner may be required to provide or pay, pursuant to Miami-Dade County, state and/or city ordinances, policies or regulations, for public facility improvements in addition to payment of impact fees pursuant to this ~~article~~Article. Nothing in this ~~article~~Article shall be construed as a guarantee of adequate public facilities at the time of development of any particular property.

(Ord. No. 1302, § 15, 9-15-10)

Sec. 3-1415. - Alternative collection method.

In the event that the appropriate amount of impact fees due pursuant to this chapter are not paid prior to the issuance of a building permit, ~~the city~~the City may elect to collect the impact fees due by any other method which is authorized by law.

(Ord. No. 1302, § 16, 9-15-10)

# ARTICLE 4. - ZONING DISTRICTS

## DIVISION 1. - ESTABLISHMENT OF ZONING DISTRICTS

### Sec. 4-101. - ~~[~~Establishment of zoning districts.~~]~~

The following zoning districts are hereby established in the City of North Miami:

A. Residential districts:

R-1 Residential estate district;

R-2 Single-family district;

R-4 Multifamily district;

R-5 Multifamily district;

R-6 Multifamily district.

BZ Multifamily district

B. Nonresidential districts:

C-1 Commercial;

C-2BE Commercial;

C-2BW Commercial;

C-3 Commercial;

M-1 Industrial.

C. Overlay and special purpose districts:

Residential office district (RO);

Planned development district - 1 (PD-1);

Planned development district - 2 (PD-2);

Planned development district - 3 (PD-3);

Arts, culture and design overlay district (AOD);

Public use district (PU);

Neighborhood redevelopment overlay district (NRO ~~and CCD~~);

Regional activity center overlay district (RAC).

Planned Corridor Development (PCD)

Planned Community Urban Design (PCUD)

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1327, § 1, 2-14-12)

Sec. 4-102 - Purpose and Intent.

This article is to establish zoning districts where the comprehensive plan land uses are located and grouped together to create, protect and maintain a desirable living environment within the City of North Miami. Based on these districts the LDRs also implements the goals, objectives and policies of the City Comprehensive Plan (the "Plan" or "comprehensive plan") and adopted maps. Zoning district uses, standards, dimensional and area requirements are also established in this Article.

| Comprehensive Plan-<br>Future Land Use Designation | LDRs - Zoning District |
|---|---|
| Central Business Commercial | C-3 |
| Commercial/Office | C-1 [Map corrections that redesignates C-3 outside downtown to C-1]<br>C-2BW<br>C-2BE<br>C-3 |
| Residential Office | RO |
| Community Facility | PU |
| Community Facility – University | PU<br>PD |
| Conservation | PU |
| Bayshore Zone | BZ |
| High Density Residential | R-6 |
| Low Density Residential | R-1<br>R-2 |
| Low-Medium Density Residential<br>Medium Density Residential | R-4<br>R-5 |
| Mixed Use Low | PD-1 |
| Mixed Use Medium | PD-2 |
| Mixed Use High | PD-3 |
| Industrial | M-1 |
| Open Space/Recreation | PU |
| Utilities | PU |

| | |
|---|---|
| Overlay Districts<br>Neighborhood Redevelopment Overlay (NRO)<br>Planned Corridor Development (PCD)<br>Planned Community Urban Design (PCUD)<br>Arts, Culture and Design Overlay District (AOD)<br>Regional Activity Center (RAC) | NRO: R-2, R-4, R-5, R-6, C-1, C-3, PU<br>PCD: R-6, C-1, C-2BW, C-3<br>PCUD: PD<br>AOD: R-5, C-3, PU<br>RAC: PU |

DIVISION 2. - ~~RESIDENTIAL~~ DISTRICTS

Sec. 4-201. - Purpose of ~~residential~~ districts.

A. The purpose of the R-1 residential estate district and the R-2 single-family district is to establish areas of low density residential uses characterized by detached dwellings, protect and preserve the integrity and value of existing low-density neighborhoods consistent with the residential low land use category of the comprehensive plan.

B. The purpose of the R-4 multifamily residential district is to ~~preserve and enhance~~provide areas for lower density multifamily ~~neighborhoods~~ residential uses while ensuring that there is a transition between single-family to other more intense forms of residential development ~~in the city by~~ and allowing varied forms of residential dwellings ~~to meet the housing needs of a diverse community~~, i.e., duplex, triplex, townhouses, apartments, college/dormitory housing, and which may also include child care centers, adult day care and living facilities ~~while ensuring that there is a transition between single family to other more intense forms of residential development~~, consistent with the residential low-medium density land use category of the comprehensive plan.

C. The purpose of the R-5 multifamily residential district is to provide areas appropriate ~~preserve and enhance~~for medium density ~~multifamily neighborhoods in the city~~ multifamily residential uses, e.g., townhouses, apartments, college/dormitory housing, etc., and which may also include child care centers, adult day care and living facilities, ~~while encouraging redevelopment to provide the housing needs of a diverse community at a greater density than other districts~~ and ~~other~~ institutional uses such as hospitals, nursing, and convalescent homes, ~~which are compatible with the overall residential character of the district,~~ consistent with the residential medium density land use category of the comprehensive plan.

D. The purpose of the R-6 multifamily residential district is to ~~preserve and enhance~~ designate areas appropriate for higher density ~~multifamily neighborhoods in the city while encouraging~~residential uses that are compatible with the overall residential character of the district, e.g., townhouses, apartments, and college/dormitory housing and which may also include child care centers, adult day care and living facilities, ~~redevelopment to provide the housing needs of a diverse community at a greater density than other districts~~ and ~~other~~ institutional uses, such as hospitals, nursing and convalescent homes, ~~which are compatible with the overall residential character of the district,~~ consistent with the residential high density land use category of the comprehensive plan.

E. The purpose of the B-Z multifamily residential district is to designate shoreline areas appropriate for higher density development, consistent with the bayshore zone land use category of the comprehensive plan.

~~A~~F. The purpose of the C-1 commercial district is to provide the citizens of the city with convenient access to goods and services without adversely impacting the integrity of residential neighborhoods.

~~B~~G. The purpose of the C2BE and C2BW commercial districts is to enhance the high quality commercial areas in the city.

~~C~~H. The purpose of the C3 commercial district is to enhance the central business district of the city by allowing greater flexibility in development standards and to encourage mixed use development in order to enhance the pedestrian experience of citizens and to promote the use of transit. The downtown commercial area is encapsulated in the C-3 district ~~as depicted on the official zoning map.~~.

~~D~~

I. The purpose of the M-1 industrial district is to accommodate industrial and related uses in the city, and to support mixed use within the Transit Station Overlay District~~.~~.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 4-202. ~~-~~ Types of Uses ~~permitted~~.

The following chart establishes the uses ~~permitted~~ allowed in the ~~residential~~ zoning districts in the city. ~~No use is permitted which is not listed as permitted on this chart.~~ "P" indicates whether the use is permitted, subject to review and approval in accordance with article 3 of this Code. "P*" indicates whether the use is permitted subject to review and administrative site plan approval in accordance with article 3 of this Code. "SE" indicates that the use is permitted but only through special exception review. A blank cell in the use table indicates that a use is not permitted in the respective district. ~~No use is permitted unless it complies with the provisions of the zoning district in which it is located and the applicable development standards in article 5 of this Code.~~

A use not listed in the use table, but possessing similar characteristics, including, but not limited to: size, intensity, density, operating hours, demands for public facilities such as water and sewer, traffic and environmental impacts, and business practices, may be allowed upon advance written application (on a form approved by the city) to and written approval by the community planning and development director, and the city council by resolution. Such uses will be determined based on the use category tables and definitions in Article 7 "Definitions". Similar uses shall be subject to all requirements of the uses to which they are similar, except as may be expressly permitted in writing by the director and city council.

No use is permitted unless it complies with the provisions of the zoning district in which it is located and the applicable development standards in article 5 of this Code, except as otherwise provided in these LDRs.

| Zoning Districts | R-1 | R-2 | R-4 | R-5 | R-6 | C-1 | C-2BE | C-2BW | C-3 | M-1 | PU | RO | BZ | AOD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Residential Type of Uses** | | | | | | | | | | | | | | |
| Accessory Uses & Structures | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| **Adult Day Care** | | | SE | SE | SE | P* | P* | P* | P* | | | | | |
| **Adult Living Facility** | | | SE | SE | SE | | | | SE | | | | | |
| **Child Care Center (6+)** | | | SE | SE | SE | SE | | | SE | | | | | |
| College/University Dormitory | | | P* | P* | P* | | P* | P* | | | | | | |
| **Community Residential (~~<6~~ 6 or less)** | P | P | P | P | P | | | | | | | | P | |
| **Community Residential (7-14)** | | | P* | P* | P* | | | | | | | | | |
| Daycare (~~<~~5 or less) | P | P | P | P | P | | | | | | | | | |
| **Docks** | P | P | P | P | P | | | | | | | | P | |
| **Home Occupations** | P | P | P | P | P | | | | | | | | P | P |
| Hotels, Motels, Lodging | | | | SE | SE | P* | P* | P* | P* | | | | | |
| **Live/work Studio** | | | | | | P[4] | P | P | P | P | | | | P |
| Mobile Home, Manufactured | | | | | | | | | P | | | | | |
| Nursing/Convalescent Homes | | | | | | P[4] | | P* | | | P | | | |
| Residential, Multifamily | | | P | P | P | | | | P | | | | P | |
| Residential, Single-Family | P | P | | | | | | | | | | | | |
| Residential, Elderly/Student | | | P* | P* | P* | | | | | | | | | |
| **Public, Utilities & Related Uses** | | | | | | | | | | | | | | |
| Airport, Airfield, Heliport | | | | | | | | | | SE | | | | |
| Community ~~Facilities~~ Center | P | P | P | P | P | P | P | P | SE | | P | | | |
| Cultural/Civic Center/Convention Center** | | | | | | SE | SE | SE | SE | | SE | | | |
| Detention Facility | | | | | | | | | | | ~~SE~~ | | | |
| Educational - Private, including Charter | SE | SE | SE | SE | SE | SE | | SE | SE | | | | SE | |
| Educational - Public | P | P | P | P | P | P | ~~SE~~ | ~~SE~~P | ~~SE~~P | | P | | P | |
| Educational - Technical, Vocational, Specialty | SE | SE | SE | SE | SE | SE[4] | SE | SE | SE | | | | | |
| Government facilities, critical facilities | | | | | | P | P | P | P | P | P | | | |
| Hospital | | | | SE | SE | SE | SE | SE | SE | SE | | | | |
| Public Parks & Recreational Facilities | P | P | P | P | P | P | P | P | P | P | P | | P | |
| Public Safety Facility | P | P | P | P | P | P | P | P | P | P | P | | P | |
| Sewage Lift/Pumping Station | | | | | | | | | | | P | | | |
| Solid Waste Transfer Station | | | | | | | | | | | P | | | |
| Transit Station | | | | | | | | | P | P | P | | | |
| Utilities & Related Uses | | | | | | | | | | | P | | | |
| Water Plant/Waste Water Plant | | | | | | | | | | | P | | | |
| **Vehicle Related Commercial Type Uses** | | | | | | | | | | | | | | |
| **Auto Service Station** | | | | | | SE | | | | SE**** | | | | |
| **Car Wash, Mechanical** | | | | | | SE[4] | | | | P | | | | |
| **Parking Garage/Lot** | | | | | | P | | | P | P | P | | | |
| Tow Truck Yard | | | | | | | | | | P* | | | | |
| Vehicle - Parts, New | | | | | | P[4] | ~~P~~ | | | P | | | | |
| Vehicle - Parts, Used | | | | | | | | | | P**** | | | | |
| **Vehicle Rental** | | | | | | P* | | | | P**** | | | | |
| **Vehicle Sales/Displays - Used** | | | | | | ~~SE~~ | | | | SE***** | | | | |

| Zoning Districts | R-1 | R-2 | R-4 | R-5 | R-6 | C-1 | C-2BE | C-2BW | C-3 | M-1 | PU | RO | BZ | AOD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Vehicle Sales/Displays, Major - New** | | | | | | SE[4] | | | | SE | | | | |
| **Vehicle Sales/Displays, Minor - New** | | | | | | SE[4] | | | | SE | | | | |
| Vehicle Service, Major | | | | | | P[4] | | | | P* | | | | |
| Vehicle Service, Minor | | | | | | P[4] | | | | P* | | | | |
| **Recreation, Entertainment Type Uses** | | | | | | | | | | | | | | |
| Amusement Park, Stadium, Arena | | | | | | | | | SE | SE | SE | | | |
| Arcade, electronic gaming | | | | | | | | | SE | | | | | |
| Camp Ground, RV Park | | | | | | | | | | | SE | | | |
| Casino Gaming Facility | | | | | | | | | | | | | | |
| Driving Range | | | | | | | | | | SE | P | | | |
| Golf, Miniature | | | | | | | | | | SE | | | | |
| Gun Range/Archery Club | | | | | | | | | | SE | | | | |
| Health/Fitness Club | | | | | | P* | P* | P* | P* | P**** | | | | |
| Marinas** | | | | | | | P* | | | | | | | |
| Recreation, Indoor | | | | | | P* | P* | P* | P* | P* | P | | | |
| Sports Fields, Outdoor | | | | | | | | | | SE | P | | | |
| **Restaurant, Food & Beverage Type Uses** | | | | | | | | | | | | | | |
| **Adult ~~Entertainment~~ Business**** | | | | | | | | | | SE | | | | |
| Bar/Lounge** | | | | | | P | P | P | P | SE | | | | |
| Catering Service | | | | | | P | | | P | P | | | | |
| **Nightclub/Cabaret**** | | | | | | SE | SE | SE | SE | SE | | | | SE |
| Restaurants - Sports, Coffee, Cafeteria, Café** | | | | | | P | P | P | P | P**** | | | | |
| Brew/Pub | | | | | | P | P | P | P | P | | | | |
| **Places of Assembly Type Uses** | | | | | | | | | | | | | | |
| Banquet Hall** | | | | | | P* | P* | P* | P* | | | | | |
| Funeral Homes | | | | | | SE[4] | | | SE | P | | | | |
| Fraternal Clubs** | | | | | | | SE | SE | SE | P**** | | | | |
| Religious Institutions | ~~SEP*~~ | ~~SEP*~~ | ~~SEP*~~ | ~~SEP*~~ | ~~SEP*~~ | ~~SEP*~~ | ~~SEP*~~ | P* | P* | P | | | | |
| Theater, Movie/Performing Arts** | | | | | | P* | P | P | P | P**** | | | | P |
| Museum | | | | | | P* | | | P* | P**** | | | | |
| **Commercial Type Uses** | | | | | | | | | | | | | | |
| Convenience Store** | | | | | | P | P | P | P | P**** | | | | |
| Drug Store/Pharmacy | | | | | | P | P | P | P | P**** | | | | |
| Food Specialty Store | | | | | | P | P | P | P | P**** | | | | |
| Grocery Store** | | | | | | P | P | P | P | P**** | | | | |
| Liquor Package Store** | | | | | | | SE | SE | SE | | | | | |
| Plant Nursery, Retail/Wholesale | | | | | | | | | | P**** | | | | |
| Retail - Wholesale, Department | | | | | | P* | P | P | P | P**** | | | | |
| Retail - General, Single Use | | | | | | P | P | P | P | P**** | | | | P |
| Retail - Home Improvement | | | | | | P* | P | P | P | P**** | | | | |
| **Secondhand Store/Consignment Store** | | | | | | P* | P* | P* | P* | | | | | |
| **Office Type Uses** | | | | | | | | | | | | | | |
| Call Center | | | | | | P | P | P | P | P | | | | |
| Office - Business, Sales, Professional | | | | | | P | P | P | P | P | | P | | |

| Zoning Districts | R-1 | R-2 | R-4 | R-5 | R-6 | C-1 | C-2BE | C-2BW | C-3 | M-1 | PU | RO | BZ | AOD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Office - Medical, Clinic | | | | | | P | P | P | P | | | | | |
| Office - Medical no clinic | | | | | | P | P | P | P | | | P | | |
| **Service Type Uses** | | | | | | | | | | | | | | |
| **Animal Grooming, Pet Sitting** | | | | | | P | P | P | P | | | | | |
| **Animal Hospital, Veterinarian Clinic** | | | | | | P* | P* | P* | | P* | | | | |
| **Animal Kennel, Boarding** | | | | | | P[4] | P* | P* | | P* | | | | |
| **Animal Shelter** | | | | | | | | | | P* | | | | |
| Diagnostic Lab | | | | | | P | SE | SE | SE | P | | | | |
| ~~Check Cashing Store~~ | | | | | | | | | | | | | | |
| Copy/Printing Service | | | | | | P | P | P | P | | | | | |
| Cosmetic Surgery/Beauty Clinic | | | | | | P | P | P | P | | | | | |
| Dry Cleaning Establishment - incl. drop off center | | | | | | P | P | P | P | P**** | | | | |
| Equipment/Tool Rental | | | | | | P | P | P | P | P | | | | |
| Financial Institution | | | | | | P | P | P | P | P**** | | | | |
| **Laundromat, Self-Service** | | | | | | ~~SE~~P[4] | P | P | P | P**** | | | | |
| Mail Service/Package Shipping | | | | | | P | P | P | P | P**** | | | | |
| Day Spa | | | | | | P | P | P | P | | | | | |
| Repair & Service Shop (non-vehicular)[5] | | | | | | | P | P | P | P | | | | |
| Studios - Photographic & Instructional (Fine Arts) | | | | | | P* | P* | P* | P* | P**** | | | | P |
| Studios - Recording, TV/Radio | | | | | | P | P | P | P | P**** | | | | |
| Tattoo Parlor/Body Piercing | | | | | | SE | SE | SE | SE | P**** | | | | |
| **Other Uses** | | | | | | | | | | | | | | |
| Cemetery, Mausoleums, Crematory | | | | | | | | | | SE | SE | | | |
| ~~**Wireless Antennas and Support Services**~~ | | | | | | | | | | | | | | |
| **Industrial Type Uses** | | | | | | | | | | | | | | |
| Distribution Center | | | | | | SE[4] | | | | P | | | | |
| Dry Cleaning Plant | | | | | | | | | | P | | | | |
| Farmer's Market | | | | | | P | | | P | P**** | | | | P |
| Fishery | | | | | | P | | | P | P**** | | | | |
| Greenhouse - Nurseries | | | | | | | | | | SE | | | | |
| Industrial, Heavy | | | | | | | | | | P | | | | |
| Industrial, Light | | | | | | SE | | | SE | P | | | | |
| Laboratory - Medical Research, Testing and Manufacturing | | | | | | P | | | | P | | | | |
| Educational, Scientific and Research | | | | | | P | | | | P | P | | | |
| Laboratory - Research, Development, Testing and Manufacturing | | | | | | P | | | | P | SE | | | |
| **Medical Marijuana Dispenseries** | | | | | | SE | SE | SE | SE | SE**** | | | | |
| **Outdoor Storage - Agriculture** | | | | | | | | | | SE | | | | |
| **Outdoor Storage, Open Air Storage** | | | | | | | | | | SE | | | | |
| Packing Facilities - Large | | | | | | | | | | P | | | | |
| Packing Facilities - Small | | | | | | | | | | P | | | | |
| Radio and Transmitting Station | | | | | | P[4] | | | | | P | | | |

| Zoning Districts | R-1 | R-2 | R-4 | R-5 | R-6 | C-1 | C-2BE | C-2BW | C-3 | M-1 | PU | RO | BZ | AOD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Recycling Facility | | | | | | | | | | | P | | | |
| **Self-Storage Facility** | | | | | | P[4] | P[5] | | | P | | | | |
| Showroom, Retail Sale, non- vehicular | | | | | | P | | P | | P | | | | |
| Showroom, Wholesale | | | | | | | | | | P | | | | |
| Urban Agricultural Gardens/Community | | | P | P | P | P[7] | | | P | P | P | | | |
| Warehouse | | | | | | SE[4] | | | | P | | | | |
| Winery/MicroBrewery** Distillery | | | | | | P | | | P | P | | | | |

~~*If a college/university dormitory was included in a master plan approved by the City prior to the adoption of these LDRs, a~~Administrative site plan shall be required.

** Subject to chapter 3 of the city's Code.

*** Prohibited in the arts, culture and design overlay district (AOD) subject to section 4-403E and chapter 3 of the city's Code.

**** Retail and personal service uses larger than one (1) acre in size are prohibited in the industrial district, in an effort to minimize a depletion of the industrial land supply. Retail sales and service uses one (1) acre or less in size should front on major east west corridors including NE 146th Street and NE 151 Street.

***** Retail Showroom, Automobile use requires minimum lot area of one (1) acre. No more than fifteen (15) percent of the gross building area (GBA) assigned to the retail automobile showroom business shall be devoted to minor vehicle service.

[1] Subject to the standards for Community Residential

[2] Vehicle Sales Major and Minor use requires minimum lot area of 30 or more acres.

[3] In addition to those uses shown on this table, and identified in section 4-403D, with the exception of those prohibited in section 403E, permitted uses in the AOD

includes those uses allowed in the underlying zoning district.

[4] Prohibited in the Chinatown Cultural Arts Innovation District

******[6] Prohibited in C-1 zoned areas that abuts a single family residential district and on major C-1 commercial corridors such as Dixie Highway, NW 7th Avenue and NW 119th Street; and is further subject to criteria established in section 5-1702

[6] Boat/Marine repair is limited to the M1 district.

[7] Prohibited on 119th Street

| Residential Districts | | | | | |
|---|---|---|---|---|---|
| | R-1 | R-2 | R-4 | R-5 | R-6 |
| Accessory Uses and Structures | P | P | P | P | P |
| Single-Family Dwellings | P | P | P | P | |
| Multifamily Dwellings (townhouses, etc.) | | | P | P | P |
| Adult Day Care | | | SE | SE | SE |
| Adult Living Facilities | | | SE | SE | SE |
| Child Care Center (6 or more) | | | SE | SE | SE |
| College/University Dormitory | | | SE* | SE* | SE* |
| Community Residential (6 or less) | P | P | P | P | P |
| Community Residential (7—14) | | | P* | P* | P* |
| Daycare (5 or less) | P | P | P | P | P |
| Docks, Accessory | P | P | P | P | P |
| Home Occupations | P | P | P | P | P |
| Hospitals | | | | SE | SE |
| Nursing or Convalescent Homes | | | | SE | SE |
| Public Facility | P | P | P | P | P |
| Public Park | P | P | P | P | P |
| Religious Institutions | SE | SE | SE | SE | SE |
| Schools | SE | SE | SE | SE | SE |
| | | | | | |
| P = Permitted Use | | | | | |
| P* = Administrative Site Plan Required | | | | | |
| SE = Special Exception | | | | | |

* If a college/university dormitory was included in a master plan approved by the city prior to the adoption of these LDRs, administrative site plan shall be required.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 4-203. - Minimum standards of development. for r

A. Residential districts.

Uses permitted in the residential districts shall be developed in accordance with the following standards and other applicable development standards in article 5 of this Code:

| Residential District | Max. Density[1] DU/ac***** | Lot Dimensions | | | Setbacks (ft.)[2] [3] | | | Max. Height (ft.) *** | Min. Floor Area (s.f.)* | Required[2] Open Space |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Area (s.f.) | Width (ft.) | Depth (ft.) | Front | Side | Rear **** | | | |
| R-1 | ~~4.7~~5.1 | 9,200 | 80 | 115 | 25 | 7.5 or 10%** | 25 | 35 | 1,500 | |
| R-2 | 5.1 | 6,000 | 60 | 100 | 25 | 7.5 or 10%** | 25 | 35 | 1,000 | |
| R-4 | 12.0 | | | | 25 | 7.5 or 10%** | 25 | 35 | | 20% |
| R-5 | 16.3 | | | | 25 | 7.5 or 10%** | 25 | 75 | | 20% |
| R-6 | 25.0 | | | | 25 | 7.5 or 10%** | 25 | 110 | | 20% |
| B-Z | 100.0 | | | | 25[2] | 7.5 or 10%** | 25 | 115 | | 15% |

* The minimum floor area of a dwelling unit in the R-1 district is one thousand five hundred (1,500) square feet, and in the R-2 district it is one thousand (1,000) square feet. Except for college/university dormitories as per the approved campus master plan ~~and multifamily apartments~~ the minimum size for a dwelling unit in the multifamily residential and mixed use ~~R-4, R-5 and R-6~~ ~~R-4, R-5 and R-6~~ districts is ~~is~~ five hundred fifty (550) ~~seven hundred fifty (750)~~ ~~seven hundred fifty (750)~~ square feet.

** Seven and one-half (7.5) feet or ten (10) percent of the lot frontage, whichever is greater. ~~Townhouse setbacks: See article 5, division 20~~; ~~corner~~ Corner lot setback: minimum fifteen (15) feet or front setback of adjoining lot fronting on side street. Setbacks for accessory structures are the same as the principal structure unless modified by article 5, division 1.

*** Buildings and structures immediately north of Village of Biscayne Park (121st Street boundary), shall not exceed thirty-five (35) feet in height for the first one hundred (100) feet north of 121st Street. Thereafter the height may increase at the rate of one (1) foot vertical for every two (2) feet horizontal, not to exceed the maximum height allowed by the underlying ~~land~~ use ~~(~~zoning district~~)~~ designation.

**** In the R-~~4~~, R-5 and R-6 districts, buildings with a height of ~~thirty five~~forty (~~35~~40) feet or less which are located on parcels of land adjacent to and/or abutting a R-1 or R-2 district shall be set back at least twenty-five (25) feet from the proposed development's property line that ~~which~~ is adjacent and/or abutting to a R-1 or R-2 district; ~~and~~ portions of a building that ~~which~~ exceed thirty-five (35) feet up to the maximum permitted height shall be setback an additional ten (10) feet.

***** In calculating permitted and/or bonus density under these land development regulations, if such calculation results in a fraction of five-tenths (.5) or more, the permitted number of units may be rounded up provided that, in no case shall the permitted number of units exceed the maximum density in the underlying ~~land use~~ land development regulations~~classification~~.

[1] For additional bonus density see section 4-205 and 4-305

[2] Townhouse setbacks and open space: See Sec. 4-204

[3] Or as required by the Miami-Dade County Shoreline Review Ordinance, whichever is more restrictive.

B. Non-residential Districts[1]

| | Minimum Lot Size | Minimum Lot Width | Setback Front* | Minimum Setback Side* | Minimum Setback Rear* | Maximum Height | Maximum Lot Coverage |
|---|---|---|---|---|---|---|---|
| C1 Commercial | 10,000 s.f. | 100′ | 15′ | 10′ | 10′ (when no alley or easement) | 55′ | 80% |
| C2BE | 10,000 s.f.** | 100′ | 15′ | 10′ | 10′ | 55′ | 80% |
| C2BW | 10,000 s.f.** | 100′ | 15′ | 10′ | 10′ | 55′ | 80% |
| C3 | 10,000 s.f | 100′, | 15′ | 10′ | 10′ | 55';110′;150' with incentives | 80% |
| M-1 | 20,000 s.f. | 100′ | 20′ | 15′ | 15′ | 55′ | 75% |
| | | | | | | | |

In the nonresidential districts, buildings with a height of thirty-five (35) feet or less ~~which~~that are located on parcels of land adjacent to and/or abutting a R-1 or R-2 district or the Village of Biscayne Park Transition Zone shall be set back at least twenty-five (25) feet from the proposed development's property line which is adjacent to and/or abutting a R-1 or R-2 district; portions of a building ~~which~~ that exceed thirty-five (35) feet up to the maximum permitted height shall be setback an additional ten (10) feet. Conditional use approval shall be required for any building proposed to be developed on a parcel of land in a nonresidential district ~~which~~ that is adjacent to and/or abutting the R-1 or R-2 district with a height which exceeds fifty (50) feet; any portion of a building ~~which~~ that exceeds fifty (50) feet in height shall be set back an additional one (1) foot for every two (2) feet of height.

* Setbacks for accessory structures are the same as the principal structure unless modified in article 5, division 1.

** If building height is over fifty (50) feet, need twenty thousand (20,000) square foot minimum lot size.

[1] Subject to PCD overlay criteria established in Sec. 4-306 and Sec. 5-804, as may be applicable.

B. In the commercial corridor on Biscayne Boulevard beginning at NE 123rd Street North to NE 13~~1~~5st Street, no land use, LDR or text amendment may be granted which would allow a height greater than forty-five (45) feet .

C. Special rear yard setback and height restrictions.

~~1. NW 7th Avenue, west side: (entire city limits) maximum height thirty-five (35) feet with a twenty-five-foot minimum setback.~~

1. ~~2.~~ Biscayne Boulevard, east side, from NE 123rd Street to NE 131st Street: maximum height forty-five (45) feet with a fifty-foot minimum rear setback.

2. ~~3.~~ Biscayne Boulevard, east side, from NE 131st Street to NE 134th Street (at canal): maximum height forty-five (45) feet with a twenty-five-foot minimum setback.

3. ~~4.~~ NE 123rd Street, south side, from 19th Avenue to Bayshore Drive: maximum height thirty-five (35) feet with a twenty-five-foot minimum setback.

~~D. Open space: twenty (20) percent per parcel proposed for development.~~

Sec. 4-204 –Townhouses
~~Sec. 5-2001. - General.~~

A. Minimum lot frontage. No townhouse development shall be constructed on a site with a frontage of less than one hundred fifty (150) feet.

B. Minimum usable open space. Not less than twenty-five (25) percent of the total lot area shall be dedicated for usable open space, either for recreation or some other suitable use, public or private, as approved by the planning commission. For the purpose of this section, individual lots or portions thereof, roads, driveways, garages and parking areas shall not be construed as usable open space.

C. Distance between townhouse rows. No townhouse row shall be closer than twenty (20) feet to any other townhouse row.

D. Length of townhouse row. No townhouse row shall consist of more than six (6) dwelling units.

E. Parking. In addition to the requirements of article 5, division 16:

1. Design. All garages provided shall conform architecturally to, and be of similar materials as, the principal buildings in the development.

2. Location. Garages may be built into townhouses, or may be constructed on individual lots or on common areas.

~~Sec. 5-2002~~. F. Setbacks.

1. Front yard. No building or structure shall be constructed closer than twenty-five (25) feet to any front property line.

2. Side yards. No building or structure for end units shall be located closer than fifteen (15) ~~thirty (30)~~ feet to any side lot line.

3. Unattached accessory structures in rear yards of townhouse lots.

a. Utility sheds and similar accessory structures. These structures may occupy up to one hundred (100) square feet. In interior townhouse lots, these structures shall maintain

minimum ~~side and~~ rear setback~~s~~ of five (5) feet. In corner townhouse lots, these structures shall also maintain a minimum of fifteen (15) ~~thirty (30)~~ feet from the exterior side property line, and the minimum rear setback shall be ten (10) feet.

~~b. Unattached flexible cover carport structures. These structures may be erected in the rear yard only, for the purpose of sheltering an operable vehicle, provided their size does not exceed a width of twelve (12) feet, a length of twenty (20) feet, and a height of ten (10) feet. In interior townhouse lots, these structures may maintain a minimum side setback of zero feet and a minimum rear setback of five (5) feet. In corner townhouse lots, these structures shall also maintain a minimum of thirty (30) feet from the exterior side property line, and the minimum rear setback shall be ten (10) feet.~~

4. Access to parking spaces. Forward and reverse (back out) movements are permitted for townhouse developments. See Section 5-1409.B.1.

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

Sec. 4-~~204~~205. ~~—~~ Residential density bonuses.

A. Outside the NRO.

For parcels of land within the PCD, PD and residential zoning districts outside of the NRO ~~designated as low-medium, medium and high density residential land use [why use comp plan instead of zoning districts~~categories ~~outside of the neighborhood redevelopment overlay district,~~ a density bonus may be granted up to twenty-five (25) du/acre through conditional use approval, (excepting those properties which lie in, or are adjacent to, or abutting the Village of Biscayne Park Transition Zone), the following are provided:

| Non-NRO Residential Density Bonuses | | | | |
|---|---|---|---|---|
| Land Use Category | ~~Low-Med.~~ | ~~Medium~~ | ~~High~~ | |
| ~~Green Building and Sustainability (LEED Design)~~ | | | | |
| Green Building an~~d~~d Sustainability ~~Certified~~ Nationally recognized certification program | ~~2.5 du/ac~~ ~~7 du/ac~~ | ~~7.5 du/a~~ ~~10 du/ac~~ | ~~10 du/a~~ ~~15 du/ac~~ | 15 |
| ~~Silver~~ | ~~7.5 du/a~~ | ~~10 du/a~~ | ~~15 du/a~~ | |
| ~~Gold or greater~~ | ~~12.5 du/ac~~ | ~~15 du/a~~ | ~~20 du/a~~ | |
| ~~Transit Oriented Development (TOD)~~ | | | | |
| ~~TOD Standards~~ | | | | |
| ~~TOD Bonus~~ | | | | |

| | | | | |
|---|---|---|---|---|
| Transit Oriented Development (TOD) (Section 5-804)Four (4) of seven (7) | ~~5~~ 10 ~~du/a~~ | ~~5~~ 10 ~~du/a~~ | ~~5~~ ~~10~~ ~~du/a~~ | 10 |
| ~~Five (5) of seven (7)~~ | ~~10 du/a~~ | ~~10 du/a~~ | ~~10 du/a~~ | |
| Maximum Total Green and TOD Bonus | ~~25~~ 17 ~~du/a~~ | ~~25~~ 20 ~~du/a~~ | ~~25 du/a~~ | 25 |

Any residential use category immediately north of the Village of Biscayne Park (121st Street Boundary a.k.a. Village of Biscayne Park Transition Zone), may not exceed their current entitlement and is subject to strict design standards further established in these land development regulations.

B. Within the NRO. ~~(See Sec. 4-305)~~

Density/intensity/bonuses additional density may be granted through conditional use approval up to the maximum densities as follows:

| ~~NEIGHBORHOOD REDEVELOPMENT OVERLAY DISTRICT BONUS PROVISIONS~~ | | | |
|---|---|---|---|
| ~~RESIDENTIAL DENSITY~~ | | | |
| ~~MANDATORY~~ | | | |
| ~~Green Building and Sustainability~~ | ~~Designed to Achieve LEED Certified~~ | ~~Designed to Achieve LEED Silver~~ | ~~Designed to Achieve LEED or Other Green Building Certification Designed to Achieve LEED Gold or Greater~~ |
| | ~~10 du/ac~~ | ~~10 du/ac~~ | ~~25 du/ac~~ |
| ~~Transit Oriented Development (TOD)~~ | ~~(In addition to § 5-804803)~~ | | |
| ~~TOD Standards~~ | | | |
| ~~1. Neighborhood pedestrian connections between adjacent uses~~ | | | |
| ~~2. Improved pedestrian way connecting to nearest arterial w/way finding signage~~ | | | |
| ~~3. Sheltered bus stop within ¼ mile of the proposed development in accordance with section 5-803702~~ | | | |
| ~~4. Internal bike and pedestrian circulation system~~ | | | |
| ~~5. Provision of bike lockers or racks~~ | | | |
| ~~6. Provision of showers for bicyclists~~ | | | |
| ~~7. Connection to existing or planned regional bike trail~~ | | | |
| ~~8. TDM program (section 5-702)~~ | | | |
| ~~TOD Bonus~~ | | | |
| ~~Four (4) of eight (8) above TOD standards~~ | ~~1 du/ac~~ | ~~2 du/ac~~ | ~~3 du/ac~~ |
| ~~Five (5) of eight (8) above TOD standards~~ | ~~2 du/ac~~ | ~~4 du/ac~~ | ~~6 du/ac~~ |

| | | | |
|---|---|---|---|
| Maximum Total Green and TOD Bonus | 12 du/ac | 22 du/ac | 31 du/ac |
| OPTIONAL | | | |
| MIXED USE | | | |
| Major Corridor and CCD* | 25 du/a | 25 du/ac | 25 du/a |
| PROJECT OPEN SPACE/RECREATIONAL AMENITIES | | | |
| 5,000 sq. ft. or 50 sq. ft./unit, whichever is less | 5 du/ac | 5 du/ac | 5 du/ac |
| Urban Design | | | |
| Urban Places of Public Assembly | | | |
| — >1,000 # 2,500 sq. ft. | 2.5 du/ac | 2.5 du/ac | 2.5 du/ac |
| — >2,500 # 10,000 sq. ft. | 5 du/ac | 5 du/ac | 5 du/ac |
| — >10,000 sq. ft. | 10 du/ac | 10 du/ac | 20 du/ac |
| Underground Utilities | 5 du/ac | 2 du/ac | 5 du/ac |
| Structured Parking (Pedestal) | 10 du/ac | 10 du/ac | 10 du/ac |
| Structured Parking (Nonpedestal) | 20 du/ac | 20 du/ac | 20 du/ac |
| NonPedestal parking structure performance standards:<br>1. Wrapped on 3 sides<br>2. Setback at least 30 feet from lot with single family dwelling<br>3. Project amenities on property of parking structure | | | |
| Public Art as approved by the Art in Public Places Committee | 2.5 du/ac | 2.5 d/ac | 2.5 du/ac |
| Design Excellence (see appendix B) | 5 du/ac | 5 du/ac | 5 du/ac |
| Enhanced Streetscape w/Parkway | 2.5 du/ac | 2.5 du/ac | 2.5 du/ac |
| AFFORDABLE/WORKFORCE HOUSING | | | |
| 15% of Units Affordable/Workforce | 10 du/ac | 12.5 du/ac | 15 du/ac |
| 25% of Units Affordable/Workforce | 15 du/ac | 20 du/ac | 25 du/ac |
| Approval of a bonus for affordable/workforce housing would require:<br>A determination that there is a demonstrated need for the proposed affordable/workforce housing based on a current needs assessment prepared by the city. The city may request that the applicant for an affordable/workforce housing bonus reimburse the city for preparation of the needs assessment.<br><br>Appropriate conditions on approval for maintaining the bonus housing as affordable/workforce housing for a term of not less than twenty (20) years. | | | |
| Total Maximum Density Bonus | 80 du/ac | 90 du/ac | 90 du/ac |
| Land located in the RO zoning district shall be entitled to NRO bonus density according to the bonus eligibility of any other land not in the RO zoning district which is a part of a parcel proposed for development. | | | |

| NEIGHBORHOOD REDEVELOPMENT OVERLAY DISTRICT BONUS PROVISIONS | |
|---|---|
| RESIDENTIAL DENSITY | |
| MANDATORY | |
| Green Building and Sustainability | Maximum 25 du/ac |
| Designed to Achieve LEED or other nationally-recognized green building certification | 15 du/ac |
| Availability of sustainable amenities on-site such as recycling receptacles and electric car charging stations | 5 du/ac |
| Provision and maintenance of additional trees in areas identified as deficient within the North Miami Street Tree Management Plan | 5 du/ac |
| Transit Oriented Development (TOD) | (In addition to § 5-804) |
| TOD Standards | Maximum 25 du/ac |
| 1. Neighborhood pedestrian connections between adjacent uses | 5 du/ac |
| 2. Improved pedestrian way connecting to nearest arterial w/way finding signage | 5 du/ac |
| 3. Sheltered bus stop within ¼ mile of the proposed development in accordance with section 5-803 | 5 du/ac |
| 4. Internal bike and pedestrian circulation system | 5 du/ac |
| 5. Provision of bike lockers, racks or showers for bicyclists | 5 du/ac |
| OPTIONAL | |
| MIXED USE | |
| Major Corridor | 8 du/ac |
| PROJECT OPEN SPACE/RECREATIONAL AMENITIES | |
| 5,000 sq. ft. or 50 sq. ft./unit, whichever is less | 2 du/ac |
| Urban Design | |
| Urban Places of Public Assembly | 2 du/ac |
| Underground Utilities | 2 du/ac |
| Structured Parking (Pedestal) | ~~2~~5 du/ac |
| Structured Parking (Nonpedestal) | ~~1~~3 du/ac |
| NonPedestal parking structure performance standards:<br>1. Wrapped on 3 sides<br>2. Setback at least 30 feet from lot with single family dwelling<br>3. Project amenities on property of parking structure | |
| Public Art | ~~8~~3 du/ac |
| Consistent with Art in Public Places requirements | |
| AFFORDABLE/WORKFORCE HOUSING | |

| | |
|---|---|
| 15% of Units Affordable/Workforce | 15 du/ac |
| Approval of a bonus for affordable/workforce housing would require:<br>A determination that there is a demonstrated need for the proposed affordable/workforce housing based on a current needs assessment prepared by the city. The city may request that the applicant for a affordable/workforce housing bonus reimburse the city for preparation of the needs assessment.<br><br>Appropriate conditions on approval for maintaining the bonus housing as affordable/workforce housing for a term of not less than twenty (20). | |
| Total Maximum Density Bonus | 90 du/ac |
| Land located in the RO zoning district shall be entitled to NRO bonus density according to the bonus eligibility of any other land not in the RO zoning district which is a part of a parcel proposed for development. | |

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~DIVISION 3. - NONRESIDENTIAL DISTRICTS~~

~~Sec. 4-301. - Purposes of nonresidential districts.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

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Sec. 4-302. - Uses permitted.

The following chart establishes the uses permitted in the non-residential zoning district in the city. No use is permitted which is not listed as permitted on this chart. "P" indicates whether the use is permitted, subject to review and approval in accordance with Article 3 of this Code. "P*" indicates that the use is permitted with administrative site plan review. "SE" indicates that the use is permitted but only through special exception review. No use is permitted unless it complies with the provision of the zoning district in which it is located and the applicable development standard in article 5 of this Code.

| Nonresidential Districts | | | | | |
|---|---|---|---|---|---|
| Permitted Uses | C1 | C2BE | C2BW | C3 | M1 |
| Accessory Uses and Structures | P | P | P | P | P |
| Adult Businesses | | | | | SE |
| Adult Daycare (stand alone building) | P* | P* | P* | P* | |
| Animal Boarding | P* | P* | P* | | P* |
| Animal Grooming Establishment | P | P | P | P | |
| Appliance, Furniture, Electronic Rentals and Repair | P | | | | P |
| Auto Service Station | SE | | | | SE |
| Banquet | P* | | | P* | |
| Bar, Lounge or Tavern** | P | P | P | P | SE |
| Boat Repair | | | | | P* |
| Catering Kitchen | P | | | | P |
| Check Cashing Store | | | | | P |
| Child Care Centers | SE | | | SE | |
| Community Facilities | SE | SE | SE | | |
| Consignment Shops | P* | P* | P* | P* | |
| Convention Center | SE | | SE | SE | |
| Day Spa | P | P | P | P | |
| Drive Through | SE | SE | SE | SE | |
| Dry Cleaning Plant | | | | | P |
| Educational Facilities | SE* | | SE* | SE* | |
| Funeral Homes | SE | | | | |
| Government Uses | P | P | P | P | P |

| | | | | | |
|---|---|---|---|---|---|
| ~~Gun Shops~~ | | | | | ~~SE~~ |
| ~~Hospitals~~ | ~~SE~~ | ~~SE~~ | ~~SE~~ | ~~SE~~ | |
| ~~Hotel~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | |
| ~~Industrial~~ | | | | | ~~P~~ |
| ~~Institutional Uses~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | |
| ~~Light Industrial~~ | ~~SE~~ | | | | ~~P~~ |
| ~~Liquor Package Stores***~~ | | ~~SE~~ | ~~SE~~ | | |
| ~~Manufacturing~~ | | | | | ~~P~~ |
| ~~Marinas~~ | | ~~P*~~ | | | |
| ~~Mechanical Car Washing~~ | ~~SE~~ | | | | ~~P~~ |
| ~~Medical~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | |
| ~~Microbreweries~~ | ~~P~~ | | | ~~P~~ | ~~P~~ |
| ~~Museums~~ | | | | ~~P*~~ | ~~P*~~ |
| ~~Nightclubs~~ | ~~SE~~ | ~~SE~~ | ~~SE~~ | ~~SE~~ | ~~SE~~ |
| ~~Nursing and Convalescent Homes~~ | ~~P*~~ | | ~~P*~~ | | |
| ~~Office~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | |
| ~~Outdoor Storage (as main use)~~ | | | | | ~~SE~~ |
| ~~Public Facilities~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ |
| ~~Public Park~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ |
| ~~Recording and TV/Radio~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ |
| ~~Recreation, Indoor~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ |
| ~~Recreation, Outdoor~~ | | | | | ~~SE~~ |
| ~~Religious Institutions~~ | ~~SE~~ | | | | |
| ~~Research and Technology Uses~~ | ~~P~~ | | | | ~~P~~ |
| ~~Restaurants~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P*~~ |
| ~~Retail, Sales, Services~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ |
| ~~Retail Showroom, Automobile~~ | | | ~~SE*****~~ | | |
| ~~Schools~~ | ~~SE~~ | ~~SE~~ | ~~SE~~ | ~~SE~~ | |
| ~~Schools, Special and Technical~~ | ~~SE~~ | ~~SE~~ | | ~~SE~~ | |
| ~~Self-Service Laundries~~ | ~~SE~~ | | | | |
| ~~Self Storage~~ | ~~P******~~ | | | | ~~P~~ |
| ~~Studios (fine arts)~~ | | | | | ~~P*~~ |

| | | | | | |
|---|---|---|---|---|---|
| ~~Temporary Uses~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ | ~~P~~ |
| ~~Tow Truck Yard~~ | | | | | ~~P*~~ |
| ~~Vehicle Sales/Displays~~ | ~~SE~~ | | | | ~~SE~~ |
| ~~Vehicle Sales/Displays, Major~~ | | | | | ~~SE~~ |
| ~~Vehicle Rental~~ | ~~P*~~ | | | | ~~P*~~ |
| ~~Vehicle Service, Major~~ | | | | | ~~P*~~ |
| ~~Vehicle Service, Minor~~ | ~~P*~~ | | | | ~~P*~~ |
| ~~Veterinary Clinics~~ | ~~P*~~ | ~~P*~~ | ~~P*~~ | | ~~P*~~ |
| ~~P = Permitted Use~~ | | | | | |
| ~~P* = Administrative Site Plan Required~~ | | | | | |
| ~~SE = Special Exception~~ | | | | | |

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~~* If a college/university dormitory was included in a master plan approved by the City prior to the adoption of these LDRs, administrative site plan shall be required.~~

~~** Subject to chapter 3 of the city's Code.~~

~~*** Prohibited in the arts, culture and design overlay district (AOD) subject to section 4-403E and chapter 3 of the city's Code.~~

~~**** Retail and personal service uses larger than one (1) acre in size are prohibited in the industrial district, in an effort to minimize a depletion of the industrial land supply. Retail sales and service uses one (1) acre and less in size should front on major east west corridors including NE 146 Street and NE 151 Street.~~

~~***** Retail Showroom, Automobile use requires minimum lot area of one (1) acre. No more than fifteen (15) percent of the gross building area (GBA) assigned to the retail automobile showroom business shall be devoted to minor vehicle service.~~

~~****** Prohibited in C-1 zoned areas that abuts a single family residential district and on major C-1 commercial corridors such as Dixie Highway, NW 7th Avenue and NW 119th Street.~~

~~(Ord. No. 1292, § 1, 2-9-10; Ord. No. 1316, § 1, 4-12-11; Ord. No. 1333, § 1, 5-22-12; Ord. No. 1359, § 1, 10-8-13; Ord. No. 1387, § 1, 6-23-15)~~

~~Sec. 4-303. - Minimum standards of development for nonresidential districts.~~

A. Uses permitted in nonresidential districts shall be developed in accordance with the following standards and other applicable development standards in article 5 of this Code:

| | Minimum Lot Size | Minimum Lot Width | Setback Front* | Minimum Setback Side* | Minimum Setback Rear* | Maximum Height | Maximum Lot Coverage |
|---|---|---|---|---|---|---|---|
| C1 Commercial | 10,000 s.f. | 100′ | 15′ | 10′ | 10′ (when no alley or easement) | 55′ | 8085% |
| C2BE | 10,000 s.f.** | 100′ | 15′ | 10′ | 10′ | 55′ | 8085% |
| C2BW | 10,000 s.f.** | 100′ | 15′ | 10′ | 10′ | 55′ | 8085% |
| C3 | 10,000 s.f. | 100′ | 15′ | 10′ | 10′ | 55110′;150′ with incentives | 80% |
| M-1 | 20,000 s.f. | 100′ | 20′ | 15′ | 15′ | 55′ | 75% |

In the nonresidential districts, buildings with a height of thirty-five (35) feet or less which are located on parcels of land adjacent to and/or abutting a R-1 or R-2 district or the Village of Biscayne Park Transition Zone shall be set back at least twenty-five (25) feet from the proposed development's property line which is adjacent to and/or abutting a R-1 or R-2 district and portions of a building which exceed thirty-five (35) feet up to the maximum permitted height shall be setback an additional ten (10) feet. Conditional use approval shall be required for any building proposed to be developed on a parcel of land in a nonresidential district which is adjacent to and/or abutting the R-1 or R-2 district with a height which exceeds fifty (50) feet and any portion of a building which exceeds fifty (50) feet in height shall be set back an additional one (1) foot for every two (2) feet of height.

* Setbacks for accessory structures are the same as the principal structure unless modified in article 5, division 1.

** If building height is over fifty (50) feet, need twenty thousand (20,000) square foot minimum lot size.

B. In the commercial corridor on Biscayne Boulevard beginning at NE 123rd Street North to NE 131st Street, no land use amendment may be granted which would allow a height greater than forty-five (45).

C. Special rear yard setback and height restrictions.

1. NW 7th Avenue, west side: (entire city limits) maximum height thirty-five (35) feet with a twenty-five-foot minimum setback.

2. Biscayne Boulevard, east side, from NE 123rd Street to NE 131st Street: maximum height forty-five (45) feet with a fifty-foot minimum setback.

3. Biscayne Boulevard, east side, from NE 131st Street to NE 134th Street (at canal): maximum height forty-five (45) feet with a twenty-five-foot minimum setback.

4. NE 123rd Street, south side, from 19th Avenue to Bayshore Drive: maximum height thirty-five (35) feet with a twenty-five-foot minimum setback.

D. Open space: twenty (20) percent per parcel proposed for development.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

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DIVISION 43. - SPECIAL PURPOSE AND OVERLAY DISTRICTS

Sec. 4-401301. - Residential office district.

A. Purpose. The purpose of the residential office district is to allow for the conversion and use of existing low-density residential structures in areas so designated by the comprehensive plan for non-intensive office oriented land uses. The district is intended as a transitional buffer between low-density residential and more intensive commercially oriented land uses to prevent the physical and economic decay of the structures located within the transitional area and to promote their revitalization. Upon conversion of a property previously utilized as residential to a residential office use, all single family residential uses may continue.

B. Permitted uses. The following professional offices uses shall be permitted, subject to administrative site plan approval:

Accounting and auditing

Advertising

Appraisers

Architecture/engineering

Building contracting (office only, no related equipment or vehicle storage of any sort on the premises)

Chiropractic

Dentistry (excluding clinics)

Economic analysis and planning

Financial planning

Insurance

Investigative

Investment (excluding brokerage offices)

Law

Market research

Medicine (excluding clinics)

Notary public

Planning and zoning consulting

Psychological counseling (excluding clinics)

Public relations

Realty offices

Secretarial services

Studio, fine arts

Surveying (office only, no related equipment or vehicle storage of any sort on the premises)

Other offices of a nature similar to that of the above uses

C. Development standards.

1. Setbacks.

Front: existing building setback or ten (10) ~~twenty-five (25)~~ feet, whichever is greater.

Side: seven and one-half (7.5) feet or ten (10) percent of lot width, whichever is greater.

Rear: twenty-five (25) feet or existing, whichever is greater.

2. Maximum height: thirty-five (35) feet.

3. Lot coverage: eighty-five (85) percent.

4. Parking. See article 5, subsection 5-1401H. Parking may be located in the front yard, provided that it is paved or improved with permeable concrete; a landscaped buffer of ten (10) feet by two and one-half (2.5) feet installed in a manner which channelizes access to the parking field and which prohibits a continuous curb cut with back out parking.

5. Design. The exterior design and appearance of structures in the district shall be similar to single-family residential structures. No structure shall be altered to produce a store front, a

display window, or other feature that would detract from the residential character of structures in the district.

6. Landscaping. In addition to the landscaping requirements of article 5, division 12 and subsection 4., above, there shall be a landscaped setback of two and one-half (2.5) feet the length of the property line in the front yard.

7. Signage. One (1) fixed nonilluminated primary identification sign flush to the front of the building, not exceeding the roofline, may be permitted provided that the sign does not exceed six (6) square feet.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1296, § 1, 5-25-10)

Sec. 4-~~402~~302. - Planned development district.

A. Purpose and applicability. The purpose of the planned development district (PD) is to provide a means of:

1. Promoting greater innovation and creativity in the development of land.
2. Ensuring that the location of mixed use development outside of the NRO is appropriate and compatible with adjacent land uses in accordance with the goals, policies and objectives of the comprehensive plan.
3. To promote a more desirable community environment through approval as a rezoning and the issuance of a conditional use permit.
4. A planned development district shall not be approved in a R-1 or R-2 district.

B. Development standards. The city council may approve a planned development subject to compliance with the development criteria and minimum development standards set out in this section.

1. Uses permitted:

Accessory uses, incidental or subordinate to related to any of the below uses.

Active and passive parks and open space;

Adult living facilities (ALF);

Community facilities;

Educational facilities;

Hospitals and/or ~~related~~ medical facilities;

Hotels;

Recreation/entertainment indoor and outdoor;

Nightclubs;

Office;

Public uses;

Recording and TV/radio/film;

Religious institutions;

Residential;

Restaurants;

Research and technology;

Retail sales and service;

Service station as an accessory use;

Vehicle sales/displays and vehicle service (only within a PD greater than thirty (30) acres in size);

Mixed use—Any combination of ~~two~~ three (~~2~~3) or more permitted uses, one of which must be residential.

2. Minimum development standards. Any parcel of land for which a planned development is proposed must conform to the following minimum standards:

   a. Minimum site area. The minimum site area required for a planned development shall be not less than ~~two~~ one-half (~~2~~.5) acres.

   b. Configuration of land. The parcel of land for which the application is made for a planned development shall be a contiguous unified parcel with sufficient width and depth to accommodate the proposed use. The minimum average width and or depth for any planned development shall be one hundred (100) feet.

   c. Density. The density requirements shall be in accordance with the provisions of the applicable land use classifications in the comprehensive plan as follows:

3. Maximum density (without bonuses under the provisions below):

   ~~Mixed use low~~PD-1: 25 du/acre;

   ~~Mixed use medium~~PD-2: 40 du/acre;

   ~~Mixed use high~~PD-3: 45 du/acre;

   Hotels: for parcels less than fifty (50) acres, not exceeding double the number of permitted dwelling units with at least ten (10) percent of the floor area to be office, retail or residential.

   Other uses: density consistent with comprehensive plan land use category.

4. Bonus density for mixed use (outside the neighborhood redevelopment overlay district): additional density may be granted through conditional use approval up to the maximum densities provided as follows:

| | |
|---|---|
| Mandatory: green building and sustainability<br>(designed to achieve LEED certified or greater) | 7<br>du/ac |
| Mandatory: transit-oriented development with at least four (4) of eight (8) of the following standards:<br>i. Neighborhood pedestrian connections between adjacent uses.<br>ii. Improved pedestrian way connecting to nearest arterial w/way finding signage.<br>iii. Sheltered bus stop within one-fourth (¼) mile of the proposed development in accordance with section 5-903.<br>iv. Internal bike and pedestrian circulation system.<br>v. Provision of bike lockers or racks.<br>vi. Provision of showers for bicyclists.<br>vii. Connection to existing or planned regional bike trail.<br>viii. TDM subsection 5-803B.<br>ix. Charging Stations. | 3<br>du/ac. |
| Optional: affordable/workforce housing (fifteen (15) percent of units) | 5<br>du/ac |
| Approval of a bonus for affordable/workforce housing would require:<br>A determination that there is a demonstrated need for the proposed affordable/workforce housing based on a current needs assessment prepared by the city.<br>The city may request that the applicant for an affordable workforce housing bonus reimburse the city for preparation of the needs assessment.<br>Appropriate conditions on approval for maintaining the bonus housing as affordable/workforce housing for a term of not less than twenty (20) years. | |

4. Height:

   ~~Mixed use low~~PD-1: fifty-five (55) feet;

   ~~Mixed use medium~~PD-2: seventy-five (75) feet;*

   ~~Mixed use high~~PD-3: one hundred ten (110) feet;

   Other uses: refer to comprehensive plan land use category.

   * Exception: The property ~~commonly~~ formerly referred to as the Munisport parcel and now known as Sole Mia, with boundaries generally described as NE 137 Street to NE 151 Street from Biscayne Boulevard to Bay Vista Boulevard as authorized in PCD Oerlay District~~Resolution No. 2002-71~~ shall be permitted up to ~~twenty-five (25) stories~~450 feet- of building height above the parking pedestal. In such instance, the height of the parking pedestal shall be set as part of the conditional use permit.

5. Mixed uses. Mixed uses within a planned development shall be a compatible and complimentary combination of office, hotel, multifamily and retail or any ~~two~~ three (~~2~~3) or more combination of permitted uses (one of which must be residential) which shall be oriented to the needs of the district in which the development is located. ~~A minimum of~~

~~seventy-five (75) percent of the ground floor gross area of a mixed use building shall contain retail uses.~~

6. Open space. The minimum open space required for a planned development shall be not less than twenty (20) percent of the parcel proposed for development.

7. Design requirements. All buildings within a planned development shall conform to the following:

   i. The design requirements in article 5, division 8 of these LDRs;

   ii. Architectural relief and elements (~~i.e.~~ e.g., windows, cornice lines, etc.) shall be provided on all sides of buildings visible to the public~~, similar to the architectural features provided on the front facade~~;

   iii. Facades in excess of one hundred fifty (150) feet in length shall incorporate design features such as: staggering of the facade, different window treatments and use of architectural elements such as vertical features;

   iv. Parking garages shall include architectural treatments compatible with the principal use and comply with the provisions of section 5-1409;

   ~~v. All buildings, except accessory buildings, shall have their main pedestrian entrance oriented towards the front property line or parking lot.~~

8. Perimeter and transition. Any part of the perimeter of a planned development which fronts on an existing street or open space shall be so designed as to complement and harmonize with adjacent land uses with respect to scale, density, setback, bulk, height, and screening. Height and setbacks for properties which are adjacent and/or abutting land in the R-1 and R-2 districts shall comply with the height/setback requirements for multifamily and nonresidential development which are adjacent and/or abutting such land in the R-1 and R-2 districts, as provided in sections 4-202 and 4-303.

9. Minimum street frontage; building site requirement, number of buildings per site, lot coverage and all setbacks. There shall be no specified minimum requirements for street frontage, building sites, number of buildings ~~within the development,~~ or lot coverage within the development.

10. Building frontage. Nothing in this section shall be construed as prohibiting a building in a planned development from fronting on a private street when such buildings are shown to have adequate access in a manner which is consistent with the purposes and objectives of these regulations and such private street has been reviewed by the planning commission and approved by the city council.

11. Accessory uses and structures. Uses and structures which are customarily accessory and clearly incidental to permitted uses and structures are permitted in a planned development. Any use permissible as a principal use may be permitted as an accessory use, subject to limitations and requirements applying to the principal use.

12. Signs. The number, size, character, location and orientation of signs and lighting for signs for a planned development shall be governed by a comprehensive sign program for the project or the portions thereof seeking, and as part of, a conditional use permit.

13. Refuse and service areas. Refuse and service areas for a planned development shall be designed, located, landscaped and screened and the manner and timing of refuse collection and deliveries, shipment or other service activities so arranged as to minimize impact on adjacent or nearby properties or adjoining public ways, and to not impede circulation patterns.

14. Ownership of planned development. All land included within a planned development shall be under contract or owned by the applicant requesting approval of such development, whether that applicant be an individual, partnership or corporation, or groups of individuals, partnerships or corporations. The applicant shall present proof of the unified control of the entire area within the proposed planned development or may provide a declaration of restrictive covenants ~~and shall submit and~~ or an agreement stating that if the owner(s) or its successor or assigns proceeds with the proposed development they will:

    Develop the property in accordance with:

    i. The final development plan approved by the city council.

    ii. Regulations existing when the Planned Development Ordinance is adopted.

    iii. Such other conditions or modifications as may be attached to the approval of the conditional use permit for the construction of such planned development.

15. Provide agreements and declarations of restrictive covenants acceptable to the city council for completion of the development in accordance with the final development plan as well as for the continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at general public expense and which bind the successors and assigns in title to any commitments made under the provisions of the approved planned development.

16. Easements. The city council may, as a condition of planned development approval, require that suitable areas for easements be set aside, dedicated and/or improved for the installation of public utilities and purposes which include, but shall not be limited to water, gas, telephone, electric power, sewer, drainage, public access, ingress, egress, and other public purposes which may be deemed necessary by the city council.

17. Installation of utilities. All utilities within a planned development including but not limited to telephone, electrical systems and television cables shall be installed underground.

18. Other development standards, such as lot dimensions, setbacks, distances between buildings, open space and construction phasing shall be determined by the city council, upon recommendation of the planning commission, with due regard for the standards in subsection C. below, the surrounding areas, sound planning principles, and the public health, safety and welfare.

19. ~~Waiver~~. Modification or alteration. The development standards hereof may be ~~waived,~~ modified or altered by the city manager ~~council as part of the conditional use permit granted to the applicant~~ if it is determined that the granting of the ~~waiver~~ modification or alteration furthers the purpose and applicability of the planned development by promoting greater innovation and creativity in the development of the land. Only

minor modifications or alterations may be adjusted under this subsection, pursuant to the standards used in sections 3-206 (substantial compliance determinations) and 3-409 (conditional use approval).

C. Required findings. The planning commission shall recommend to the city council the approval, approval with modifications, or denial of the plan for the proposed planned development. Such recommendation ~~and~~ shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest. These findings shall include, but shall not be limited to the following:

1. In what respects the proposed plan is or is not consistent with the stated purpose and intent of the planned development regulations and the comprehensive plan.
2. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property including, but not limited to, density, size, area, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.
3. The extent to which the proposed plan meets the requirements and standards of the planned development regulations.
4. The physical design of the proposed planned development and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, provide for and protect designated common open areas, and further the amenities of light and air, recreation and visual enjoyment.
5. The proposed planned development is consistent with the standards in sections 3-405 and 3-1003;
6. The character, location and size of the land proposed to be designated is appropriate for planned development; and
7. The conditions of development approval assure that the future use of the property will be compatible with existing and future land uses on adjacent properties.

D. Application requirements. In addition to application requirements provided by administrative regulation, the following plans and specifications shall be required to be submitted with an application for approval of a planned development district and shall be reviewed and approved in accordance with the provisions of article 3 divisions 4 and 10:

1. A reproducible plot plan drawn to scale of not less than one (1) inch equals twenty (20) feet, containing the following data:
    a. Name and address of the applicant and of all persons owning any or all of the property proposed to be used.
    b. Location of property involved in the form of a vicinity diagram.
    c. Legal description of property.
    d. All proposed facilities and/or uses.
    e. The property dimensions.

f. Topography.

g. All buildings and structures and their locations, elevations, sizes, heights and proposed uses.

h. Location and design of recreation areas.

i. Yards and spaces between buildings.

j. Walls and fences and their location, height and materials.

k. Landscaping, including location, type, and proposed disposition of existing trees.

l. Offstreet parking, including the location, number of stalls, dimensions of the parking facility, and internal circulation system.

m. Access, pedestrian, vehicular, and service, points of ingress and egress, and driveway locations and dimensions.

2. Landscape and irrigation plans. A detailed, landscaping plan indicating the type and size of trees, shrubs, ground cover, and other horticulture, in accordance with the provisions of article 5 division 12 of these LDRs shall be submitted with a detailed irrigation plan showing the location, size, and method of irrigation facilities.

3. Phasing plans. A progress plan delineating the various development phases, if more than one (1), and specifying a reasonable time allocation for each phase shall be submitted to and approved by the city council, pursuant to recommendation of the planning commission. The total area of open space and/or recreation facilities provided in each phase shall, at a minimum, be in a similar proportion as in the entire development.

4. Impact analysis:

   a. A cost benefit feasibility study by an independent, qualified economist indicating community needs and/or benefits of the proposed development.

   b. A school impact study by an independent, qualified person or firm or school district staff indicating the effect of the proposed development upon the public school system.

   c. A traffic impact study prepared by a licensed traffic engineer, showing the impact of the proposed development on the surrounding area, the traffic potential to be generated by the development, the adequacy or inadequacy of existing streets to safely carry the predicted traffic loads, necessary changes in the street system or design caused by the development, projected costs of such improvements which may not be borne by the developer.

   d. A utility impact study including the impact of the proposed development and needed public and private services including, but not limited to, water, sanitation, fire protection, and drainage.

5. Bonding or financial guarantee. Prior to the issuance of a building permit, the person or firm proposing the development shall deposit with the department of community planning and development a cash bond, surety bond, or time-deposit bond in an amount equal to one hundred ten (110) percent of the estimated cost of any and all

improvements which may be required within dedicated rights-of-way and/or public facility easements to insure the placing and funding thereof.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1322, § 1, 10-25-11; Ord. No. 1328, § 1, 2-14-12; Ord. No. 1347, § 1, 1-22-13)

**Editor's note—** Ord. No. 1328, § 1, adopted February 14, 2012, enacted provisions intended for use as subsection B.2.n. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as subsection B.2.t.

Sec. 4-~~403~~303. - Arts, culture and design overlay district (AOD).

A. Purpose. The purpose of the arts, design and cultural overlay district is to create a focus for the revitalization of the central city core and to advance the artistic, design and cultural uses within the district. The district shall support a live-work environment for artists and members of the design and cultural communities, and shall encourage enclaves where artists may live, create work and market their art. The arts, culture and design district is dedicated to promoting public awareness of the "district" as a unique art, culture and design district and furthering arts, culture and design and art education within the district in the City of North Miami.

B. Applicability of other provisions of the city's land development regulations. The regulations set forth in this section shall be supplementary to all other provisions and regulations of the North Miami Land development regulations and the underlying zoning district regulations shall continue to apply within the AOD.

C. Boundaries. The boundaries of the AOD as depicted on the official zoning map.~~re described in exhibit C.~~

D. Permitted uses.

1. All uses permitted in the zoning district wherein the property lies.
2. Live/work studios (see division 20, article 5) for artists, ~~and~~ artisans~~;~~, ~~-~~ architects and designers who have a current business tax receipt from the city.
3. Artists' lofts.
4. Artist galleries.
5. Design studios.
6. Photography studios.
7. Musicians, dance, creative publishing and fashion recording studios.
8. Home furnishing stores.
9. Antiques and collectible stores.
10. Retail sales of goods and services related to art, culture and design.
11. Theaters (live performance).
12. Music and entertainment venues.

13. Restaurants, cafes and outdoor (cafe) seating/dining.
14. Accessory uses.
    a. Arts, craft, culture and design classes.
    b. Outdoor arts, culture and design special events (art shows, cultural shows, design exhibitions).
    c. Farmer's markets.

E. Prohibited uses. Liquor packaging stores shall be prohibited in the AOD.

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

Sec. 4-~~404~~304. - Public use district.

A. Purpose. The purpose of the public use district is to allow the development of publicly owned or used lands in an efficient, innovative, and flexible way in order to maximize the benefit to the public of the use of the lands designated for public use.

B. Uses permitted. Subject to obtaining a conditional use permit in accordance with the provisions of article 3 division 4, the following uses are permitted in the public use district:
    1. Government use.
    2. Docks and marinas.
    3. Parks and preservation lands.
    4. Public facilities.
    5. Uses accessory to the permitted uses ~~permitted~~.
    6. Community facilities.
    7. Educational facilities.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1296, § 1, 5-25-10)

Sec. 4-~~405~~305. - Neighborhood redevelopment overlay district.

A. Purpose. The purpose of the neighborhood redevelopment overlay district ("NRO") is to provide for the redevelopment of the urban core of the city through regulations and incentives that ~~which~~ are designed to achieve the redevelopment, economic development, housing choice, and multi-modal transportation objectives and policies of the comprehensive plan, while protecting important residential areas of the city. ~~A part of the NRO is the central city district node ("CCD") which is the traditional center of the city. Both the~~The NRO ~~and CCD are~~ is depicted on the zoning ~~future land use~~ map.

B. Effect of overlay. The development standards of the underlying zoning districts shall govern except to the extent any provision of this NRO district conflicts with the provisions of an underlying zoning district, and in such event the provisions of this NRO district shall control.

C. Uses.

1. In addition to the uses permitted in the underlying zoning districts, the following uses are permitted in the NRO district:

| NEIGHBORHOOD REDEVELOPMENT OVERLAY DISTRICT<br><br>Uses Permitted in Addition to Uses Permitted in Underlying Zoning District | | | |
|---|---|---|---|
| Permitted Uses | Entire District | Major Corridor (PCD) | ~~CCD (MX Use Required)~~ |
| Residential | X | X | |
| Mixed Use | X | X | ~~X~~ |
| Retail Sales and Service | | X | ~~X~~ |
| Accessory Uses | X | | |
| Community Facilities | | X | ~~X~~ |
| Educational Facilities | | X | ~~X~~ |
| Hotels | | X | ~~X~~ |

2. Prohibited uses:

Automobile service uses;

Adult entertainment business ~~uses~~;

Drive throughs.

D. Development standards.

1. CCD: In addition to the development standards in article 5 of this Code, the following development standards shall apply to development within the CCD.:

<table>
<tr><td colspan="5">NEIGHBORHOOD REDEVELOPMENT OVERLAY DISTRICT<br><br>Additional Development Standards in CCD</td></tr>
<tr><td>Mixed Use</td><td colspan="4">1. Permitted along major corridors; required in CCD.<br>2. All buildings shall contain at least two (2) full habitable floors.<br>3. All buildings shall contain retail sales and service (at least seventy-five (75) percent) or urban places of assembly on the ground floor and at least one two (12) other uses (one of which must be residential) on the upper floors.</td></tr>
<tr><td rowspan="3">Height</td><td colspan="2">Permitted as of Right</td><td colspan="2">With Bonus (see § 29-324(C)(8)) TOD, Brownfield, and/or Green Building</td></tr>
<tr><td colspan="2">one hundred ten (110) feet</td><td colspan="2">+ forty (40) feet</td></tr>
<tr><td colspan="4">Portions of buildings above thirty-five (35) feet in height shall be set back an additional one (1) foot for every two (2) feet of building height above thirty-five (35) feet.<br>he height is limited to fifty-five (55) feet.</td></tr>
<tr><td rowspan="3">Sidewalks</td><td colspan="2">Major Road Frontage</td><td colspan="2">Minor Road Frontage</td></tr>
<tr><td>Without Arcade</td><td>With Arcade</td><td>Without Arcade</td><td>With Arcade</td></tr>
<tr><td>Fifteen (15) feet</td><td>Ten (10) feet</td><td>Ten (10) feet</td><td>Six (6) feet</td></tr>
<tr><td colspan="4">Arcade shall have a minimum pedestrian way of six (6) feet to qualify.</td></tr>
<tr><td rowspan="6">Offstreet Parking</td><td></td><td>Without Centralized Parking</td><td colspan="2">With Centralized Parking</td></tr>
<tr><td>Retail Sales and Service</td><td>One (1) space per three hundred (300) s.f.</td><td colspan="2">One (1) space per five hundred (500) s.f.</td></tr>
<tr><td>Restaurant (MX)</td><td>One (1) space per two hundred (200) s.f.</td><td colspan="2">One (1) space per four hundred (400) s.f.</td></tr>
<tr><td>Restaurant (free-standing)</td><td>One (1) space per one hundred fifty (150) s.f.</td><td colspan="2">One (1) space per one hundred twenty-five (125) s.f.</td></tr>
<tr><td>General Office</td><td>One (1) space per three hundred fifty (350) s.f.</td><td colspan="2">One (1) space per two hundred (200) s.f.</td></tr>
<tr><td>Residential (#50 ft.)</td><td>One and two-tenths</td><td colspan="2">One (1) space per unit</td></tr>
</table>

| | | | |
|---|---|---|---|
| | | ~~(1.2) spaces per unit~~ | |
| | ~~Residential (>50 ft.)~~ | ~~One (1) space per unit~~ | ~~Three quarters (.75) spaces per unit~~ |
| | ~~The parking standards in article 5, division 14 also apply.~~ | | |
| ~~Corridors~~ | ~~Parks, plazas, pedestrian access, civic and cultural activities and amenities are encouraged.~~ | | |

~~2~~1. Transition standards for development within the NRO and the low density residential land use category in the comprehensive plan. Additional development standards for major corridors located within the PCD Overlay District: Sec. 4-306 and Sec. 5-804):

| NEIGHBORHOOD REDEVELOPMENT OVERLAY DISTRICT<br>Transitional Standards within Comprehensive Plan<br>Low Density Residential Land Use Category | | | | | |
|---|---|---|---|---|---|
| Maximum Density With Bonuses (Dwelling Units Per Acre) | | | | | |
| ~~Parcel Size~~ Not Located on a Major Corridor | Frontage ~~on~~ Along a Major Corridor (PCD) ~~1 Street~~ | ~~Frontage on 1 Street and Adjacent to Multifamily~~ | ~~Frontage on ∃2 Streets~~ | ~~Frontage on ∃2 Streets and Adjacent to Multifamily~~ | ~~Frontage on 2+ Streets and Adjacent to Multifamily w/density of ∃24 du/ac~~ |
| ~~# 20,000 sq. ft.~~90 du/ac | ~~Eight (8) du/ac~~125 du/ac | ~~Twelve (12) du/ac~~ | ~~Twelve (12) du/ac~~ | ~~Twenty-four (24) du/ac with height # 50 feet~~ | ~~NA~~ |
| ~~20,000 to 35,000 sq. ft.~~ | ~~Fifteen (15) du/ac~~ | ~~Twenty-four (24) du/ac~~ | ~~Thirty-five (35) du/ac~~ | ~~Thirty-five (35) du/ac~~ | ~~Forty (40) du/acre~~ |
| ~~35,000 to 80,000 sq. ft.~~ | ~~Twenty-four (24) du/ac with height # 50 feet~~ | ~~Twenty-four (24) du/ac w/height # 50 feet~~ | ~~Thirty-five (35) du/ac~~ | ~~Thirty-five (35) du/acre~~ | ~~Sixty (60) du/ac~~ |
| ~~>80,000 sq. ft.~~ | | | ~~Ninety (90) du/acre~~ | ~~Ninety (90) du/acre~~ | ~~Ninety (90) du/acre~~ |
| DENSITY WHICH IS GREATER THAN PERMITTED BY UNDERLYING ZONING DISTRICT ONLY BY BONUS APPROVED AS A CONDITIONAL USE | | | | | |
| Height | Permitted as of Right | | With Bonus ~~(see § 29-324(C)(4))~~(TOD, Brownfields, Green Building | | |
| | ninety (90) feet | | + ~~forty~~ twenty (~~40~~20) feet | | |
| Setback | 1. Structures with a height of greater than thirty-five (35) feet proposed to be developed on parcels of land which are adjacent to existing single-family dwellings shall be setback twenty-five (25) feet from the proposed development's property line which is adjacent to parcels which are improved with an existing single-family dwelling.<br>2. No surface parking lot shall be located within seven and one-half (7½) feet of any property line.<br>3.Additionally, any development along NE 123 St shall be set back 35 feet with max height of 55 feet. | | | | |

3. Density.

a. Residential and commercial pools of available units and available square footage in the NRO district are hereby created as follows:

~~CCD: residential pool of one thousand eight hundred (1,800) units.~~
~~Commercial pool of three hundred seventy-five thousand (375,000) square feet.~~

~~NRO:~~

- Primary: A ~~primary residential~~ pool of two thousand two hundred (2,200) units. Commercial pool of three hundred seventy-five thousand (375,000) square feet.

- Secondary: A pool of ~~available units:~~ one thousand (1,000) units.

~~(~~For each new unit approved through an amendment to the comprehensive plan outside of the NRO, one (1) dwelling unit shall be debited from the secondary pool~~)~~.

b. An application for development approval within the NRO district may be allocated units and commercial square footage from the available pool provided that the application conforms in other respects to the provisions of the NRO district, the density for the proposed development shall not exceed the permitted density in the underlying district unless it qualifies for a density bonus under the provisions of subsection D.8. of this section, and provided that the application is approved as a conditional use by resolution of the city council and a precise plan is filed in accordance with the applicable provisions of article 3.

c. The director of community planning and development shall track the number of dwelling units approved through use of this density pool, design the zoning map with a notation of allocated units and report annually thereon to the city council.

~~1.~~4. Height.

a. Bonus Provisions

| HEIGHT BONUS PROVISIONS | | | |
|---|---|---|---|
| | Designed to Achieve LEED Certified | Designed to Achieve LEED Silver | Designed to Achieve LEED Gold or greater |
| Height Bonus with #25 du/ac density bonus | 20 feet | 25 feet | 30 feet |
| Height Bonus with > 25 du/ac density bonus | 30 feet | 35 feet | 40 feet |
| Height Bonus with 15% affordable/workforce units | 20 feet | 30 feet | 40 feet |

b. Portions of a building above thirty-five (35) feet shall be set back an additional one (1) foot for every two (2) feet of height above thirty-five (35) feet.

5. Lot coverage and open space:

~~One hundred~~Maximum eighty (~~100~~80) percent lot coverage ~~provided that there is~~and a minimum district-wide open space of twenty (20) percent.

Minimum on-site open space in the event the district-wide open space is less than twenty (20) percent: twenty (20) percent.

6. Setbacks. In addition to the required setbacks in the underlying zoning district, if the property is adjacent to an existing single-family dwelling, the minimum setback for multifamily structures shall be twenty-five (25) feet and parking areas shall be seven and one-half (7.5) feet.

7. Corridor standards. Parks, plazas, pedestrian access, civic and cultural activities and amenities shall be encouraged along major corridors in the NRO district.

~~8. Density/intensity/bonuses additional density may be granted through conditional use approval up to the maximum densities as follows:~~

| | |
|---|---|
| **~~NEIGHBORHOOD REDEVELOPMENT OVERLAY DISTRICT BONUS PROVISIONS~~** | |
| **~~RESIDENTIAL DENSITY~~** | |
| **~~MANDATORY~~** | |
| **~~Green Building and Sustainability~~** | ~~Maximum 25 du/ac~~ |
| **~~Designed to Achieve LEED or other nationally-recognized green building certification~~** | ~~15 du/ac~~ |
| **~~Availability of sustainable amenities on-site such as recycling receptacles and electric car charging stations~~** | ~~5 du/ac~~ |
| **~~Provision and maintenance of additional trees in areas identified as deficient within the North Miami Street Tree Management Plan~~** | ~~5 du/ac~~ |
| **~~Transit Oriented Development (TOD)~~** | ~~(In addition to § 5-804)~~ |
| **~~TOD Standards~~** | ~~Maximum 25 du/ac~~ |
| ~~OPTIONAL~~ | ~~5 du/ac~~ |

| | | |
|---|---|---|
| ~~MIXED USE~~ | | |
| ~~Major Corridor~~ | ~~8 du/ac~~ | |
| ~~PROJECT OPEN SPACE/RECREATIONAL AMENITIES~~ | | |
| ~~5,000 sq. ft. or 50 sq. ft./unit, whichever is less~~ | ~~2 du/ac~~ | |
| ~~Urban Design~~ | | |
| ~~Urban Places of Public Assembly~~ | ~~2 du/ac~~ | |
| ~~Underground Utilities~~ | ~~2 du/ac~~ | |
| ~~Structured Parking (Pedestal)~~ | ~~2 du/ac~~ | |

| | | |
|---|---|---|
| Structured Parking (Nonpedestal) | 1 du/ac | |
| NonPedestal parking structure performance standards:<br>1. Wrapped on 3 sides<br>2. Setback at least 30 feet from lot with single family dwelling<br>3. Project amenities on property of parking structure | | |
| Public Art | 8 du/ac | |
| Consistent with Art in Public Places requirements | | |
| AFFORDABLE/WORKFORCE HOUSING | | |
| 15% of Units Affordable/Workforce | 15 du/ac | |
| Approval of a bonus for affordable/workforce housing would require:<br>A determination that there is a demonstrated need for the proposed affordable/workforce housing based on a current needs assessment prepared by the city. The city may request that the applicant for a affordable/workforce housing bonus reimburse the city for preparation of the needs assessment.<br><br>Appropriate conditions on approval for maintaining the bonus housing as affordable/workforce housing for a term of not less than twenty (20). | | |
| Total Maximum Density Bonus | 90 du/ac | |
| Land located in the RO zoning district shall be entitled to NRO bonus density according to eligibility of any other land not in the RO zoning district which is a part of a parcel prop development. | | |
| **1. Neighborhood pedestrian connections between adjacent uses** | | |
| **2. Improved pedestrian way connecting to nearest arterial w/way finding signage** | | 5 du/ac |
| **3. Sheltered bus stop within ¼ mile of the proposed development in accordance with section 5-803** | | 5 du/ac |
| **4. Internal bike and pedestrian circulation system** | | 5 du/ac |
| **5. Provision of bike lockers, racks or showers for bicyclists** | | 5 du/ac |

| | |
|---|---|
| OPTIONAL | |
| MIXED USE | |
| Major Corridor | 8 du/ac |
| PROJECT OPEN SPACE/RECREATIONAL AMENITIES | |
| 5,000 sq. ft. or 50 sq. ft./unit, whichever is less | 2 du/ac |
| Urban Design | |
| Urban Places of Public Assembly | 2 du/ac |
| Underground Utilities | 2 du/ac |
| Structured Parking (Pedestal) | 2 du/ac |
| Structured Parking (Nonpedestal) | 1 du/ac |
| NonPedestal parking structure performance standards:<br>1. Wrapped on 3 sides | |

| | |
|---|---|
| 2. Setback at least 30 feet from lot with single family dwelling<br>3. Project amenities on property of parking structure | |
| Public Art | 8 du/ac |
| Consistent with Art in Public Places requirements | |
| AFFORDABLE/WORKFORCE HOUSING | |
| 15% of Units Affordable/Workforce | 15 du/ac |
| Approval of a bonus for affordable/workforce housing would require:<br>A determination that there is a demonstrated need for the proposed affordable/workforce housing based on a current needs assessment prepared by the city. The city may request that the applicant for a affordable/workforce housing bonus reimburse the city for preparation of the needs assessment.<br><br>Appropriate conditions on approval for maintaining the bonus housing as affordable/workforce housing for a term of not less than twenty (20). | |
| Total Maximum Density Bonus | 90 du/ac |
| Land located in the RO zoning district shall be entitled to NRO bonus density according to the bonus eligibility of any other land not in the RO zoning district which is a part of a parcel proposed for development. | |

| | |
|---|---|
| **NEIGHBORHOOD REDEVELOPMENT OVERLAY DISTRICT BONUS PROVISIONS** | |
| **RESIDENTIAL DENSITY** | |
| **MANDATORY** | |
| **Green Building and Sustainability** | Maximum 25 du/ac |
| **Designed to Achieve LEED or other nationally-recognized green building certification** | 15 du/ac |
| **Availability of sustainable amenities on-site such as recycling receptacles and electric car charging stations** | 5 du/ac |
| **Provision and maintenance of additional trees in areas identified as deficient within the North Miami Street Tree Management Plan** | 5 du/ac |
| **Transit Oriented Development (TOD)** | (In addition to § 5-804) |
| **TOD Standards** | Maximum 25 du/ac |
| **1. Neighborhood pedestrian connections between adjacent uses** | 5 du/ac |
| **2. Improved pedestrian way connecting to nearest arterial w/way finding signage** | 5 du/ac |
| **3. Sheltered bus stop within ¼ mile of the proposed development in accordance with section 5-803** | 5 du/ac |
| **4. Internal bike and pedestrian circulation system** | 5 du/ac |
| **5. Provision of bike lockers, racks or showers for bicyclists** | 5 du/ac |

| NEIGHBORHOOD REDEVELOPMENT OVERLAY DISTRICT BONUS PROVISIONS | | | |
|---|---|---|---|
| RESIDENTIAL DENSITY | | | |
| MANDATORY | | | |
| Green Building and Sustainability | Designed to Achieve LEED Certified | Designed to Achieve LEED Silver | Designed to Achieve LEED or Other Green Building Certification Designed to Achieve LEED Gold or greater |
| | 10 du/ac | 18 du/ac | 25 du/ac |
| Transit Oriented Development (TOD) | (In addition to § 5-804) | | |
| TOD Standards | | | |
| 1. Neighborhood pedestrian connections between adjacent uses | | | |
| 2. Improved pedestrian way connecting to nearest arterial w/way finding signage | | | |
| 3. Sheltered bus stop within ¼ mile of the proposed development in accordance with section 5-803 | | | |
| 4. Internal bike and pedestrian circulation system | | | |
| 5. Provision of bike_lockers or racks | | | |
| 6. Provision of showers for bicyclists | | | |
| 7. Connection to existing or planned regional bike trail | | | |
| 8. TDM program (section 5-702) | | | |
| TOD Bonus | | | |
| Four (4) of eight (8) above TOD standards | 1 du/ac | 2 du/ac | 3 du/ac |
| Five (5) of eight (8) above TOD standards | 2 du/ac | 4 du/ac | 6 du/ac |
| Maximum Total Green and TOD Bonus | 12 du/ac | 22 du/ac | 31 du/ac |
| OPTIONAL | | | |
| MIXED USE | | | |
| Major Corridor and CCD* | 25 du/a | 25 du/a | 25 du/a |
| PROJECT OPEN SPACE/RECREATIONAL | | | |

| | | | |
|---|---|---|---|
| AMENITIES | | | |
| 5,000 sq. ft. or 50 sq. ft./unit, whichever is less | 5 du/ac | 5 du/ac | 5 du/ac |
| Urban Design | | | |
| Urban Places of Public Assembly | | | |
| - >1,000 # 2,500 sq. ft. | 2.5 du/ac | 2.5 du/ac | 2.5 du/ac |
| - >2,500 # 10,000 sq. ft. | 5 du/ac | 5 du/ac | 5 du/ac |
| - >10,000 sq. ft. | 10 du/ac | 15 du/ac | 20 du/ac |
| Underground Utilities | 5 du/ac | 5 du/ac | 5 du/ac |
| Structured Parking (Pedestal) | 10 du/ac | 10 du/ac | 10 du/ac |
| Structured Parking (Nonpedestal) | 20 du/ac | 20 du/ac | 20 du/ac |
| NonPedestal parking structure performance standards:<br>1. Wrapped on 3 sides<br>2. Setback at least 30 feet from lot with single family dwelling<br>3. Project amenities on property of parking structure | | | |
| Public Art as approved by the Art in Public Places Committee | 2.5 du/ac | 2.5 du/ac | 2.5 du/ac |
| Design Excellence (see appendix B) | 5 du/ac | 5 du/ac | 5 du/ac |
| Enhanced Streetscape w/Parkway | 2.5 du/ac | 2.5 du/ac | 2.5 du/ac |
| AFFORDABLE/WORKFORCE HOUSING | | | |
| 15% of Units Affordable/Workforce | 10 du/ac | 12.5 du/ac | 15 du/ac |
| 25% of Units Affordable/Workforce | 15 du/ac | 20 du/ac | 25 du/ac |
| Approval of a bonus for affordable/workforce housing would require:<br>A determination that there is a demonstrated need for the proposed affordable/workforce housing based on a current needs assessment prepared by the city. The city may request that the applicant for a affordable/workforce housing bonus reimburse the city for preparation of the needs assessment.<br><br>Appropriate conditions on approval for maintaining the bonus housing as affordable/workforce housing for a term of not less than twenty (20). | | | |
| Total Maximum Density Bonus | 80 du/ac | 90 du/ac | 90 du/ac |

~~Land located in the RO zoning district shall be entitled to NRO bonus density according to the bonus eligibility of any other land not in the RO zoning district which is a part of a parcel proposed for development.~~

~~* Mixed use is required in the CCD.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 4-~~406~~306. – Planned Corridor Overlay District

A. Purpose. The purpose of the planned corridor overlay district (PCD) is to encourage a compact, high-intensity mix of residential, commercial, employment, and civic-institutional uses to support transit use, reduce single occupancy vehicle use, increase pedestrian activity and improve access and mobility.

A. General location. As identified on the zoning map, the PCD is applied to the following major corridors: State Road 7/NW 7th Avenue, NE 6th Avenue, Biscayne Boulevard, West Dixie Highway and NE 125th Street (as depicted on the zoning map).

B. Standards. The permitted uses and density and intensity of uses within the various corridors are governed by the underlying land use designations of the subject property; notwithstanding the foregoing, parcels within the PCD are subject to the following:

1. State Road 7/NW 7th Avenue.
   a. Height: Up to 200 feet on the east side of the corridor, including parking levels and compatible building transitions and setbacks. On west side: maximum 55'.
   b. Land use: Limited to office and commercial uses.
   c. Maximum lot coverage: 80%

2. NE 6th Avenue.
   a. Height: 110 feet, including parking levels and compatible building transitions and setbacks.
   b. Density: 100 du/acre, subject to the availability of floating units. Such floating units require a development agreement.
   c. Maximum lot coverage: 80%

3. Biscayne Boulevard.
   a. Height: 110 feet, including parking levels and compatible building transitions and setbacks, with an available bonus of 40 feet. NOTE: All development fronting the east side of Biscayne Boulevard commercial corridor beginning at NE 123rd Street north to NE 135th Street shall be limited to a maximum height of 45 feet.
   b. Density: 125 du/acre (limited to the west side), subject to availability of floating units. Such floating units require a development agreement.
   c. Land use: Mixed use (3 or more uses, one of which must be residential).
   d. Maximum lot coverage: 80%

4. West Dixie Highway.
   a. Height: 110 feet, including parking levels and compatible building transitions and setbacks.
   b. Density: 100 du/acre, including bonus units. Such bonus units require a development agreement.
   c. Land use: Mixed use (3 or more uses; one of which must be residential)
   d. Maximum lot coverage: 80%

5. NE 125th Street.
   a. Height: 110 feet within the NRO, including parking levels and compatible building transitions and setbacks.
   b. Density: 100 du/acre, including bonus units. Such bonus units require a development agreement.
   c. Land use: Mixed use (3 or more uses; one of which must be residential)
   d. Maximum lot coverage: 80%

C. Transitions and setback.
1. Structures with a height of greater than thirty-five (35) feet proposed to be developed on parcels of land which are adjacent to existing single-family dwellings shall be setback twenty-five (25) feet from the proposed development's property line adjacent to parcels with an existing single-family dwelling. ~~Landscaped alleyways, canals, stormwater retention/detention ponds, may serve as the required setback.~~
2. Portions of a building above thirty-five (35) feet shall be set back an additional one (1) foot for every two (2) feet of height above thirty-five (35) feet.
3. No surface parking lot shall be located within seven and one-half (7½) feet of any property line.

Sec. 4-307- Planned community urban design overlay.

A. Purpose. The purpose of the planned community urban design overlay (PCUD) is to implement the development order for the 180-acre property known as Sole Mia.

B. Conceptual Master Development Plan requirements, via Resolution 2015-R-16.

1. Height: 450 feet of building height above the parking pedestal. In such instance, the height of the parking pedestal shall be set as part of the conditional use permit.

2. Density Limitation: 40 du/acre.
   a. 4,390 residential units, including 4,315 multifamily and/or elderly assisted housing units; and
   b. Three-star hotel, containing approximately 150 keys (equivalent to 75 units).
3. Intensity Limitation: 1,491,256 sq. ft. of commercial, office, vehicle sales/display, institution and or retail uses, in any combination.
4. Additional requirements:
   a. An active open park of not less than 7.2 acres.
   b. A passive park of not less than 13.7 acres.

c. An aggregate of no less than 37.0 acres of the property, including the park required in a. and b., above, will be devoted to recreation, community, open space, park, access or similar use (as approved by the City), including but not limited to a community center.

Sec. 4-308- Regional activity center.

A. Purpose. The purpose of the regional activity center overlay district (RAC) is to encourage and promote large-scale development and redevelopment as well as small parcel infill development and redevelopment that facilitate a balanced mix of land uses by providing maximum flexibility for development and redevelopment activities.

B. General location. The regional activity center (RAC) totaling approximately one thousand seven hundred thirty-nine (1,739) acres, is generally bound by Biscayne Bay to the east, NE 163rd Street to the north, Biscayne Boulevard to the west, and NE 135th Street to the south, excluding property not located within the city limits of North Miami. The boundaries of the proposed regional activity center also include the area west of Biscayne Boulevard generally bound by 151st Street to the north, NE 18th Avenue to the west, FEC rail corridor to the east and NE 137th Street and NE 140th Street to the south (as depicted on the city's official zoning map).

C. Permitted uses. The permitted uses and density and intensity of uses within the RAC shall be governed by the underlying ~~land use designations~~ zoning districts of the subject property.

All future development within the regional activity center shall be compact, high intensity, high density multi-use development designated as appropriate for intensive growth by the city and may include: residential~~–~~; commercial; office; cultural and community facilities; educational facilities; recreational and entertainment facilities; hotels or motels; transportation facilities; utilities; research and development uses; health care services and appropriate industrial activities.

D. Development limits. The RAC is approved for the following development limits consistent with F.S. § 380.06(2):

5,000 Residential units;

400 Hotel rooms;

1043 acres Oleta State Park;

1,500,000 sq. ft., Industrial;

1,050,000 sq. ft., Office;

1,500,000 sq. ft., Commercial;

1,776 students (K—8) School use;

1,200 students (9—12) School use; and

~~8,199~~ University students—Florida International University.

(Ord. No. 1327, § 1, 2-14-12)

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# DIVISION 1. - ACCESSORY USES AND STRUCTURES

## Sec. 5-101. - Accessory uses and structures

A. Permits required. Except as explicitly provided herein, no use designated as an accessory use in this division shall be established until after the person proposing such use has applied for and received all required development permits which may include; a building permit, zoning improvement permit (ZIP), certificate of use, and a certificate of occupancy all pursuant to the requirements of this division. No permit shall be issued for an accessory building for any use unless the principal building and established use exists on the property, or unless a permit is obtained simultaneously for both buildings and construction progress concurrently.

B. Prohibited uses. Any accessory use not specifically listed as permitted, or listed as a related use, and which the administrative official cannot categorize or authorize as permitted in these LDRs, as similar to a permitted use or related use, shall be considered expressly prohibited.

C. Applicability of principal use and building regulations. An accessory use and building or structure shall be subject to the same regulations that apply to the principal use, building and structure in each district, except as otherwise provided.

D. Location. All accessory uses, buildings and structures, except for approved off-site parking, shall be located on the same lot as the principal or main use.

E. The following accessory use table shall be used to determine the required zoning district in which a use may be established. Unless otherwise stated, setback and spacing regulations shall adhere to the minimum requirements of this division. Additional standards shall be complied with for the establishment of the accessory use.

| Accessory Use Generalized Table by Zoning District | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Zoning District/Accessory Use and Structures | R-1 | R-2 | R-4 | R-5 | R-6 | C-1 | C-2BE | C-2BW | C-3 | M-1 | PU | RO | BZ | PD | AOD | NRO |
| Awnings, canopies, carports, roof overhangs, balconies, architectural structures | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Commercial recyclable material storage area | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Commercial use—incidental | | | | | | P | P | P | P | P | P | P | | P | P | P |
| Construction trailer—temporary | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Customary and incidental uses | | | | | | P | P | P | P | P | P | P | | P | P | P |
| Donation bins | | | | | | P | P | P | P | P | | | | | | |
| Drive-thru facilities | | | | | | SE | SE | SE | SE | | | | | P | SE | |
| Dumpster enclosures | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Enclosed recreation areas—common | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Gatehouses, guardhouses | P | P | P | P | P | P | | | | P | P | | P | | | P** |
| Generators—permanent | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |

| Zoning District/Accessory Use and Structures | R-1 | R-2 | R-4 | R-5 | R-6 | C-1 | C-2BE | C-2BW | C-3 | M-1 | PU | RO | BZ | PD | AOD | NRO |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Maintenance building—common | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Management office, sales office | P | P | P | P | P | P | P | P | P | P | | P | P | P | P | P |
| Mobile medical, professional unit | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Multifamily recyclable material storage areas | | | P | P | P | | | | | | | | P | P | P | P** |
| News kiosk | | | | | | P | P | P | P | | P | | | P | P | P |
| Off-street parking structures | | | | | | P | P | P | P | | P | | | P | P | P |
| Outdoor dining | | | | | | P* | P* | P* | P* | | P* | | | P | P* | P* |
| Outdoor recreation areas—common | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Outdoor storage | | | | | | | | | | P | | | | | | |
| Portable storage units | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* | P* |
| Screen enclosures | P | P | P | P | P | | | | | | | P | P | P | P | P |
| Swimming pools, spas, tennis courts, ball courts | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Unattached garages, carports | P | P | P | P | P | | | | | | | P | | | P | P |
| Utility sheds, storage buildings, fallout shelters | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |

| Zoning District/Accessory Use and Structures | R-1 | R-2 | R-4 | R-5 | R-6 | C-1 | C-2BE | C-2BW | C-3 | M-1 | PU | RO | BZ | PD | AOD | NRO |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Vending machines, video arcade games | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Watchman, manager or caretaker quarters—permanent, temporary | | | P | P | P | P | P | P | P | P | P | | P | P | | P |
| Wireless antenna support structures, amateur radio antennas | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE |
| Legend:<br>P indicates permitted<br>P* indicates permitted through Admin. Site Plan approval<br>P** indicates permitted through the underlying zoning district<br>Blank indicates not permitted | | | | | | | | | | | | | | | | |
| Note: See additional standards and requirements and criteria for specific accessory uses set forth in this division and the master permitted uses list in section 4-202. | | | | | | | | | | | | | | | | |

Sec. 5-~~101~~102. - Accessory dwellings.

A. No accessory dwelling units are permitted in the city, except as permitted in subsection C in this section.

1. Prima facie evidence of an illegal accessory dwelling unit in connection. It shall be presumed that an accessory dwelling unit has been established when one or more of the following conditions are observed:

a. There are two or more electrical, water gas or other types of utility meters, or mailboxes on the premises.

b. There is evidence of a liquid propane (LP) gas tank installed in an unauthorized detached structure on the premises.

c. There is more than one cooking area in the primary structure, not exclusively for servant use or religious purposes.

d. All living areas within the dwelling are not logically interconnected.

e. Rooms with separate outside entrance that can be logically partitioned to be exclusive of all other living areas of the residence.

f. Multiple paved numbered parking spaces.

g. An unauthorized detached building with air conditioning, or interior cooking areas or utility meters.
h. There is more than one different house address unit number posted on the premises.
i. An advertisement indicating the availability of more than one living unit on the premises, where only one living unit is permitted.
j. An unpermitted exterior door.
k. A second kitchen or facilities for cooking provided not exclusively for servant use or religious purposes.

2. The presumption may be rebutted by the property owner with the submission of

a. a valid building permit of record; and

b. a current floor plan prepared by an engineer or architect, depicting the residence and accessory structures and showing all rooms in the primary residence are interconnected as a single-family dwelling; and

c. a notarized affidavit from the property owner attesting that the residence or accessory structure is being maintained for single-family occupancy; and/or

d. substantiated by an interior inspection of the dwelling by a compliance officer.

3. If the compliance officer is able to enter the interior of the property and verify its use as a single-family dwelling, and property is constructed in accordance with building permit of record, the property owner is exempt from the submission of a current plan.

a. If it is found that adequate evidence of an illegal accessory dwelling unit has occurred, it shall be considered a violation of this chapter.
~~a.~~b. Nothing contained in this section shall prevent the enforcement actions authorized by the LDRs independent of this subsection.

B~~A~~. In addition to the general standards and requirements for accessory structures, the ~~a~~ nonconforming detached accessory dwelling units existing on the date of adoption of these LDRs, as evidenced by the list maintained by the City Manager's Office, may continue to be located on the same lot as a single-family detached home ~~except in the R-1 district~~ provided that the following requirements are met:

1. The accessory dwelling unit shall contain no more than one (1) full bath and kitchen facilities.
2. The accessory dwelling unit shall use the same street address as the principal dwelling.
3. An application for a certificate of reoccupancy for an existing nonconforming accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to an extremely low income, very low income, low

income or moderate income person or persons meeting the definition of family, as such terms are defined in the Miami-Dade County Code, Chapter 17, Article VIII, Affordable Housing Trust Fund of Miami-Dade County, Florida.

B. No other accessory dwelling units are permitted in the city.

C. Notwithstanding the provisions in article 6 regarding nonconforming uses and structures, accessory dwelling units existing on the date of adoption of these LDRs may be rebuilt if destroyed more than fifty (50) percent of its replacement cost at the time of the damage and may be repaired if otherwise damaged; provided however that while the dwelling may be rebuilt at the same height and with the same setbacks, the repair or reconstruction must be in accordance with the Florida Building Code. Any rebuilding of a nonconforming accessory dwelling shall require a vested right's application and approval in accordance with the provisions of article III, division 13 12.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-102103. - Roof overhangs, eaves, cornices and balconies, awnings and other sun-shading devices, canopies, entryway features, pergolas, trellises and other similar structures, other architectural structures, and covered carports,. The following minimum standards shall apply: Balconies.

A. A. Roof overhangs, eaves, cornices and balconies. In multiple familydwellings (including apartments, duplexes, townhouses, condominiums and cooperative apartmentsOn all buildings, roof overhangs and balconies shall not encroach more than five (5) feet into the required yard setback area, and shall not protrude closer than two feet from any property line, except as provided in the NRO district. In addition, ), no balconiesy may shall not be enclosed by jalousies, windows, walls or otherwise. Balconies may be screened only if all balconies in any building are screened at the same time. Balconies may be used for outdoor living and may contain lawn furniture and plants, said plants not to be placed on balcony railings or external ledges of said balcony. Balconies shall be specifically prohibited for use as storage, laundry drying, barbecuing or cooking and sleeping quarters. It is intended that the use of balconies be restricted to those activities which will not make them unsightly to neighbors or pedestrians or will not endanger the safety of the building or will not create a weight load beyond that for which the balcony was designed. Except as provided in the NRO district, in multifamily dwellings, balconies, eaves, cornices and awnings may project up to five (5) feet into the setback.

B. B. Except as provided in the NRO district, in multifamily dwellings, balconies, eaves, cornices and awnings may project up to five (5) feet into the setback.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

B. Awnings and other sunshading devices. On residential buildings awnings shall not encroach more than five and one-half feet into the required yard setback area, and shall not protrude closer than two feet from any property line. On nonresidential buildings awnings shall not encroach more than nine feet into the required yard setback area, and shall not protrude closer than two feet from any property line.

C. Canopies. Canopies shall be permitted to encroach into the required yard setback area providing they are no closer than two feet from any property line.

D. Entryway features. Entryways, such as porte-cocheres, may be permitted that encroach into the front setback provided that the design of the feature is integrated into the design of the principal structure, is in scale with the size of the principal structure and is no more than one-third (1/3) the width of the principal structure. The required side setbacks of the zoning district shall be maintained and the front setback shall be at least ten (10) feet.

E. Pergolas, trellises and other similar structures. On single-family residential, duplex or townhouse unit lots, pergolas, trellises and other similar structures shall be sited within the required yard setback areas of a principal building provided:

1. The encroachment does not exceed 75 percent of the required yard setback areas.
2. That, at no time, the structure is closer than five (5) feet to any property line, with the exception of townhouse lots, which shall permit a minimum setback of three (3) feet from an interior property line.
3. The structure cannot exceed 400 square feet in total area,
4. The maximum height shall not exceet twelve (12) feet as measured from grade to the highest point of the structure.
5. The structure shall be open on all four (4) sides, with no one supporting column wider than six (6) inches.
6. Only one (1) such structure shall be permitted to encroach into a required yard setback area of a principal building.
7. The structure shall be open from floor to sky.

F. Other architectural features. On single-family residential, duplex or townhouse unit lots, architectural features shall not encroach ~~-~~more than 75 percent into the required yard setback areas. Such features shall not exceed more than 20 percent of the building height.

G. Covered carports. When attached to the principal structure and constructed of a masonry material, carports shall maintain the same yard setbacks as required for the principal structure. When detached and constructed of fabric, aluminum or other nonmasonry material approved by the community planning and development development department, covered carports shall adhere to the following minimum dimensional requirements:

1. For covered carports located in rear yard, the dimensional requirements for accessory structures as set forth later in this division shall apply. For covered carports located in the front or side yard, the following setbacks shall apply:
   a. The front setback shall be a minimum of ten (10) feet and may be reduced to five (5) feet through the granting of an administrative variance.
   b. The side setback shall be a minimum of five (5) feet;
   c. The side street setback (for corner lot properties) shall be a minimum of ten (10) feet.
   d. Nothwithstanding the requirements of this subsection, under no circumstances, shall a covered carport be permitted within the sight visibility triangle.
2. Covered carports shall not exceed twenty (20) feet × twenty (20) feet.
3. All covered carports shall have a cover on at all times, which shall be maintained in good condition. If the cover is canvas or other similar material, it shall be free from tears, holes and fading. Should any cover become deteriorated, it shall be the owner's responsibility to ensure that this cover is properly restored to its original condition, or in the event restoration is not possible, that it is replaced with a new, permitted cover. Under no circumstances shall a carport structure remain coverless or with a deteriorated cover for more than sixty (60) days subsequent to notification by the city that a violation exists.
4. Only one (1) canopy carport structure shall be permitted per residence. The canopy carport structure shall remain open on all sides at all times.

~~Sec. 5-103. - Covered carport structures or entryways in residential districts, commercial and industrial districts located within the front or side yard setbacks (administrative variance approval required).~~

~~For administrative variance approval the following requirements must be met:~~

~~A. The side setback must be at least three (3) feet, or fifteen(15) feet for a corner lot, and the carport may not be located within the sight visibility triangle. The front yard setback must be at least five (5) feet.~~

~~B. A carport structure made of aluminum materials may only be permitted in the side yard and shall not be permitted to encroach in the front yard.~~

~~C. Carport structures may not exceed twelve (12) feet × twenty (20) feet.~~

~~D. All carport structures shall have a cover on at all times, which shall be maintained in good condition. If the cover is canvas or other similar material, it shall be free from tears, holes and fading. Should any cover become deteriorated, it shall be the owner's responsibility to ensure that this cover is properly restored to its original condition, or in the event restoration is not possible, that it is replaced with a new, permitted cover. Under no circumstances shall a carport structure remain coverless or with a deteriorated cover for more than sixty (60) days subsequent to notification by the city that a violation exists.~~

~~E. Only one (1) carport structure shall be permitted per residence. Thecarport structure shall remain open on all sides at all times.~~

~~F. An entryway feature such as a porte-cochere may be permitted that encroaches into the front setback provided that the design of the feature is integrated into the design of the principal structure, is in scale with the size of the principal structure and is no more than one-third (1/3) the width of the principal structure. The required side setbacks of the zoning district shall be maintained and the front setback shall be at least ten (10) feet.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-104. - Drive-throughs, walk-up windows, and automated teller machines.

Drive-throughs, walk-up windows, and ATMs accessory to banks, restaurants, and retail sales and service shall be permitted provided that:

A. In addition to the sight visibility standards of section 5-1004, such uses are designed so as to not interfere with the circulation of pedestrian or vehicular traffic on the site itself, and on the adjoining streets, alleys or sidewalks.

B. Drive-through lanes and vehicle stacking areas adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by railings, or hedges at least thirty-six (36) inches in height.

C. Drive-through, ATMs and walk-up elements should be architecturally integrated into the building, rather than appearing to be applied or "stuck on" to the building.

D. Drive-through displays, ordering areas, walk-up windows, ATMs and parking canopies shall not serve as the singularly dominant feature on the site or as a sign or an attention-getting device.

E. Entries and/or exits to drive-through facilities shall be a minimum of one hundred (100) feet from any intersection as measured from the edge of the drive closest to the intersection to the property line at the intersection. Shorter distances from road intersections may be approved if the city determines that public safety and/or the efficiency of traffic circulation are not being compromised.

F. Drive-through stacking lanes shall be a minimum of one hundred (100) feet from any single-family residential parcel unless the community planning and development department ~~building and zoning department~~ determines that an adequate buffer exists through the use of landscaping or other means.

G. All service areas, restrooms and ground mounted equipment associated with the ~~drive through~~drive-through shall be screened from public view.

H. Landscaping shall screen drive-through aisles from the public right-of-way and adjacent uses and shall be used to minimize the visual impacts of readerboard signs and directional signs.

I. Drive-throughs shall not be permitted in the NRO district, except those existing prior to the adoption of these regulations or this amendment.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~104~~105. – Private/non-public educational facilities and child care facilities

A. Applicability ~~and definitions~~. Provisions of this section shall be applicable to all non-public day nurseries, kindergartens and after school care within the boundaries of the City of North Miami. Pursuant to Section 33-151.11 of the Miami-Dade County Code of Ordinances, the physical standards adopted herein are not less stringent than, and, in fact, mirror, those adopted by Miami-Dade County for day nurseries, kindergardens and after school care.

~~As used in this section, the term "private school" or "nonpublic educational facility" shall mean an institution which provides child care and/or instruction from the infant level through the college level and which does not come under the direct operation and administration of the Miami-Dade County School Board or the State of Florida; only such~~ The only uses ~~are~~ intended to be controlled by this article ~~and~~ include, but are not limited to, the following:

1. Day nurseries: Child care for infants and children up to and including age six (6).
2. Kindergartens: Child care and preschool programs for children ages four (4) through six (6).
3. After-school care: Child care and recreation for children above the age of five (5) when no formal schooling program is conducted and where the care provided is generally after school, on weekends, school holidays and vacations.
4. Babysitting service for shoppers: Child care for limited time periods (maximum ~~three~~four (~~3~~4) hours) provided within a shopping center or business establishment solely for the convenience of the patrons, and limited to not more than forty (40) children at any one (1) time.
5. Private college/university: An institution of higher learning beyond the high school level.
6. Family day care homes: Child care and recreation with a maximum of five (5) children including the day care operator's own children.
7. Private school: This term as used herein refers to any private institution providing child care and/or instruction at any level from infants through the college level.
8. Child, student, pupil:– The terms "child," "student," "pupil," and their plurals are used interchangeably in this section.
9. Elementary, junior and senior high schools: References to these schools are to be loosely interpreted to encompass any schools, graded or ungraded, whose students are within the age ranges typically found at these school levels.

B. Religious activities. This section shall not be applicable to facilities used principally for weekend or intermittent nonacademic religious instruction or for the care of children whose parents or guardians are attending religious services or meetings on the premises.

C. Zoning district requirements.

1. All day nurseries, after-school centers, kindergartens and private schools shall meet the requirements included herein and the requirements of the particular zoning district in which they are located if that district is one in which the facility is a permitted use; facilities in other districts shall meet R-4 requirements.
2. Notwithstanding any other provisions of these LDRs to the contrary, horses used to provide therapy as a part of the curriculum of private schools primarily dedicated to the education of developmentally disabled children as specified in Section 393.063, Fla. Stat., -shall be permitted in conjunction with school use that has been approved in the R-1 and R-2 zoning districts. The number of horses and the location of the accessory structure(s) to house them shall comply with the underlying zoning district regulations.

D. Required information. All nonpublic educational facilities, as defined in this article, shall submit the following applicable information to the community planning and development department for review.

1. Written information.

a. Total size of the site;
b. Maximum number of students to be served;
c. Number of teachers, administrative and clerical personnel;
d. Number of classrooms and total square footage of classroom space;
e. Total square footage of nonclassroom space;
f. Amount of exterior recreational/play area in square footage;
g. Number and type of vehicles that will be used in conjunction with the operation of the facility;
h. Number of parking spaces provided for staff, visitors, and transportation vehicles, and justification that those spaces are sufficient for this facility;
i. Grades or age groups that will be served;
j. Days and hours of operations;

k. Means of compliance with requirements of the Miami-Dade County Fire Department, Miami-Dade County Department of Public Health, the Department of Health and Rehabilitative Services, and any federal guidelines applicable to the specific application.

2. Graphic information, less than fifty (50) students.

a. A detailed site plan shall be submitted to the community planning and development department, drawn to scale and including dimensions to indicate lot size, street rights-of-way and pavement measured from center line, size of

building or buildings, interior floor layout and interior uses, location and size of recreation and/or play areas, location of fences and/or walls that shall enclose recreation and/or play areas; said plans shall include, but not be limited to, off-street parking areas and driveways, walls, fences, signs and landscaping.

b. Other data shall be furnished as requested by the director where such data may be needed in order to determine that standards as specified in this section have been met.

3. Graphic information, fifty (50) or more students. The following graphic information shall be prepared by design professionals, such as registered Florida architects and landscape architects, for proposed facilities with fifty (50) or more students.

a. A site plan indicating existing zoning on the site and adjacent areas, as well as the following:

i. Location of all structures;
ii. Parking layout and drives;
iii. Walkways;
iv. Location of recreation areas and play equipment which shall include surrounding fences and/or walls;
v. Any other features which can appropriately be shown in plan form;
vi. Floor plans and elevations of all proposed structures; and
vii. Landscape development plan listing quantities, size, and names of all plants in accordance with division 12, article 5.

E. Calculation of physical space requirements for multiple-use facilities. Where a private educational facility is to be operated in a structure simultaneously used as a residence, ~~church~~ religious establishment or other facility, the area which will be specifically used for a private school or child care facility during the hours of operation shall be clearly defined and depicted on a plan. The area so delineated shall be used as the basis for determining physical space requirements as provided in this article. No physical space credit will be given for interior or exterior areas that are not restricted to the school or child care use during the hours of operation of said facility.

F. Combination of residential and nonpublic educational facilities. No combination of residential use and nonpublic educational facility will be permitted on the same property except as follows:

1. A single-family residential use will be permitted in the same building with a nursery or kindergarten use, where the same is used only by the nursery-kindergarten operator.
2. In connection with day nursery and kindergarten facilities, a residential unit for a caretaker may be permitted only when the facility operator does not reside on the premises.

3. A residential unit will be permitted for a caretaker on the site of an elementary, junior and/or senior high school.
4. An existing multifamily apartment building or complex may incorporate a day nursery and/or kindergarten for the accommodation of residents only; provided, that such facility will not be contrary to any site plans previously approved at a public hearing.
5. Nonpublic educational facilities may be incorporated into a proposed apartment building or complex, provided such schools are included in the plans submitted for approval at public hearing (in case of apartment complex) and/or for permit (in case of apartment building).

G. Physical standards.

1. Outdoor areas. Outdoor recreation/play areas shall be in accordance with the following minimum standards, calculated in terms of the proposed maximum number of children for attendance at the school at any one (1) time unless otherwise indicated. Where there are category combinations, each classification shall be calculated individually.

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**Minimum Standards for Outdoor Recreation Playground/Play Areas**

| *School categories* | *Required area* |
|---|---|
| Day nursery/kindergarten and preschool and after-school care | 45 square feet per child calculated in terms of half of the proposed maximum number of children for attendance at the school at one (1) time |
| Elementary school (grades 1—6) | 500 square feet per student for the first 30 students; thereafter, 300 square feet per student |
| Junior and senior high school (grades 7—12) | 800 square feet per student for the first 30 students; 300 square feet per student for the next 300 students; thereafter, 150 square feet per student |

2. Signs. Signs shall comply with district regulations as contained in these LDRs; provided, however, that the total square footage of all freestanding signs in any residential district shall not exceed six (6) square feet in size.
3. Auto stacking. Stacking space, defined as that space in which pickup and delivery of children can take place, shall be provided for a minimum of two (2) automobiles for schools with twenty (20) to forty (40) children; schools with forty (40) to sixty (60) [children] shall provide four (4) spaces; thereafter there shall be provided a space sufficient to stack five (5) automobiles.
4. Parking requirements. Parking requirements shall be as provided in division 14, article 5.
5. Classroom size. All spaces shall be calculated on the effective net area usable for instruction or general care of the group to be housed. This space shall not include kitchen areas, bathrooms, hallways, teachers' conference rooms, storage areas, or any other interior space that is not used for instruction, play or other similar activities. The minimum classroom space shall be determined by multiplying the maximum proposed number of pupils for attendance at any one -time by the minimum square footages, (i) through (iv) below. Where a private educational facility is nongraded, calculations shall be based on the age level that corresponds to the grade level in the public school system. Where a school includes more than one (1) of the following categories, each category shall be individually computed:
   a. Day nursery and kindergarten, preschool and afterschool care, 35 square feet per pupil.
   b. Elementary (grades 1—6), 30 square feet per pupil.
   c. Junior high and senior high (grades 7—12), 25 square feet per pupil.
   d. Baby-sitting service, 22 square feet of room area per child.

6. Height. The structure height shall not exceed the height permitted for that site by the existing zoning.
7. Trees. Landscaping and trees shall be provided in accordance with the landscaping requirements of these LDRs.
8. Exemptions. Baby-sitting services are exempted from the "Outdoor Areas," "Auto Stacking," "Parking" and "Trees," requirements of this section. Schools permitted within existing multifamily structures are exempted from the "Auto Stacking" and " Parking" requirements of this section, provided such schools are limited to the occupants of the subject multifamily structures.

9. Child care facilities shall be prohibited from operating on property abutting or containing a water body such as a pond, lake, canal, irrigation well, river, bay, or the ocean unless a safety barrier is provided which totally encloses or affords complete separation from such water hazards. Swimming pools and permanent wading pools in excess of eighteen (18) inches in depth shall be totally enclosed and separated from the balance of the property so as to prevent unrestricted admittance. All such barriers shall be a minimum of forty-eight (48) inches in height and shall comply with the following standards:

    a. Gates shall be of the spring back type so that they shall automatically be in a closed and fastened position at all times. Gates shall also be equipped with a safe lock and shall be locked when the area is without adult supervision.
    b. All safety barriers shall be constructed in accordance with the standards established in section 5-1209 ~~12-22~~ of the City of North Miami Code, except that screen enclosures shall not constitute a safety barrier for these purposes.

10. Location requirement for outdoor recreation playground/play areas for Child Care facilities. Where the front or side street property line of a child care facility as described in this section, abuts a major corridor, no outdoor recreation playground/play area shall be located between the right-of-way and the building line parallel to the right-of-way.

    a. As of May 27, 2016, all existing child care facilities shall either comply with the foregoing requirement or install an anti-ram fixture with a minimum Department of State protection rating of K4 or a safety barrier from vehicular traffic designed by a professional engineer and approved by the Department of Transportation and Public Works. The safety barrier shall be installed along the entire length of the playground/play area that abuts the right-of-way.
    b. For any existing child care facility which is required to either relocate its outdoor recreation playground/play area or provide a safety barrier, any resulting reduction in outdoor recreation playground/play area shall be deemed in compliance with the minimum playground/play area requirements of this section. Any such reduction shall also be deemed to be in substantial compliance with any site plan previously approved at public hearing. In event that such a child care

facility whose site plan was approved at public hearing seeks to relocate its playground/play area, such relocation shall be subject to approval after public hearing upon appropriate application. No fee shall be charged for such application.

c. This subsection shall not be deemed to allow the future expansion of any child care facility to occur without complying with the requirements of this section.

d. Notwithstanding anything in the LDRs to the contrary, the provisions of this subsection (j) shall also apply to child care facilities operated by the City of North Miami and Miami-Dade County, if any.

e. Variances of the location requirements of this subsection (j) shall only be approved with a condition requiring the installation of a safety barrier meeting the requirements set forth above.

H. Review standards. The following review standards shall be utilized by the department, and, where a hearing is required, by the public hearing body.

1. Study guide. The study entitled "Physical Standards for Proposed Private Educational Facilities in Unincorporated Miami-Dade County," dated 1977, may be used as a general guide in the review of proposed nonpublic educational facilities; provided, however, that in no case shall the educational philosophy of a school be considered in the evaluation of the application.
2. Planning and neighborhood studies. Planning and neighborhood studies accepted or approved by the city council that include recommendations relevant to the facility site shall be used in the review process.
3. Scale. Scale of proposed nonpublic educational facilities shall be compatible with surrounding proposed and existing uses and shall be made compatible by the use of buffering elements.
4. Compatibility. The design of the nonpublic educational facilities shall be compatible with the design, kind and intensity of uses and scale of the surrounding area.
5. Buffers. Buffering elements shall be utilized for visual screening and substantial reduction of noise levels at all property lines where necessary.
6. Landscape. Landscape shall be preserved in its natural state insofar as is practicable by minimizing the removal of trees or the alteration of favorable characteristics of the site. Landscaping and trees shall be provided in accordance with the requirements of these LDRs.
7. Circulation. Pedestrian and auto circulation shall be separated insofar as is practicable, and all circulation systems shall adequately serve the needs of the facility and be compatible and functional with circulation systems outside the facility.
8. Noise. Where noise from such sources as automobile traffic is a problem, effective measures shall be provided to reduce such noise to acceptable levels.

9. Service areas. Wherever service areas are provided they shall be screened and so located as not to interfere with the livability of the adjacent residential properties.
10. Parking areas. Parking areas shall be screened and so located as not to interfere with the livability of the adjacent residential properties.
11. Operating time. The operational hours of a nonpublic educational facility shall be such that the impact upon the immediate residential neighborhood is minimized.
12. Industrial and commercial. Where schools are permitted in industrial or commercial areas it shall be clearly demonstrated in graphic form how the impact of the commercial or industrial area has been minimized through design techniques.
13. Fences and walls. Recreation and/or play areas shall be enclosed with fences and/or walls.

I. Certificate of use. The certificate of use shall be automatically renewable annually by the community planning and development department upon compliance with all terms and conditions including maintenance of the facility in accordance with the approved plan.

J. Enforcement. This article shall be enforced by the community planning and development director along with the code compliance division.

Sec. 5-~~105~~106. - ~~Drop in child care.~~ Reserved.

~~Drop in child care is permitted as accessory to any principal use, office, indoor recreation, or mixed use building provided that such child care use is licensed by the state. A child shall remain in such care for no more than a four-hour period, and the parent must remain on the premises of the principal use at all times.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~106~~107. - Permanently installed stand-by generators.

A. General. In addition to any other county, state, or federal regulations, this section shall govern the placement of permanently installed stand-by generators. A permanent stand-by generator installation shall be allowed for the purpose of providing temporary power during incidental power outages and emergency power outages due to storms, hurricanes and other natural and or man-made disasters as an auxiliary or accessory use in all residential zoning districts. Permanently installed stand-by generators may not be used as a permanent source of power for a building structure or property.

B. Standards for a permanent generator in all residential districts. Permanently installed stand-by generators shall be permitted as an accessory use in accordance with the following:

1. Rear setback. Five (5) feet minimum from the rear property line.
2. Interior side setback. Five (5) feet minimum from the side property line.

3. Side street setback. If there is no area in an interior side yard or the rear yard for a permanently installed stand-by generator then the side street setback may be fifteen (15) feet minimum to the side street property line.
4. Rear street setback. Fifteen (15) feet minimum from a rear street property line.
5. Spacing. The spacing requirement from other structures or equipment will be in accordance with the manufacturer's guidelines.
6. Permanently installed generators must meet the noise level requirements of the city's code.
7. In no event shall a permanently installed generator be closer than ten (10) feet from any adjoining or neighboring building or structure that may be used as a dwelling.
8. Number permitted in residential districts. A maximum of one (1) permanent stand-by generator shall be permitted as an accessory use to a single-family residence, individual duplex unit or individual townhouse unit. A maximum of one (1) generator per structure shall be permitted for multifamily developments.
9. Permanent stand-by generator installations on improved properties may encroach into required landscaping.
10. Permanently installed stand-by generators shall be screened from view of a street, canal, waterway, lake, bay, or golf course with landscaping. Permanently installed stand-by generators shall also be screened from view of adjacent properties with landscaping.

C. Standards for a permanently installed stand-by generator in nonresidential districts.

1. Rear setback. Ten (10) feet minimum from the rear property line.
2. Interior side setback. Five (5) feet minimum from the side property line.
3. Side street setback. If there is no area in an interior side yard or the rear yard for a permanently installed stand-by generator then the side street setback may be fifteen (15) feet minimum to the side street property line.
4. Rear street setback. Fifteen (15) feet minimum from a rear street property line.
5. Permanently installed generators must meet the noise level requirements of the city's code.
6. In no event shall a permanently installed generator be closer than ten (10) feet from any adjoining or neighboring building or structure that may be used as a dwelling.
7. Permanent stand-by generator installations on improved properties may encroach into required landscaping.
8. Permanently installed stand-by generators shall be screened from view of a street, canal, waterway, lake, bay, or golf course with landscaping. Permanently installed stand-by generators shall also be screened from view of adjacent properties with landscaping.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~107~~108. - Private noncommercial dish antennas.

A. Location.

1. Private noncommercial dish antennas may be permitted for new construction provided they are:

   a. Located in the rear yard or other suitable location on the building as determined by the director of the community planning and development department~~building and zoning department~~;

   b. They maintain a minimum rear setback that is at least equal to their height, but not less than five (5) feet; and

   c. They do not encroach on any of the required side setbacks for the district in which they are located.

2. In connection with multifamily buildings of four (4) stories or more, roof top installation shall be permitted as long as they are anchored in accordance with the requirements of the Florida Building Code relative to structures.

B. ~~[~~Requirements.~~]~~ The requirements of this section may be varied if suitable, as determined by the director of the community planning and development department~~building and zoning department~~. The term "suitable" or "suitable location," as used in this section, means a location, dimension or height which enables the efficient functioning of the dish antenna without detriment to adjoining lawful residential use.

C. Screening. If not a roof installation, private noncommercial dish antennas shall be screened by landscaping on its sides so as to obscure their visibility from the abutting properties' ground view. No landscaping shall be required in the front or rear of the dish that would create reception interference or prevent a shift in the position of the dish.

D. Number allowed. One (1) private, noncommercial dish antenna shall be allowed per single-family home, duplex unit, triplex unit or townhouse unit. Multifamily apartment buildings and commercial or industrial buildings shall be allowed up to three (3) dish antennas per building.

E. Anchorage. Dish antennas shall be anchored securely to a building's roof in conformance with requirements of the Florida Building Code relative to structures.

F. Maintenance. Once installed, dish antennas and related appurtenances must be maintained in good and operable condition. Surrounding landscaping shall also be maintained.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~108~~109. - Restaurant, open air.

A. Open air dining on private property, as accessory to a restaurant, is permitted provided that:

1. The operation of such business shall not interfere with the circulation of pedestrian or vehicular traffic on the site, the adjoining streets, alleys or sidewalks.

2. The open-air dining area shall be unenclosed and shall be open except that it may be covered with a canvas cover or structural canopy of a building's arcade, loggia or overhang.

3. All kitchen equipment used to service the open-air dining area shall be located within the kitchen of the primary restaurant or business.

4. The open-air dining area shall be kept in a neat and orderly appearance and shall be kept free from refuse and debris.

B. Open-air dining on public property, as accessory to a restaurant, is permitted provided that:

1. A sidewalk cafe permit for open-air dining located on public property ~~CCD~~ shall be issued for a period of one (1) year, renewable annually by the community planning and development department~~building and zoning department~~. Such permit shall not be transferable in any manner. No vested rights, or guarantee of renewal, shall arise from the issuance or renewal of a sidewalk café permit.

2. Open-air dining area shall be restricted to the length of the sidewalk or public right-of-way immediately fronting the cafe and/or restaurant. The utilization of space extending no more than ten (10) linear feet on either side beyond the subject property frontage may be authorized subject to annual written consent provided by owners or tenants in front of whose businesses the outdoor dining service would occur.

~~3. No pass-through window shall be permitted for service of patrons.~~

~~4~~3. There shall be maintained a minimum of five-foot clear distance of public sidewalk, free of all obstructions, in order to allow adequate pedestrian movement. The minimum distance shall be measured from the portion of the open-air dining area nearest either the curbline or the nearest obstruction.

~~5~~4. Tables, chairs, umbrellas and other permissible objects, including planters, shall be approved by the development review committee prior to the issuance of the sidewalk cafe permit. Such permissible materials provided with the sidewalk cafe shall be of high quality design, materials, and workmanship to ensure the safety and convenience of the public.

~~6~~5. No awning, canopy or covering of any kind, except individual table umbrellas or retractable awnings, shall be allowed over any portion of the open-air dining area located on public property except as allowed ~~under separate covenant process~~ through sidewalk café permit review by the director of community planning and development.

~~7~~6. No perimeter structures such as fences, railings~~, planters~~ or other such barriers shall surround the open-air dining area which would restrict the free and unobstructed pedestrian flow or discouraging the free use of the tables or chairs by the general public.

~~8~~7. For new application, one (1) menu board plus one (1) specials board shall be permitted per sidewalk cafe. The location, size, design, materials and color of the menu board and specials board shall be approved by the development review committee, prior to the issuance of a sidewalk cafe permit, and the menu board and specials board location shall be shown on the permit exhibit. The menu board and specials board shall not be a sandwich board or A-frame sign.

~~9~~8. All open-air dining areas shall be at the same elevation as the adjoining sidewalk or public right-of-way.

~~10~~9. Under no circumstances shall any open-air dining interfere with the free and unobstructed public access to any bus stop, crosswalks, public seating areas and conveniences, street intersections, alley, service easements, handicap facilities or access to adjacent commercial establishments.

~~11~~10. The property owner/operator shall be responsible for maintaining the outdoor dining area in a clean and safe condition. All trash and litter and tables and chairs shall be removed daily, except for tables with attached umbrellas.

~~12~~11. Tables, chairs, umbrellas and any other objects associated with the sidewalk cafe shall be of quality, design, materials and workmanship, to ensure the safety and convenience of users, and to enhance the visual and aesthetic quality of the urban environment. Design, materials and colors shall be sympathetic and harmonious with the urban environment and compliment the design and paint colors on the building. Umbrellas and other decorative material shall be fire-retardant, pressure-treated or manufactured of fire-resistant material. All umbrellas shall be reviewed and approved on a case-by-case basis by the development review committee based on compatibility with the surrounding urban area, the number, and proposed location of such umbrellas. No portion of an umbrella shall be less than six (6) feet eight (8) inches (eighty (80) inches) above the sidewalk. Signs are prohibited on umbrellas, chairs, tables and other permissible fixtures which are located on the public right-of-way, except that the establishment name and/or its logo is permitted on umbrellas. Lettering and/or logos may not exceed six (6) inches in height.

~~13~~12. The hours of operation shall coincide with that of the primary restaurant. Tables, chairs and all other furniture used in the operation of an outdoor dining area shall not be anchored or restrained in any visible manner as with a chain, rope or wire.

~~14~~13. Open-air dining may be suspended by the city manager for community or special events, utility, sidewalk or road repairs, or emergency situations or violations of provisions contained herein. The length of suspension shall be for a duration as determined necessary by the city manager. Removal of all street furniture and related obstructions shall be the responsibility of the cafe and/or restaurant owner/operator. The city may cause the immediate removal or relocation of all or parts of the sidewalks cafe in emergency situations or for safety considerations. The city and its officers and employees shall not be responsible for sidewalk cafe fixtures relocated during emergencies.

~~15~~14. No food preparation, plastic food displays, food storage, kitchen equipment or serving furniture, or refrigeration apparatus or equipment, or fire or fire apparatus or equipment, shall be allowed on the public sidewalk, whether or not such area is covered by a sidewalk cafe permit. However, space heaters are permitted provided that they are an outdoor approved type, are located in accordance with the manufacturer's recommendations, and are located at least two (2) feet from the edge of any umbrella canvas, any foliage, or any other flammable object or material.

~~16~~15. Upon the issuance of a hurricane warning by the county, the permittee shall immediately, but no later than three (3) hours after a hurricane warning has been issued, place indoors and secure all tables, chairs and other equipment located on the sidewalk.

The issuance of such a hurricane warning shall constitute an emergency situation as referenced in this article. Failure to comply with this subsection shall be cause for immediate revocation of the sidewalk cafe's permit.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~109~~110. - Solid waste containers/mechanical equipment.

A. All solid waste container, recycling or trash handling areas are permitted as accessory uses and shall be screened on three (3) sides by a fence or wall from view from public streets and abutting properties or as approved by the development review committee in accordance with applicable regulations. An opaque gate ~~may~~ shall be used on the fourth side. If such screening is provided by means of a fence or wall, materials which are consistent with those used in the construction of and the architectural style of the principal building shall be utilized.

B. Mechanical equipment shall be screened on four (4) sides by a fence, wall, or landscaping from view from public streets and abutting properties and may encroach up to four (4) feet into required side setbacks. If located on a roof, then screening of the equipment must be provided so that the equipment may not be viewed from a public street.

C. Screening of mechanical equipment shall be accomplished in a manner that does not interfere with the proper operation and/or maintenance of such equipment.

D. If it is necessary in order to accommodate a solid waste container in the redevelopment of an existing building, the required number of parking spaces may be reduced by a maximum of two (2) spaces.

E. Solid waste containers and recycling or trash handling areas shall not be located in the front yard unless site considerations make it impossible for them to be located elsewhere on the site and they comply with the following setback: a minimum of five (5) feet from the front property line or more so that when the doors are open, the doors do not encroach into any public right-of-way.

F. Solid waste containers and recycling or trash handling areas to the side or rear of a structure shall be placed in a manner so that when the doors are open, they do not encroach into a public right-of-way, vehicle access areas, or swing over a property line.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~110~~111. - Swimming pools, all districts.

For swimming pools, a seven and one-half (7½) foot setback for the swimming pool screen enclosures, a ten-foot rear setback for the swimming pool itself and front and side setback requirements equal to the setback required for the main structure shall be maintained.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~111~~112. - Unattached accessory structures.

A. Unattached accessory structures, other than fences, walls or other similar structures, and including but not limited to gazebos, summer kitchens, pool houses, awnings, utility sheds, and garages (CBS only) which are not attached to a principal structure may be erected in all residential districts in accordance with the following requirements:

Maximum Height: twelve (12) feet.

Setbacks:

Front: same as principal.

Side: same as principal. For structures less than 100 square feet, side setback may be decreased to five (5) feet, subject to the review and approval of community planning and development staff according to administrative variance procedures.

Rear: five (5) feet, ten (10) feet if abutting water.

B. For corner lots the setback from the side street shall be 15 feet for structures less than 100 square feet, but may be decreased to ten (10) feet, subject to the review and approval of community planning and development staff through administrative variance procedures. ~~the same for accessory buildings as for principal buildings.~~

C. No utility shed or other pre-fabricated structure shall exceed one hundred twenty (120) square feet in area; other permitted unattached accessory structures shall not exceed four hundred (400) square feet.

D. Except as provided in subsection E. below, unattached accessory structures shall not be used as living area or occupied as dwelling units.

E. Except for grandfathered accessory dwelling units and as provided in this subsection, no plumbing shall be provided in unattached accessory structures:

1. Pool houses may have a half bath.
2. Summer kitchens may have a sink.

F. The total lot coverage of all -accessory structures in the rear yard shall not exceed 30%-.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~112~~113. – Paving on side and rear yards.

A. For side and rear yards, no impervious area or concrete slabs shall be allowed within five (5) feet of the property line, except that permeable pavement or pavers may be allowed subject to the review and approval of community planning and development staff within three (3) feet of the property line-.

DIVISION 2. - ADULT DAYCARE, ADULT LIVING FACILITIES, CHILD CARE AND COMMUNITY RESIDENTIAL HOMES

Sec. 5-201. - Daycare and child care.

Adult daycare and child daycare centers shall meet all standards for a State of Florida approved daycare center, as set forth by the Florida Department of Health (DOH), this section and other applicable provisions of this article 5. In addition to the parking requirements of article 5, division 14, adult daycare and childcare centers, which have buses associated with the use, shall provide the following:

(a) a paved unobstructed drop-off/pick-up space with adequate stacking area (as determined by the community planning and development department~~building and zoning department~~), and

(b) a pedestrian walkway system (as approved by same) between the drop-off/pick-up space and the building entrance.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-202. - Adult living facilities.

A. All adult living facilities shall comply with the occupancy standards of chapter 5 of the city's code.
B. All adult living facilities which are not owner-occupied shall have a primary designated manager(s) on a twenty-four-hour basis for which the owner(s) assume liability regarding actions, activities, and operation. The name and contact information of the ~~said~~ primary manager(s) shall be conspicuously posted for both resident and public knowledge.
C. There shall be a minimum of two thousand (2,000) feet spacing between any two (2) adult living facilities, as measured from the nearest property line of an existing adult living facility to the property line of the proposed adult living facility.
D. All adult living facilities shall be considered commercial enterprises for purposes of all city utilities and sanitation services.
E. All development standards in the R-4 and R-5 districts and all other state criteria regulating an adult living facility shall apply.
F. Maximum of two (2) people per bedroom.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-203. - Community residential homes.

A. Community residential homes with six (6) or fewer residents are permitted within any residential district provided that such homes shall not be located within a radius of one thousand (1,000) feet of another existing such home with six (6) or fewer residents. The manager of the community residential home shall notify the city clerk in writing of the manager's and home's name and address, and proposed occupancy, along with a copy of

licenses obtained, prior to commencing operations. Contact information, including telephone number, for the manager shall be posted in a conspicuous location on the outside of the structure. ~~[see the statute for possible other restrictions]~~

B. Community residential homes with seven (7) to fourteen (14) unrelated residents may be permitted in any multifamily residential districts provided that:

1. If new construction, the home complies with all regulations applicable to other multifamily uses in the area;
2. All applicable licensing requirements are met, including obtaining a city issued Business Tax Receipt; contact information, including telephone number, for the manager shall be posted in a conspicuous location on the outside of the structure.
3. The home would not result in ~~such~~ a concentration of such homes such that the character and nature of the area would be substantially altered;
4. The home is not located within a radius of one thousand two hundred (1,200) feet (from the nearest portion of the existing property boundary to the nearest portion of the proposed property boundary) of another existing community residential home in a multifamily area; and
5. The home is not located within a radius of five hundred (500) feet (from the nearest portion of the existing property boundary to the nearest portion of the proposed property boundary) of an area zoned for single-family.
6. Provided that the ~~home~~dwelling unit receives a certificate of use.

~~C. Distance requirements for community residential homes shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home~~.

Sec. 5-204. – Recovery residences.

A. "Recovery residence" means a residential dwelling unit, or other form of group housing, that is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. A "certified recovery residence" means a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.

~~A.~~B. The city manager shall maintain a database of recovery residences within the city.

C. The director of community planning and development upon request shall provide verification of compliance with applicable state and local regulations.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

## DIVISION 3. - ADULT ENTERTAINMENT USES

### Sec. 5-301. - Purpose, construction.

The purpose of this division is to regulate the location of adult entertainment businesses so as to prevent the adverse secondary effects on the public health, safety, and welfare, which, are "caused by the presence of even one (1) such establishment." This section is designed to eliminate or lessen such adverse secondary effects by preventing or lessening the concentration of such adult entertainment businesses by maintaining minimum distances between such adult entertainment businesses and between certain other uses, and allowing adult entertainment businesses to locate in appropriate areas only. This section is based upon the fundamental zoning principle that certain uses, by the very nature of the adverse secondary effects such uses are recognized to have upon the surrounding community, must be subjected to particular restrictions so that such uses may exist without destroying the vitality of existence of other lawful and reasonable uses. The sole purpose of the legislative body of the city in enacting this section is the desire to preserve and protect the quality of life, public health, safety, and general welfare of the citizens of the city, and not to suppress free speech or impair the constitutional rights of any person. Nothing herein shall be construed to authorize a commission of any obscenity offense or other criminal offense, as proscribed by the laws of the State of Florida and the laws of the city.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

### Sec. 5-302. - Locations and distance restrictions.

A. Adult entertainment businesses shall be allowed within the M-1 industrial district only.

B. No adult entertainment business shall be located within five hundred (500) feet of:

1. Any lawfully pre-existing adult entertainment business that is located within jurisdictional boundaries of the city, unless such location is within the same building as the lawful pre-existing adult entertainment business;
2. Any pre-existing zoning district within the city that is zoned for residential use, including, but not limited to, residential planned unit development districts;
3. Any lawfully pre-existing place of religious worship, public park, or school that is located within jurisdictional boundaries of the city;
4. The distances provided for in this subsection shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line of the parcel upon which the adult entertainment business is located to the nearest property line of a parcel:
    a. Upon which such a lawfully pre-existing adult entertainment business, place of religious worship, public park, or school, is located; or
    b. Within a district zoned for residential use.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-303. - No additional zoning conditions, restrictions, safeguards, or conditions.

No zoning conditions, restrictions, safeguards, or standards shall apply to or be imposed on any adult entertainment business protected by the first amendment to the United States Constitution, other than:

1. The distance requirements set forth under section 3-11 of the City Code shall apply only to those adult entertainment businesses providing alcoholic beverages for consumption on the premises;
2. Those prohibitions and restrictions expressly set forth in this section; and
3. Signage, parking and landscaping requirements of article 5 of these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1338, § 1, 6-26-12)

Sec. 5-304. - No application, license, or permit.

With the express exception of those applications, licenses, and permits required by chapter 11, article II, of the city's code, no application or permit shall be required for the establishment of any adult entertainment business protected by the first amendment to the United States Constitution and no such adult entertainment business shall be subject to section 11-34 ~~or 11-37~~ of the city's code.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-305. - No variances.

No variances from the criteria set forth in this division ~~section 5-301 or 5-302~~ shall be permitted for any reason.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

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DIVISION 4. - ANIMAL CARE FACILITIES

Sec. 5-401. - ~~[~~Animal care facilities.~~]~~

A. Animal grooming establishments.

The following criteria shall apply to animal grooming establishments:

1. Keeping overnight. No animal grooming establishment shall keep overnight for the purpose of boarding or otherwise any animal or mammal.
2. Use as living quarters prohibited. No animal grooming establishment shall be utilized as living quarters by any person, nor shall the same be equipped or furnished with sleeping or cooking facilities for humans.

B. Veterinary clinics or animal boarding facilities.

The following criteria shall apply to veterinary clinics or animal boarding facilities:

1. Seventy-five (75) feet setback from residential property of any outdoor pen or run/feeding station.
2. All outdoor runs shall be screened by an opaque barrier such that the runs are not visible from adjacent properties or public rights-of-way. If vegetative material is used with a fence for the opaque barrier, such material shall form an opaque barrier within one (1) year from the time of first planting.
3. If adjacent to residential property, no dogs shall be permitted in open run areas between the hours of 7:00 p.m. and 7:00 a.m.
4. Indoor animal boarding is permitted.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

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DIVISION 5. - AUTOMOTIVE USES

Sec. 5-501. - Automobile service stations and vehicular service, minor.

A. Minimum lot size. Lot size shall not be less than one hundred (100) feet in width and one hundred forty (140) feet in depth.

B. Location of oil holding tanks and hydraulic lifts. All hydraulic lifts shall be located within an enclosed permanent structure and oil holding tanks shall be located no closer than fifty (50) feet to any property line.

C. Gasoline pumps. Automobile service stations shall have their gasoline pumps, including other service facilities, setback at least fifteen (15) feet from any property line.

D. Protective walls. A four-foot high masonry wall of good quality and design shall be built on all rear and side property lines of a lot occupied by an automobile service station. The wall, the design of which shall be reviewed by the community planning and development department, ~~building and zoning department~~ shall be solid and unpierced except that a wall along an alley line may have a three-foot opening, closed by a substantial gate when the opening is not in use. The height of the wall shall be reduced to three (3) feet for a distance of ten (10) feet back from its intersection with the street right-of-way line. The board of adjustment may waive the requirement of a wall upon a finding that such wall is unnecessary for the protection of contiguous property or would interfere unduly with ingress and egress to the service station.

E. Ingress and egress. For each one hundred (100) feet of lot frontage or major fraction thereof, there must be two (2) driveways for entrance and exit. There must be ten (10) feet distance between the two (2) driveways and no driveway shall be over fifty (50) feet in width at the lot line. Driveways must be ten (10) feet from an alley or private property lines. On a corner lot, all driveways must be a least ten (10) feet from the intersection of lot lines or from the intersection of the lot lines or from the intersection of the lot lines produced. If located on a state or county road, the access management standards of FDOT or the county, as the case may be, control.

F. Storage of petroleum products. All tanks for the storage of gasoline, kerosene, or other petroleum products shall be located underground.

G. Tow trucks. A single tow ~~low~~ truck may be maintained on the premises of an automobile service station.

H. ~~[~~Services.~~]~~ All services, other than the provision of gasoline, shall ~~to~~ be performed within an enclosed structure.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-502. - Hand carwash establishments.

A. Hand car washing establishments shall be allowed as an accessory use on the site of an automobile service station and/or vehicle repair establishment in any nonresidential district.

B. Water reclamation required. All washwater shall be collected under a roofed structure and disposed of into a grease/sand trap and thence to a sanitary sewer as reviewed and approved by the public works department.

C. In no case shall a carwash bay exceed fifteen (15) feet in width, twenty-four (24) feet in depth, or twelve (12) feet in height for each vehicle being washed.

D. If the hand car wash use is located in a nonresidential district, other than the C-1 district, then the car washing activity shall occur entirely within a parking garage.

E. A building containing functional bathroom facilities shall be available on-site.

F. All car washing operations shall be confined to within a fixed (nonmovable) and roofed structure, to be located on a concrete slab or existing paved surface; the color of such structure shall be harmonious with that (those) of the existing principal structure, as determined by the director of building ~~and zoning~~ services department ~~and zoning~~, and such structure shall be maintained in a good condition and state of ~~or~~ repair.

G. The setback requirements for hand carwash structures shall be the same as for principal structures in the applicable district, however, in no case shall such ~~said~~ structure be located closer than twenty-five (25) feet to a residential property line.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-503. - Mechanical automobile washing establishments.

In addition to meeting the minimum district regulations, these establishments shall be subject to the following regulations:

A. Such establishments shall not be closer than fifty (50) feet to a residential zoning district.

B. Such establishments shall have a collection system for washwater with a grease/sand trap and sanitary sewer, as reviewed and approved by the public works department.

C. Such establishments shall be located on a public street having a pavement width of not less than thirty (30) feet and shall provide ingress and egress so as to minimize traffic congestion.

D. Such establishments, in addition to meeting the standard off-street parking requirements, in article 5, division 14, shall provide at least three (3) spaces per station of waiting spaces on the lot in the moving lane to the automobile washing building entrance so as to reduce the number of waiting automobiles in the public street.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-504. - Vehicular service, major.

All major vehicular service must be performed within an enclosed structure. Outdoor storage is prohibited.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 6. - BOATS, DOCKS, SEAWALLS, ETC.

Sec. 5-601. - Boats.

A. Location. Boat repair activities shall be conducted solely upon the premises of the boat repair business and shall not encroach upon any public street, public right-of-way or upon the private property of others.

B. ~~[~~Houseboats.~~]~~ No person, firm or corporation shall use or occupy, or permit the use of or occupancy of a houseboat, floating home, or boat for living quarters, either permanently or on a temporary basis, on the waters of North Miami.

C. Boathouses and boat slips. The following limitations shall apply to boathouses and boat slips accessory to residential uses in residential districts:

   1. No boathouse shall be erected or altered to exceed a height of fifteen (15) feet from grade.

   2. No boathouse, permanent covering or temporary covering over a boat slip shall be permitted within or shall cover any portion of any public waterway.

   3. No boathouse or boat slip shall exceed twenty (20) feet in width or forty (40) feet in depth. Boathouses and/or boat slips shall not occupy more than thirty-five (35) percent of the waterfront yard, provided that, where such coverage would result in exceeding the permitted total lot coverage by all buildings, it shall be reduced proportionately, except as restricted by section 5-602.

D. Minimum setbacks of structures. All mooring piles, docks, wharves, boat slips and/or similar structures shall maintain the same minimum setback from the adjacent owner's property line extended as established for the main structure permitted on the building site.

E. Mooring of boats. The following regulations shall apply to the mooring of boats within the city:

   1. In all residential districts, where boats are permitted to be moored in canals or waterways, all boats shall be moored to mooring piles, docks, boatlifts, boat davits, hoists or similar mooring structures, and at no time shall boats or vessels be moored to another boat or vessel. No boats shall be moored to floating vessel platforms, hydro-hoists or similar structures. All boats (excluding personal watercraft) on perpendicularly situated lifts shall be positioned sternway, such that the stern is closest to the property line.

   2. No boat shall be docked or anchored adjacent to residential property in such a position that causes it to extend beyond the lot line of any adjacent property, unless there is a written agreement from the adjacent property owner(s) to allow such an extension.

   3. No boat slips, docks, boat davits, hoists, mooring pilings and similar mooring structures may be constructed by any owner of any single family lot unless a principal residence exists on such lot.

4. No boat lift may be constructed by any owner of any townhouse without the express written permission of adjacent property owner(s).

5. The renting of docks, dock space, or moorings, and the rental of boats or any portion thereof, for any purpose whatsoever shall be specifically prohibited in residential districts.

~~6. In all residential districts, where boats, which were permitted prior to the adoption of these LDRs are properly permitted and allowed to be moored to mooring piles perpendicular to the property line abutting the canal or waterway, said mooring shall be considered non-conforming uses and can continue to be moored in such manner as long as the boat does not exceed the maximum waterway encroachment for that specific canal.~~

6~~7~~. Nothing in this division shall relieve any property owner from complying with any applicable federal, state or county regulations or requirements.

7~~8~~. A property owner may request a variance from the provisions of this section upon a showing that any required approval from any federal, state or county agency requires that the provisions of this section be varied.

F. Maintenance of watercraft.

1. Repair and/or maintenance of boats in residential areas shall be permitted when such repair or maintenance is routine or minor in nature and does not involve major exterior alteration, rebuilding, complete refinishing, and/or removal of engines, generators or similar equipment, or the use of tools and equipment beyond hand held power tools.

2. No boat or watercraft of any kind which is found to be of unsightly appearance or in badly deteriorated condition or which is likely to cause damage to private or public property or which may be a hazard to navigation, shall be permitted to moor or tie up at any dock or in any waterway within the city, except that such boats may moor at licensed boat yards or marinas for the purpose of repair.

G. Commercial watercraft.

1. Except as provided in subparagraph 2. below, no person shall cause or allow any commercial watercraft to be docked or moored in any public waterway in the city within any residential zoning district.

2. A commercial watercraft shall be permitted to be docked or moored in a residential zoning district, provided that:

   a. The commercial watercraft, as docked or moored, is not a hazard to navigation;

   b. The commercial watercraft is in a seaworthy and operable condition and is maintained in a state of good repair; and

   c. The commercial watercraft is actively engaged in the construction, repair or maintenance of a dock, seawall, pilings, or other structure and a valid building permit has been obtained for such work.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1287, § 1, 10-27-09; Ord. No. 1309, § 1, 10-26-10)

Sec. 5-602. - Docks.

A. Regulation. The regulation of boat docks, piers, wharves, floating vessel platforms, hydro-hoists, boatlifts, dolphins and mooring piles or piers of any nature shall be in accordance with ~~any~~ applicable Florida State, City, or Miami-Dade County laws.

B. Projection into waterways.

1. No dock, wharf or similar structure shall be constructed over or in any navigable canal or waterway, or on abutting land which extends more than six (6) feet outward from either the property line or the bank of such navigable canal or waterway, or the face of the seawall cap whichever is closest to the edge of water, or greater than fifteen (15) feet into Biscayne Bay from either the property line or the established bulkhead line, or the face of the seawall cap, whichever is closest to the edge of water.

2. The extension of mooring piles (dolphins), floating vessel platforms, hydro-hoists, boatlifts and watercraft shall be limited as follows:

   a. Waterways or canals: No more than twenty five (25) percent of the width of the waterway or canal, or a maximum of twenty-five (25) feet, whichever is less, as measured from the property line.

   b. Biscayne Bay: no more than thirty-five (35) feet from the property line.

   c. Nighttime reflectors shall be affixed to all docks and mooring piles that extend more than five (5) feet into any waterway.

C. Projection above seawall.

1. Deck. Unless otherwise approved by the community planning and development director for consideration of sea level rise, f~~F~~or residential properties adjacent to waterways, deck floors which extend past the rear lot line or seawall shall not be constructed more than twenty (20) inches above the seawall or retaining wall; the width and length of decks shall be the same as those allowed for docks in the particular district.

2. Dock or pier. Unless otherwise approved by the community planning and development director for consideration of sea level rise, n~~N~~o dock or pier shall project more than twenty (20) inches above the uppermost edge of the seawall or retaining wall onto which it is attached or to which it is adjacent.

The length of any dock or pier, measured parallel to the seawall or retaining wall, shall not encroach into the required side yard setbacks; provided, however, that a variation of up to twenty (20) percent may be administratively granted by the community planning and development department ~~building and zoning department~~ under the same standards provided by article 3, division 6.

D. Maintenance of docks, piers, boatlifts and other marine construction.

1. All docks, dolphins, finger piers, boatlifts and other marine construction shall be maintained by the owner of said property in a safe and structurally sound condition as deemed by the building official. Lack of maintenance of any marine construction shall constitute a violation of this section.
2. All docks, dolphins, finger piers, boatlifts and other marine construction which are determined by the building official to be in an unsafe condition, are hereby declared a public nuisance, required to be abated in accordance with the provisions of chapter 12 of the City Code.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1309, § 1, 10-26-10)

Sec. 5-603. - Seawalls/bulkheads.

A. All walls in existence or constructed after the effective date of this Code, immediately adjacent to a canal, river, bay or any other waterway shall constitute a seawall.

B. Newly constructed seawalls shall be constructed of materials approved by the city building official and shall be built in compliance with ~~any other~~ applicable county, state, and federal regulations.

C. All seawalls shall be maintained by the owner of said property where such seawall is abutting in a safe and structurally sound condition as determined by the building official. Lack of maintenance of any seawall shall constitute a violation of this ordinance. All seawalls which are determined by the building official to be in an unsafe condition are hereby declared a public nuisance, required to be abated in accordance with the provisions of chapter 12 of the city Code.

D. No bulkhead or retaining wall shall be built waterward of the mean high water line, as established under applicable state, county, or city laws.

E. All bulkhead, retaining wall and seawall construction shall require the city building official's approval prior to the issuance of a building permit.

F. Applicants for repair or new construction of seawalls shall be encouraged to account for sea level rise.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1309, § 1, 10-26-10)

Sec. 5-604. - Nonconforming marine structures.

A. Unless otherwise provided for, any existing marine structure that does not meet the requirements of this section shall not be added to or altered in any manner so as to increase the extent to which the structure is in violation of applicable requirements. Any existing marine structure may be repaired subject to the review and approval of the required agencies, provided that the original structure received the required permits and approvals.

(Ord. No. 1309, § 1, 10-26-10)

DIVISION 7. ~~—~~ TRANSPORTATION CONCURRENCY

Sec. 5-701. ~~—~~ Transportation concurrency exemption.

Pursuant to the comprehensive plan of the City of North Miami, all land within the municipal boundaries of the city has been designated a transportation concurrency exception area ("TCEA") in accordance with the requirements of F.S. § 163.3180(5)(~~b~~f)~~,~~ ~~and chapter 9J-5.0555(6), Florida Administrative Code,~~ in order to reduce the adverse impact that transportation concurrency may have on the urban infill development and redevelopment goals of the City of North Miami. All development within the city for which a development order is issued on or after January 14, 2004, shall be exempt from the concurrency requirements of F.S. § 163.3180~~,~~ ~~.and Rule 9J-5.0055(3)(c)1.-4., Florida Administrative Code.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-702. - Transportation demand management.

A. Applicability.

1. This division applies to new construction or substantial rehabilitation of an existing structure, authorized pursuant to a development approval after the adoption of these LDRs, provided that the new construction or substantial rehabilitation directly impacts roads classified as having a level of service E or F.
2. Prior to the issuance of a building permit, the owner/applicant shall agree, in a notarized statement of compliance, to provide and maintain in a state of good repair applicable transportation demand management and trip reduction measures.
3. In the event that an applicant for development approval demonstrates to the community planning and development department that the applicant will not only comply with the literal terms of this division but that transportation demand management and trip reduction measures will result in trip reduction of more than twenty-five (25) percent, then a reduction in required parking may be approved, up to fifteen (15) percent of the total required under the provisions of article 5, division 14.

B. Transportation demand management requirements.

The property owner of any development within the scope of subsection 5-702A.1. shall:

a. Design driveways and parking areas to accommodate the use of vans and shuttle buses;
b. Provide a bus shelter or transit/bus pickup facility if the development has frontage on any transit route unless the developer can demonstrate that a suitable facility is already available within six hundred (600) feet of the property on which the development is located;
c. Provide reserved priority employee parking spaces for qualifying multiple occupant vehicles;
d. Provide facilities for the posting of TDM program information in the location within the development, which is readily visible to employees;

e. Provide secure facilities for the storage of bicycles;

f. Designate an individual to act as the TDM program coordinator. This person will be the contact person between the development and the city and shall monitor all TDM program activities for the development, disseminate information and act as a resource of information for employees;

g. Within five (5) years of the issuance of the certificate of occupancy for development with fifty (50) or more employees, commuter van service shall be made available to all employees in the development at the expense of the employer or employee. If at the expense of the employee, the cost of such service to the employee shall be no more than the actual cost of the service.

C. Annual report. The property owner of each new development within the scope of this division shall file an annual report with the community planning and development department describing in detail the TDM program implemented for the development or existing development during the preceding calendar year. In the event that the implementation of the TDM program involves employees employed by persons other than the owner of the development or existing development, the annual report shall also include information compiled by the property owner regarding each such employer identifying the participation of such employees in the TDM program. The annual report shall be due on January 15, or the 15th day of January of each year after the third anniversary of issuance of the certificate of occupancy for the development, whichever is later, and shall include a detailed description of the TDM Program implemented during the preceding calendar year and an explanation of how the TDM Program will achieve a twenty-five (25) percent reduction in peak hour trip generation.

D. Statement of compliance with TDM program participation required.

1. Sworn statement required. The property owner of any development within the scope of this division pursuant to subsection 5-702A.1., shall within two (2) years of the issuance of a building permit, submit a sworn statement of compliance to the community planning and development department.

2. Contents of statement. The sworn, notarized statement of compliance shall describe in detail the TDM program, which has been implemented for the development, including the name, address and telephone number of any third party providers involved in the provision of TDM program services. In addition, the statement of compliance shall contain text as follows:

   COMES NOW [name of property owner, and authorized officer and title of officer of same, if officer is executing on behalf of the property owner], being duly sworn, states that [name and address of development] is in full and complete compliance with each and every requirement of article 5, division 7, sections _____ through _____ of these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 8. - DESIGN

Sec. 5-801. - ~~Residential structures~~Color selection and building materials.

A. Color selection. No person shall paint any ~~single-family, duplex or triplex~~ residential or nonresidential structure in any color other than those listed on the approved city color palette, on file with the building services ~~and zoning~~ department.~~, unless the proposed colors are approved by the building and zoning department pursuant to subsection B.~~ below~~.~~:

B. Building materials. The exterior finish material on all facades shall be primarily stucco or any creative and innovative high quality building materials. Emphasis shall be placed on utilizing recycled materials whenever possible. Building facades shall incorporate at least two different materials other than window glass. Genuine materials shall be utilized rather than simulated materials. Stone, brick, split-faced concrete block, coquina, metal, or wood may be used as a secondary material, provided that such materials comprise no more than one third of any building elevation. Use of accent materials shall be used on all facades of the building, not just the front of the building.

~~B~~C. Any person wishing to paint such ~~single-family, duplex or triplex residential~~ structure a color other than that which is authorized in subsection A. above, shall submit a proposed paint color sample to the ~~department of~~ building services department ~~and zoninge~~ for approval. In the event that the department ~~of building and zoning~~ rejects such paint color sample, the ~~home~~owner or lessee shall have the right to appeal such decision to the zoning appeals board ~~board of adjustment zoning appeals board~~ pursuant to the provisions of section 3-~~702~~701.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-802. ~~–~~ Transit oriented development design standards

A. Applicability ~~of transit oriented development design standards~~.

~~The provisions of section 5-803 shall apply throughout the city in all districts to all new development.~~ The provisions in sections 5-802 and 803~~section~~ ~~5-804~~ shall apply to nonresidential and multifamily development only along the commercial ~~major~~ corridors of the city (Biscayne Boulevard, West Dixie Highway, ~~7th,~~ 135th, ~~and~~ 125$^{th}$-123$^{rd}$ Streets, and NW 7$^{th}$ Avenue), and within the NRO, ~~and CCD~~ and shall also apply if an applicant is seeking a bonus incentive in accordance with the provisions in article 4 of these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 5-803. - Transit oriented development design standard – City-wide.~~

~~A. Minimum sidewalk standards.~~

~~1. An on-site pedestrian circulation system which connects the street to the primary entrances of the structure(s) on the site shall be provided.~~

2. Sidewalks shall be provided along the frontage of all public streets.

3. Sidewalks must be hard-surfaced and at least six (6) feet in width.

4. Sidewalks and the circulation system must be adequately illuminated to a level where the system can be used at night by employees, residents and customers.

5. Sidewalks or pedestrian ways must connect the required pedestrian system to existing pedestrian systems on adjacent properties if physically possible.

B. Minimum streetscape standards.

1. A continuous perimeter-planting strip (excluding driveways) shall be required whenever the property abuts a sidewalk. The width of the planting strip shall be at least three (3) feet or as determined by the building and zoning department at the time of the review of the site plan.

2. Sidewalks shall be located adjacent to the perimeter-planting strip. If the right-of-way width varies along the street frontage, the planting strip shall be aligned along the widest right-of-way section.

3. Sidewalks along public street right-of-ways shall abut the perimeter-planting strip, and be located on the side closest to the building to encourage pedestrian activity. The sidewalk width and locations shall be determined at the time of the review of the site plan. If not otherwise specified, then the sidewalk shall be six (6) feet in width.

4. Sidewalk easements or dedication shall be required if the sidewalk is not located within the public right-of-way.

C. On and offstreet parking.

1. Lighting shall be provided to ensure personal safety and shall be integrated into the architectural character of the development both in terms of illumination and fixtures. When use is not open, only motion activated lights for security is permitted. Lighting shall not produce glare or negatively impact offsite uses or traffic on adjacent streets.

2. Except as provided in subsection 4-401C.4. for residential office districts, no vehicle parking or garage shall be allowed in a required setback which abuts a public street, except for service entrances or loading zones restricted for deliveries and not available for use by the general public for parking purposes.

3. Shared or nonconcurrent parking may be permitted if the applicant for development approval demonstrates that adequate parking will exist in accordance with the provisions of article 5, division 14.

4. Offstreet parking areas shall only be allowed in surface lots on the side or rear of a lot, in an underground lot or in a parking structure; provided however, that parking may be allowed between a public street or pedestrian way and a building outside of the CCD if it does not obstruct pedestrian access and there are unusual site characteristics making it impossible to meet the minimum parking requirement on the side or rear of a building and no more than two (2) rows of parking are provided.

5. Retail uses shall be incorporated in the ground floor of parking structures adjacent to streets within the CCD district and major corridors in the NRO.

D. Architectural design standards.

1. No front setbacks are permitted in nonresidential districts except for the streetscape: five (5) feet of pedestrian amenities, etc. and six (6) feet sidewalk and, a public seating area or plaza is provided in front of the building.

2. New buildings shall be oriented so as to face a public street or public open space.

3. If a building has frontage on more than one (1) public street, the building need only have one (1) main entrance oriented to the public street or alternatively to the corner where the two (2) public streets intersect.

E. Bicycle standards.

1. Requirement:

a. Bicycle racks or other means of bicycle storage that can secure at least four (4) bicycles shall be required for all new parks, government facilities, schools, and nonresidential developments.

b. New multifamily developments and other uses shall provide bicycle parking in accordance with the requirements of this subsection.

2. Quantity of bicycle parking spaces required:

a. For all land uses except the ones listed under [subsection] 2.b., the following bicycle parking requirements shall apply:

| Total Parking Spaces in Lot | Required Number of Bicycle Parking Spaces |
|---|---|
| 1 to 50 | 4 |
| 51 to 100 | 8 |
| 101 to 500 | 12 |
| 501 to 1000 | 16 |
| Over 1,000 | four (4) additional spaces for each 500 parking spaces over 1,000 |

-

b. For the uses listed under this subsection the following bicycle parking requirements shall apply:

• Elementary, Middle and Senior high schools, vocational/trade schools, colleges, public, private or parochial—One hundred (100) percent of the required number of motor vehicle parking.

• Dormitories, fraternities and sororities—Fifty (50) percent of the required number of motor vehicle parking.

- Public or private transportation facilities - Twenty (20) percent of the required number of motor vehicle parking.
- Sports and recreation facilities (parks, playgrounds, bowling alleys, racquetball, tennis and similar court facilities) - Twenty (20) percent of the required number of motor vehicle parking.

3. Exemption: Single-family and duplex units are exempt from the provisions of this subsection.

4. Location and design of bicycle parking spaces: The bicycle parking spaces shall be located near the principal entrance to the building. At building and shopping centers that have multiple parking lots, the bicycle parking spaces should be installed near the entrance to the buildings served by the lots. The bicycle parking spaces should be in a highly visible, well lighted location that provides enough clear space to facilitate easy use and does not impede pedestrian traffic or handicap accessibility and is protected from the weather by being located under roof overhangs and canopies. No private bicycle parking required by this section may be placed in the public right-of-way. The design of the bicycle rack should permit the locking of the frame and at least one (1) wheel with a standard size "U" lock and accommodate the typical range of bicycle sizes. The bicycle rack must resist removal, must be solidly constructed to resist rust, corrosion and vandalism and must be properly maintained.

5. Other acceptable forms of bicycle storage: At the owner's option, bicycle parking may also be installed in the form of storage rooms, lockers or cages.

6. Signage and markings: All bicycle parking spaces shall be posted with a permanent and properly maintained above-ground sign entitled "Secured Bicycle Parking." The bottom of the sign must be at least five (5) feet above grade if attached to a building, or seven (7) feet above grade for a detached sign.

7. Reduction in number of required parking spaces: The director of community planning may authorize a reduction in the number of required bicycle parking spaces if requested by the owner/petitioner in good cause and is found to be in compliance with the below four (4) criteria. The director of community planning and development's recommendation may be appealed to the city council.

a. Evidence that there is adequate number of bicycle parking spaces within one hundred (100) feet of the development available for public use.

b. Evidence that the proposed future use of the development will generate less bicycle parking than required.

c. Evidence that the reduction of bicycle parking will not result in unauthorized use of pedestrian areas for bicycle parking.

d. Evidence that bicycle parking/storage space is available for employees and the general public within a building or structure on the development site.

8. Bicycle parking facilities. Off-street parking facilities in multi-family and nonresidential zoning districts shall include a bicycle parking area in a convenient location to encourage the use of bicycles. Required bicycle parking facilities shall be designed,

~~constructed and maintained in accordance with this ordinance and the City of North Miami Engineering Design Standards. Where not specified, both short term and long term parking facilities are permissible. Long term facilities are required at large employment centers and major transit hubs, as determined by the city.~~

~~a. "Short term bicycle parking" shall mean a stationary parking device on a concrete surface, which adequately supports the bicycle and must hold at least one hundred eighty (180) degrees of the wheel arc. The short term parking facilities approved by the city shall consist of the "Inverted-U" rack or the "post-and-ring" rack. The inverted-U rack shall be designed to park two (2) bicycles, facing in opposite directions, parallel to the rack. Racks in a parallel series need to be four (4) feet apart to provide adequate access to each bicycle. If adjacent racks are spaced less than four (4) feet apart, they shall be counted as one (1) bicycle parking space, not two (2). The inverted-U rack shall be a minimum of thirty (30) inches long. The height of the inverted-U rack shall be approximately thirty (30) to thirty-two (32) inches.~~

~~b. "Long term bicycle parking" shall mean a locker consisting of a fully enclosed lockable space accessible only to the owner/operator of the bicycle, attendant parking with a check-in system accessible only to the attendant(s), a secure, lighted, covered area, or a locked room or office inside a building. The bicycle lockers shall provide secure locking mechanisms that store bicycles with protection from the elements. Existing developments that do not have the necessary space on site to provide for secure bicycle lockers can accommodate long term bicycle parking by converting an existing easily accessible room as a bike room or locker room. Other long term bicycle parking facilities that meet the intent of this Code shall be reviewed and accepted by the city on a case-by-case basis.~~

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1290, § 1, 12-8-09; Ord. No. 1310, § 1, 11-9-10)~~

~~Sec. 5-804. - Transit-oriented design standards applicable on major corridors and applications for bonuses.~~

~~In addition to the standards in section 5-803, all development along major corridors and all applications for bonuses shall comply with the following:~~

B. Design standards

~~A~~a. Minimum sidewalk standards.

1. Sidewalks must be hard-surfaced and at least ~~ten~~ six [~~6~~10] feet in width along collector streets within single family residential neighborhoods, and ten (10) feet along commercial corridors in the city.
2. Sidewalks and the circulation system must be adequately illuminated to a level where the system can be used at night by employees, residents and customers.
3. Pedestrian scale decorative lighting fixtures no greater than fifteen (15) ~~[15]~~ feet in height shall be provided.
4. An on-site pedestrian circulation system which connects the street to the primary entrances of the structure(s) on the site shall be provided.

5. Sidewalks shall be provided along the frontage of all public streets.

6. Sidewalks or pedestrian ways must connect the required pedestrian system to existing pedestrian systems on adjacent properties if physically possible.

~~B~~b. Minimum streetscape standards.

1. Canopies, awnings, cornices and similar architectural accents are permitted on exterior building walls.

   a. Such features shall be constructed of rigid or flexible material designed to complement the streetscape of the area.

   b. Any such feature may extend from the building up to one-half (½) of the width of the setback area in front of the building or ~~nine~~ eight (~~9~~8) feet, whichever is less, and may not be closer than two (2) feet to the back of the curb. In no instance shall such features extend over, or interface with the growth or maintenance of any required tree planting.

   c. Minimum overhead clearance shall be eight (8) feet. Ground supports for these features are not permitted in the minimum setback.

   d. Arcades or colonnades shall have a minimum interior height of 15 feet with a minimum interior width of 10 feet.

2. Sidewalk easements or dedication shall be required if the sidewalk is not located within the public right-of-way.

3. Required landscaping shall consist of at least 80 percent native plants. City encourages the use of potted plants meeting the height and caliper requirements of these LDRs, which may count toward tree requirements, where the built environment does not permit planting.

C. Minimum standards for public spaces and transit stops.

1. Public spaces adjacent to a street and transit stops should be welcoming to the pedestrian with landscaping, benches, bicycle stands, public art and other attractive elements.

D. Parking. ~~structures. In areas other than the CCD district, the incorporation of retail or residential uses into parking structures is encouraged.~~

1. Lighting shall be provided to ensure personal safety and shall be integrated into the architectural character of the development both in terms of illumination and fixtures. When use is not open, only motion activated lights for security is permitted. Lighting shall not produce glare or negatively impact offsite uses or traffic on adjacent streets.

2. Except as provided in subsection 5-1404 for residential office districts, no vehicle parking or garage shall be allowed in a required setback which abuts a public street, except for service entrances or loading zones restricted for deliveries and not available for use by the general public for parking purposes.

3. Shared or nonconcurrent parking may be permitted if the applicant for development approval demonstrates that adequate parking will exist in accordance with the provisions of article 5, division 14.

4. Offstreet parking areas shall only be allowed in surface lots on the side or rear of a lot, in an underground lot or in a parking structure; provided however, that parking may be allowed between a public street or pedestrian way and a building if (a) it does not obstruct pedestrian access; (b) there are unusual site characteristics making it impossible to meet the minimum parking requirement on the side or rear of a building; and (c) no more than two (2) rows of parking are provided.

5. Retail uses shall be incorporated in the ground floor of parking structures adjacent to major corridors in the NRO.

6. The joint use of driveways and parking areas should be connected to encourage and reduce overall parking needs.

7. Parking areas are encouraged to be linked to adjacent properties by use of sidewalks, trails, and pathways

8. On-site parking between the front property line and the building is strongly discouraged. Parking is encouraged to be integrated within the building or the rear and/or side of the property.

9. Parking areas should easily connect to public transportation, if available.

10. Where pedestrian circulation paths cross vehicular circulation paths, a material change, contrasting color, or slightly raised crossing shall be used to clearly delineate the continuing pedestrian path.

11. Parking areas are encouraged to utilize angled parking stalls.

E. Architectural design.

1. ~~No front setbacks are permitted except for the streetscape:~~In order to encourage pedestrian related activity at the street level and in a manner which creates a more desirable and enjoyable pedestrian experience, setbacks shall not exceed fifteen (15) feet, as measured from the back edge of the sidewalk to the building front. Within the setback area, streetscaping shall be required, including a ~~five (5) feet of pedestrian amenities, etc. and~~ ten (10) ~~feet~~ foot wide sidewalk (existing sidewalk may be counted toward the required width), and minimum of five (5) feet of pedestrian amenities,~~aete.~~, e.g., public seating area or plaza provided in front of the building.

~~2. The space between a building and a public street shall be a minimum of fifteen (15) feet to encourage pedestrian related activity at the street level and in a manner which creates a more desirable and enjoyable pedestrian experience.~~

23. Primary ground floor building entrances shall have an entrance oriented to pedestrian oriented streets, plazas, or parks. Other entrances may be provided so long as direct pedestrian access is provided from all entrances.

~~4. The space between a building and a public street shall be a minimum of ten [10] feet to encourage pedestrian related activity at the street level and in a manner which creates a more desirable and enjoyable pedestrian experience.~~

543. At least seventy-five (75) percent of the width of any new or reconstructed first story building wall facing a public street or pedestrian way and fifty (50) percent of the ground level wall area (ten (10) feet above grade) shall be devoted to interest creating features, such as pedestrian entrances, reliefs, landscaping, transparent show or display windows or windows affording views into retail, office or lobby space.

54. All buildings shall articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade or other visual device to provide for weather protection and shade.

5. New buildings shall be oriented so as to face a public street or active public open space open to the general public.

6. If a building has frontage on more than one (1) public street, the building need only have one (1) main entrance oriented to the public street or alternatively to the corner where the two (2) public streets intersect. At the discretion of the director of community planning and development, buildings having frontage on more than two (2) public streets may have an increased setback provided that:

   a. A public open space is included;

   b. A continuous improved façade continues the length of both sides of corner in question;

   c. Integration of artwork is provided in the overall public design.

7. Private amenities, such as courtyards, that are not accessible to the public shall be located within the project site or on upper floors and not along the street.

8. Loading docks, utility equipment, and trash enclosures shall be located in areas that have the least amount of impact on residential uses and be screened utilizing landscaping and/or harmonious materials compatible with the buildings design. Dumpsters and recycling areas shall not be placed within 25 feet of a public entrance.

F. Connectivity.

1. Except as provided in this subsection, no solid free-standing walls, hedges or fences shall be allowed along a public street or sidewalk unless the solid wall, fence or hedge does not exceed four (4) feet in height.

2. Decorative walls, fences and hedges that allow visibility, such as wrought iron and split rail fences, shall be allowed throughout provided they do not exceed six (6) feet in height.

3. Allowable walls, hedges or fences shall have openings or gates operable from both sides at least every one hundred (100) feet.

G. Bicycle Standards.

1. Requirement:

a. Bicycle racks or other means of bicycle storage that can secure at least four (4) bicycles shall be required for all new parks, government facilities, schools, and nonresidential developments.

b. New multifamily developments and certain other uses as indicated in [subsection] 2.b , shall provide bicycle parking in accordance with the requirements of this subsection.

2. Quantity of bicycle parking spaces required:

a. For all land uses except the ones listed under [subsection] 2.b., the following bicycle parking requirements shall apply:

| Total Parking Spaces in Lot | Required Number of Bicycle Parking Spaces |
|---|---|
| 1 to 50 | 4 |
| 51 to 100 | 8 |
| 101 to 500 | 12 |
| 501 to 1000 | 16 |
| Over 1,000 | four (4) additional spaces for each 500 parking spaces over 1,000 |

b. For the uses listed under this subsection the following bicycle parking requirements shall apply:

i. Elementary, Middle and Senior high schools, vocational/trade schools, colleges, public, private or parochial—One hundred (100) percent of the required number of motor vehicle parking.

ii. Dormitories, fraternities and sororities—Fifty (50) percent of the required number of motor vehicle parking.

iii. Public or private transportation facilities—Twenty (20) percent of the required number of motor vehicle parking.

iv. Sports and recreation facilities (parks, playgrounds, bowling alleys, racquetball, tennis and similar court facilities)—Twenty (20) percent of the required number of motor vehicle parking.

3. Exemption: Single-family, duplex and townhouse units are exempt from the provisions of this subsection.

4. Location and design of bicycle parking spaces: The bicycle parking spaces shall be located near the principal entrance to the building. At building and shopping centers that have multiple parking lots, the bicycle parking spaces should be installed near the entrance to the buildings served by the lots. The bicycle parking spaces should be in a highly visible, well lighted location that provides enough clear space to facilitate easy use and does not impede pedestrian traffic or handicap accessibility and is protected from the weather by being located under roof overhangs and canopies. No private bicycle parking required by this section may be placed in the public right-of-way. The design of the bicycle rack should permit the locking of the frame and at least one (1) wheel with a standard size "U" lock and accommodate the typical range of bicycle sizes. The bicycle rack must resist removal, must be solidly constructed to resist rust, corrosion and vandalism and must be properly maintained.

5. Other acceptable forms of bicycle storage: At the owner's option, bicycle parking may also be installed in the form of storage rooms, lockers or cages.

6. Signage and markings: All bicycle parking spaces shall be posted with a permanent and properly maintained above-ground sign entitled "Secured Bicycle Parking." The bottom of the sign must be at least five (5) feet above grade if attached to a building, or seven (7) feet above grade for a detached sign.

7. Reduction in number of required parking spaces: The director of community planning and development may authorize a reduction in the number of required bicycle parking spaces if requested by the owner/petitioner with good cause and is found to be in compliance with the below four (4) criteria. The director of community planning and development's decision may be appealed to the–Zoning Appeals Board.

   a. Evidence that there is adequate number of bicycle parking spaces within one hundred (100) feet of the development available for public use.

   b. Evidence that the proposed future use of the development will generate less bicycle parking than required.

   c. Evidence that the reduction of bicycle parking will not result in unauthorized use of pedestrian areas for bicycle parking.

   d. Evidence that bicycle parking/storage space is available for employees and the general public within a building or structure on the development site.

8. Bicycle parking facilities. Off-street parking facilities in multi-family and nonresidential zoning districts shall include a bicycle parking area in a convenient location to encourage the use of bicycles. Required bicycle parking facilities shall be designed, constructed and maintained in accordance with this ordinance and the

City of North Miami Engineering Design Standards. Where not specified, both short term and long term parking facilities are permissible. Long term facilities are required at large employment centers and major transit hubs, as determined by the city.

a. "Short term bicycle parking" shall mean a stationary parking device on a concrete surface, which adequately supports the bicycle and must hold at least one hundred eighty (180) degrees of the wheel arc. The short term parking facilities approved by the city shall consist of the "Inverted-U" rack or the "post-and-ring" rack. The inverted-U rack shall be designed to park two (2) bicycles, facing in opposite directions, parallel to the rack. Racks in a parallel series need to be four (4) feet apart to provide adequate access to each bicycle. If adjacent racks are spaced less than four (4) feet apart, they shall be counted as one (1) bicycle parking space, not two (2). The inverted-U rack shall be a minimum of thirty (30) inches long. The height of the inverted-U rack shall be approximately thirty (30) to thirty-two (32) inches.

b. "Long term bicycle parking" shall mean a locker consisting of a fully enclosed lockable space accessible only to the owner/operator of the bicycle, attendant parking with a check-in system accessible only to the attendant(s), a secure, lighted, covered area, or a locked room or office inside a building. The bicycle lockers shall provide secure locking mechanisms that store bicycles with protection from the elements. Existing developments that do not have the necessary space on site to provide for secure bicycle lockers can accommodate long term bicycle parking by converting an existing easily accessible room as a bike room or locker room. Other long term bicycle parking facilities that meet the intent of this Code shall be reviewed and may be accepted by the city on a case-by-case basis.

H. Design excellence. In judging the design excellence of a particular design, the city shall consider the extent to which the use of at least five (5) of the following elements creates the character and diversity of excellence:

1. Cornice lines on buildings facades fronting on public streets at a height between eighteen (18) and forty-two (42) feet to define the vertical element of the streetscape.
2. Facade articulations to animate buildings and to mitigate the mass of the building.
3. Decorative building tops to give the building a visible identity and signature quality and character.
4. Arcades fronting on sidewalks along major streets.
5. Architectural windows and doors.
6. Street level grand entrance.
7. Natural materials and high quality finishes.
8. Sidewalks, plazas, lobbies of stone or pavers.
9. Balconies and loggias to break up the mass of building walls.

10. Decorative ground level lighting, including street lights.

11. Disguised parking structures with an integrated architectural scheme.

12. Integrated public art program.

13. Comprehensive sign program with integrated architectural scheme.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1290, § 1, 12-8-09)

Sec. 5-~~805~~803. - Sustainable building program.

A. Sustainable building program incentives for green buildings. For any program participant seeking program certification for new commercial or multifamily construction or commercial substantial improvement meeting the requirements of this section, the city shall provide the following incentives:

1. Fast-track review and permitting for the development review committee (DRC) and building permits (see subsection 3-202G.);
2. Reduced permitting fee, which shall equal five (5) percent of the fee required, subject to availability of funds;
3. Final project recognition by the city;
4. Press releases;
5. Featured on the city greennorthmiami website;
6. Bonuses as provided in article 4.

B. An applicant seeking a bonus under the provisions of article 4, shall submit a signed and sealed statement by an architect that the required number of criteria for the applicable ~~LEED~~ nationally certified green building rating system are satisfied. After approval of a bonus, a design phase rating shall be issued by the USGBC or other certifying entity prior to the issuance of a building permit. Upon completion of the project, the developer shall submit all documentation to the certifying entity ~~the USGBC~~ for review and final ~~LEED~~ certification.

C. Except as provided in subsection I., any new building or addition to a city-owned building shall be required to attain "silver" or higher designation under the leadership in energy and environmental design for new construction (LEED-NC or equivalent) rating system.

D. Except as provided in subsection I., substantial renovation to improve or repair to the condition of an existing city-owned building/structure:

1. Substantially improved projects, shall be required to attain a "certified" or higher designation under the LEED-NC or equivalent rating system.
2. Renovation, remodels, and other building upgrades which are not substantially improved projects are encouraged to incorporate the maximum number of LEED-or equivalent approved green building practices as are feasible from a practical and fiscal perspective, however, LEED or equivalent certification will not be required.

E. Affordable housing constructed or substantially improved by the city: All new affordable housing units constructed or substantially improved by the city are required to comply with the green residential rehabilitation standards as adopted by the city council.

F. All community redevelopment agency (CRA) owned or funded projects within the redevelopment area shall be required to attain a "silver" or higher designation under the leadership in energy and environmental design for new construction (LEED-NC or equivalent) rating system.

G. Except as provided in subsection I., substantial renovation to improve or repair the condition of an existing CRA owned or funded building/structure within the redevelopment area shall be required:

1. Substantially improved projects, shall be required to attain a "certified" or higher designation under the LEED-NC or equivalent rating system.

2. Renovation, remodels, and other building upgrades which are not substantially improved projects are encouraged to incorporate the maximum number of LEED-or equivalent approved green building practices as are feasible from a practical and fiscal perspective, however, LEED or equivalent certification will not be required.

3. Exemption from the LEED or equivalent certification standards will apply in accordance with subsection I. below.

H. Except as provided in subsection I., new commercial/noncity construction, addition or substantial improvement for commercial property shall be required:

1. To attain a "certified" or higher designation under the LEED-NC or equivalent Rating System.

2. Renovation, remodels, and other building upgrades not meeting the above criteria are encouraged to incorporate the maximum number of LEED-or equivalent approved green building practices as are feasible from a practical and fiscal perspective, however, LEED or equivalent certification will not be required.

I. Exemption:

1. The requirement for applying the appropriate LEED or equivalent standard under any of the above-referenced categories may be exempted or modified due to special circumstances of the project. Such exemption or modification shall be for the express purpose of ensuring the use of the most appropriate or relevant rating standard, and shall not, in any way, exempt the requirement to apply green building practices to the maximum extent possible. This substitution process shall be administered by and through the development review committee.

2. Guidelines for requests for exemption from the LEED or equivalent certification standards: The development review committee shall address petitions for specific exemptions and make recommendations to the applicant. The unique characteristics of a particular project shall not exempt it from applying green building practices to the maximum extent possible, and it is expected that all projects will incorporate as many LEED-or equivalent approved green building practices as are feasible from a practical and fiscal perspective. The ~~department~~ development review committee may, where it

deems appropriate, substitute an alternative rating system such as The Florida Green Building Coalition standards, the Green Building Initiative's Green Globes rating system or a nationally recognized, high performance green building rating system as approved by the community planning and development department.

J. At the minimum, the following green building principles shall be incorporated into the project:

1. Energy Star rated equipment and/-or appliances;
2. LED lighting and compact fluorescent bulbs must be used and reported to the city's community planning and development department by completing the Energy Star pledge;
3. Utilization of water re-use for irrigation; and/or rain sensors on irrigation system;
4. Utilization of plant materials for landscaping of the Florida Friendly Plant List;
5. Maximize water use efficiency in buildings to obtain reductions in water usage through the utilization of high-efficiency fixtures (water faucets, water closets, urinals, showerheads, etc.);
6. Design the building/project to maximize energy performance through compliance with the mandatory and prescriptive requirements of ASHRAE/IESNA 90.1;
7. Limit disruption of natural water flows by managing stormwater runoff through the implementation of a stormwater management plan that reduces impervious cover, promotes infiltration, and captures and treats stormwater runoff using acceptable best management practices (BMPs);
8. Reduce heat-island effect by using roofing materials having a solar reflectants index (SRI) equal to or greater than:

| Roof-type | Slope | SRI |
|---|---|---|
| Low-sloped roof | Less than or equal to 2:12 | 78 |
| Steep sloped roof | Greater than 2:12 | 29 |

For a minimum of seventy-five (75) percent of the roof surface.

9. Utilize two (2) of the following low-emitting materials:
   a. Adhesives;
   b. Sealants;
   c. Paints and coatings;
   d. Carpet;

e. Composite wood;

f. Agri-fiber products.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 9- ALCOHOLIC BEVERAGES

FOOTNOTE(S):

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**Editor's note—** Ord. No. 1251, § 1, adopted February 26, 2008, repealed the former Ch. 3, §§ 3-1—3-15, and enacted a new Ch. 3, §§ 3-1—3-18, as set out herein. The former Ch. 3 pertained to similar subject matter. See also the Code Comparative Table.

**Cross reference—** City clerk, § 2-231; buildings and building regulations, Ch. 5; finance, Ch. 7; licenses and business regulations, Ch. 11; miscellaneous offenses, Ch. 13; nuisances, Ch. 12; parks and recreation, Ch. 14; public places, Ch. 16; streets and sidewalks, Ch. 17; zoning, App. A. (Back)

**State Law reference—** Authority to locate and regulate hours of sale, F.S. §§ 562.14(1) and 562.45(2). (Back)

Sec. 5-901. - Construction of chapter.

It is intended that the provisions of this chapter shall apply solely to those beverages constituting alcoholic beverages under the laws of the state. Every violation of the laws of the state relating to the sale of alcoholic beverages is hereby specifically made a violation of this chapter, with the same force and effect as if the provisions of such laws were fully set forth herein. Notwithstanding any provision of this chapter that may appear to be contrary, this chapter shall in each instance be construed within the lawful confines of the authority of the city and shall be effective to the fullest extent authorized by the beverage law.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-902. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adult entertainment business* shall mean any premises within the city where members of the public, or any person for consideration, are offered any live or recorded performance, or any visual image tangibly fixed in any medium, which performance, image, or recording has as its primary or dominant theme subject matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, and which performance, recording, or visual image requires the exclusion of minors from the premises pursuant to F.S. Ch. 847.

*Alcoholic beverages* shall mean distilled spirits and all beverages containing one-half of one (0.5) percent or more by volume pursuant to F.S. § 561.01.

*Bar, lounge* or *tavern* shall mean any place of business where alcoholic beverages are sold or offered for sale for consumption on the premises and where the sale of food is incidental to the sale of such beverages or where no food is sold, and includes any establishment in receipt of a valid alcoholic beverage license from the state which permits the sale for consumption on the premises of alcoholic beverages as a principal use. Establishments where alcoholic beverages are permitted for consumption on the premises as an incidental or accessory use are not considered a bar.

*Beer* or *malt beverage* shall mean all brewed alcoholic beverages containing malt.

*Beverages law* shall refer to F.S. Chs. 561, 562, 563, 564, 565, 567 and 568.

*Bottle club* shall mean a commercial establishment wherein patrons consume alcoholic beverages which are brought onto the licensed premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the licensed premises. A bottle club can be a private club or a public business establishment in which the principal revenue would be derived from the sale of setups, mixers, ice and water, and charges for any entertainment provided. A bottle club does not include a civic, fraternal or veteran organization or association which only occasionally or intermittently provides facilities for on-premises consumption of alcoholic beverages by its members and their guests.

*Civic, fraternal* or *veterans organizations* or *associations* shall mean a vendor of alcoholic beverages whose character is that of a fraternal or social nature selling only to members and guests of the organization or association and which is not operated or maintained for profit.

*Consumption off the premises* or *package sales* permits only the sale of alcoholic beverages in their original sealed containers and consumption on the premises is not allowed.

*Consumption on the premises* or *COP* shall mean consumption of alcoholic beverages on the licensed premises where such beverages were purchased or the right to sell by the drink, bottle or can, alcoholic beverages for consumption only on the licensed premises.

*Convenience store* shall mean any retail business opened primarily for the sale of products other than alcoholic beverages and which may sell beer and wine in sealed containers only for consumption off the premises. Grocery stores and supermarkets are considered to be convenience stores for purposes of this chapter.

*Corporation* shall mean any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, professional association or any other public or private legal entity operated for profit or not for profit.

*Licensed premises* shall mean not only rooms where alcoholic beverages are stored, sold or dispensed by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit free passage from one (1) room or area to another over which the licensee has dominion or control.

*Licensee* shall mean a corporation, person, or persons holding an alcoholic beverage license issued by the state.

*Liquor* shall include all spirituous beverages created by distillation and the blending of distilled beverages into a mixture.

*Nightclub* shall mean a restaurant, dining room or other establishment, which operates after 11:00 p.m., where food and/or alcoholic beverages are licensed to be sold and consumed on the premises, and where music, dance, floor shows or other forms of entertainment are provided for guests and patrons with or without an admission fee.

*Package store* shall mean a vendor selling alcoholic beverages in sealed containers only for consumption off the premises.

*Park* or *recreation area* shall mean any lot, tract or parcel of land primarily devoted for the enjoyment of the public.

*Public place* shall mean streets, sidewalks, parkways, parks, playgrounds, ball fields, school buildings, school yards, and public buildings, facilities and stadiums owned or in the possession of the city, county or state, or other governmental agencies.

*Restaurant* or *cafeteria* shall mean a business holding a current city business tax receipt with a restaurant license issued by the state and which is advertised and held out to the public to be a place where food is prepared for consumption. The primary operation of the restaurant shall be the serving of food and the sale of alcoholic beverages is entirely incidental to the principal use of selling food.

*Sale* and *sell* shall mean any transfer of an alcoholic beverage with or without a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage, or the serving or dispensing of an alcoholic beverage by a licensee under the beverage law.

*State alcoholic beverage retail licenses:*

| | |
|---|---|
| 1-COP | Beer only, consumption on the premises. |
| 2-COP | Beer and wine only, consumption on the premises. |
| 4-COP | Beer, wine and liquor, consumption on the premises. |
| 4-COP-SRX | Beer, wine and liquor, consumption on the premises, restaurant license. |
| 1-APS | Beer only, consumption off the premises. |
| 2-APS | Beer and wine only, consumption off the premises. |
| 3-PS | Beer, wine and liquor, consumption off the premises. |
| 11-C | Club license to sell to members and member's guests only. |

*Wine* shall mean all alcoholic beverages made from fruits, berries, or grapes, created either by natural fermentation or by natural fermentation with brandy added, in the manner required by

the laws and regulations of the United States and further includes all vinous beverages such as sparkling wines, champagnes, vermouths and like products.

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1337, § 1, 6-26-12)

Sec. 5-903. - Licensing requirements.

A. Required. Any person in the city desiring to engage in the business of manufacturing, selling, serving, bartering or exchanging or in any way dealing in alcoholic beverages shall, before engaging in such business and in addition to the requirements of state law, obtain a business tax receipt and a certificate of use from the city.

B. Application filing and contents. Any person desiring a license required by this section shall file under oath, on forms provided by the city, a written or printed application to conduct such business at a specified location not prohibited by this chapter or any other ordinance or section of this chapter. The application shall state the following:

1. The name, mailing address, the bona fide residence of the applicant as shown on their driver's license;
2. The length of such residence;
3. The character of the business to be engaged in;
4. The kind of license the applicant desires;
5. The address of the existing building sought to be licensed;
6. The names and addresses of all persons interested directly or indirectly with the applicant in the business for which the license is being sought; plus
7. Any other information in the application as requested by the licensing section;
8. In addition, the city may require written sworn statements by the applicant acknowledging that the applicant has been made aware of and understands the city's guidelines and requirements for a license or to guarantee compliance with such regulations.
9. Each application shall contain a certificate by the applicant or by the applicant's agent, that he has read this chapter, will comply with the provisions contained in this chapter, and that the applicant agrees that if the beverage license sought is issued, it shall always be subject to all terms and provisions of this chapter and any amendments hereto.

C. Investigation. Upon an application being filed pursuant to this section, the city shall cause an investigation to be made of the location of the business to be licensed and its compliance with this chapter, as pertaining to zoning and other city ordinances including the following:

1. Review as to compliance with building, sanitary and zoning ordinances shall be made by the department or departments responsible for administration of these sections and the results of this review subsequently passed on to the city clerk's office.
2. Within thirty (30) days from filing the application as provided herein, the city ~~clerk~~ shall recommend either approval or disapproval of the application and shall endorse such recommendation on the face of the application.

3. Lack of cooperation on the part of the applicant as to the investigation of his qualifications and investigation of his application shall at be all times good and sufficient cause for disapproval thereof.

D. Authority to sign for property zoning. Under this article, the community planning and ~~zoning manager~~development department will be the only department ~~person~~ authorized to sign for the city as to the proper zoning as requested in the application to be filed with the state division of alcoholic beverages and tobacco for the corresponding state license. A request for authorization under this provision shall be accompanied by the applicable review fee.

~~A.~~E. Denial of license. A certificate of use may be denied by the zoning administrator to any person or entity, vendor or establishment offering the sale of alcoholic beverages, when the applicant, person in charge, president, principal or member of the firm or corporation has any one (1) of the following:

1. Had a previous license for any of such revoked by the city in the preceding 12 months.
2. Made misrepresentations or false statements in the application.
~~1.~~3. The establishment does not conform to the requirements of this article or any section of this chapter or city ordinance.
~~2.~~4. A request for denial has been made by the police chief for good and sufficient reasons accepted as the basis for denial by the city council.

F. Prerequisites to use of premises as exception. For the purpose of this chapter, the right to use premises for the sale of beer, wine or liquor for consumption on, or off, such premises shall be established when a building permit is issued. In cases where the use is to be established in an existing structure, such use will be considered as existing at such time as the occupancy permit for such use has been issued, provided the use has been established within the time prescribed in the permit.

G. Expansion of nonconforming use. Legally existing alcoholic beverage uses made nonconforming by reason of the regulations establishing distance restrictions between such uses, or any of them, or between any such uses and religious facilities or schools, shall not be expanded unless and until such expansion shall have been approved by the city council as a non-use variance after a public hearing. "Expansion" as used herein, shall include the enlargement of space for such use and uses incidental thereto, and the extension of a beer and wine bar to include intoxicating liquor.

H. State law. Nothing herein, however, shall be deemed an attempt to modify any prohibition or make less restrictive any requirement imposed by the laws of the state.

I. Certificate void after 30 days if premises not established. All alcoholic beverage uses must be established on the premises within 30 days of the date of the issuance of a certificate of use and occupancy; otherwise said certificate of use and occupancy shall be invalid.

J. Approval by fire department. No license shall be issued to an establishment providing entertainment unless the establishment has been approved for operation by the fire department.

Sec. 5-904. - Licensing compliance.

A. Prerequisite to issuance of license. Anything to the contrary notwithstanding, no alcoholic beverage license of any type may be used in a manner contrary to this chapter. The license as issued shall note thereon any special limitations or restrictions applicable due to the zoning on the property.

B. Prerequisite of sketch indicating location. No certificate of use or occupancy, license, building or other permit shall be issued to any person, firm or corporation for the sale of alcoholic beverages to be consumed on or off the premises where the proposed place of business does not conform to the spacing requirements as set forth in section 5-907. Applications for certificate of uses for those establishments not exempt from spacing requirements as set forth in section 5-907, shall for establishing the distance between alcoholic beverage uses, and between such uses and religious facilities or schools, shall furnish a certified sketch of survey from a registered engineer or surveyor. Such sketch shall indicate the distance between the proposed place of business and any existing alcoholic beverage establishment within 1,500 feet, and any religious facility or school within 2,500 feet. Each sketch shall indicate all such distances and routes. In event of dispute, the measurement scaled by the city shall govern.

C. Banquet halls/hall for hire/dancehall. A banquet/hall for hire or dancehall may offer packages that include food, beverages, flowers, photography, entertainment, printed invitations, and other items related to a particular event, provided that each one of those services is offered by a person or corporation who has a valid city business tax receipt and who complies with all other requirements of city, county and state law. Whenever a banquet hall operator seeks to provide the additional services directly, it will be necessary that the banquet hall operator obtain the additional licenses necessary for those particular services. A banquet hall operator shall not seek to act as a host offering activities other than leasing or renting the space or providing party packages to those leasing the premises for those purposes. Banquet hall operators or persons renting or leasing banquet halls shall not be permitted to charge an admission price to patrons.

D. Bars/lounges/taverns. A bar/lounge/tavern may be licensed as an accessory or incidental use to a restaurant, or outdoor cafe. Bars/lounges may be licensed as a principal use subject to compliance with this chapter. Bars/lounges may be licensed as an accessory use to the indoor and outdoor premises of a racetrack or casino gaming facility.

E. Food stores/grocery stores/retail drug stores, gas stations. Food store/grocery stores/retail drug stores/as stations shall be permitted to sell beer and wine providing compliance with the following:

1. The licensee holds a valid city certificate of use and business tax receipt from the city as a food store/grocery store/retail drug store, gas stations.
2. The licensee holds a valid state license for the sale of alcoholic beverages.
3. The establishment does not derive more than 15 percent of its revenue from the sale of beer and wine. The required percentage must be maintained on a daily basis.

4. The licensee shall not deflate the price of beer and wine or inflate the price of the served meal from what would be the regular price for the beer or wine sold by similar establishments in the city as a means or method of meeting the minimum required percentage of gross revenue required by this subpart.
5. Records of all purchases and gross sales of food and nonalcoholic beverages must be maintained separately from records of all purchases and gross sales of beer and wine. Upon request of the city, the licensee shall provide an independent audit by a certified public accountant indicating revenues derived from the sale of alcoholic beverages. The burden is on the licensee to demonstrate compliance with the requirements for the license, the records required to be kept shall be legible, clear, and readable.
~~1.~~6. Sale of beer and wine shall only be permitted during the normal operating hours of the establishment where all products and items are for sale. Sale of beer and wine must be made from within the enclosed premises; sales through windows, a pass-through, or drive-through shall be prohibited.

F. Golf course clubhouses and refreshment stands located on said golf course. May serve alcoholic beverages provided a bona fide regular, standard golf course is maintained and consists of at least nine holes, with clubhouse, locker rooms and related attendant facilities.

G. Nightclubs, discotheques, clubs. Any licensee approved by the city to operate as a nightclub, discotheque, or club as herein defined shall apply for and obtain a special permit to operate. Such special permit shall be paid for on or before October 1 and shall expire the succeeding October 1; provided that any licensee beginning business after October 1 may obtain a special permit, and such permit shall expire on the succeeding October 1; provided further that any person beginning such business on or after April 1 of any year may procure a special permit expiring October 1 of the same year on the payment of one-half the fee herein required for the annual special permit. Such special permit shall be posted at a conspicuous place in the place where such nightclub operates.

H. Package stores. Licensee and vendors shall only sell, offer, or expose for sale alcoholic beverages in compliance with its city certificate of use, business tax receipt and state license, and such places of business shall be devoted exclusively to such sales; provided, however, that such vendors shall be permitted to sell bitters, grenadine, nonalcoholic mixer-type beverages fruit juices, home bar, and party supplies and equipment (including but not limited to glassware and party-type foods), miniatures of no alcoholic content, and tobacco products. Such places of business shall have no openings permitting direct access to any other building or room, except to a cigar display room, or private office or storage room of the place of business from which patrons are excluded.

I. Private clubs. Shall conform to all the requirements of a private club as stated in the state beverage law and other applicable state laws, and shall not allow signs of any type that indicate alcoholic beverages are served to be exhibited or displayed or allow any other indications that can be seen by the general public from the exterior of the clubhouse, building or structure. Before a certificate of use and occupancy to serve alcoholic beverages will be issued, the applicant must submit necessary data to prove that it is eligible for the use

and complies with the state beverage law or other applicable state laws; provided, anything to the contrary notwithstanding, these requirements must be complied with.

J. Compliance for restaurants, coffee shop/sandwich shop/cafeteria/outdoor cafe. A restaurant, cafeteria, coffee shop/sandwich shop, cafeteria, or outdoor cafe, as defined herein, may only serve alcoholic beverages upon compliance with the following conditions:

1. The sale of alcoholic beverages must be incidental to the sale and consumption of food. The establishment must derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. The required percentage must be maintained on a daily basis.
2. The licensee shall not deflate the price of alcoholic beverages or inflate the price of the served meal from what would be the regular price for the alcoholic beverages, or meal served by a similar establishment in the city as a means or method of meeting the minimum required percentage of gross revenue required by this subpart.
3. Records of all purchases and gross sales of food and nonalcoholic beverages must be maintained separately from records of all purchases and gross sales of beer and wine. Upon request of the city, the licensee shall provide an independent audit by a certified public accountant indicating revenues derived from the sale of alcoholic beverages. The burden is on the licensee to demonstrate compliance with the requirements for the license, the records required to be kept shall be legible, clear, and readable.
4. The licensee must serve full-course meals prepared, served and sold daily for immediate consumption on the premises at any time when open for business, from a kitchen or facility inspected and approved regularly and as required by all state departments for compliance with regulations. Full kitchen facilities shall mean facilities containing commercial grade burners, ovens, range hoods and refrigeration units of such size and capacity to accommodate the seating of the restaurant. Meals prepared off the premises, snacks, prepackaged foods or sandwiches will not be considered full-course meals for purposes of this section.
~~1.~~5. The licensee must provide written menus readily available to patrons. A majority of the food listed in the menu shall be available for consumption while the business is open.

K. Sport facilities, tennis clubs, racquetball clubs, and fitness clubs. There shall be no signs of any type exhibited or displayed or other indications that can be seen by the general public from the exterior of the clubhouse, building or structure that alcoholic beverages are served.

L. Compliance for places providing music and entertainment. Unless otherwise exempted, a music and entertainment license is required pursuant to sections 5-911(a) and 5-912.

Sec. 5-905. - Reserved.

**Editor's note—**

Ord. No. 1337, § 1, adopted June 26, 2012, repealed the former section 3-3 in its entirety, which pertained to alcoholic beverages in adult entertainment establishment business prohibited, and derived from Ord. No. 1251, § 1, adopted February 26, 2008.

Sec. 5-906. - Bottle clubs prohibited.

No bottle clubs will be licensed or authorized to do business within the city and they are prohibited.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-907. - Location of premises.

A. Distance from other establishments. Unless approved as a variance, no premises shall be used for the sale of any alcoholic beverages, as defined herein, to be consumed on or off the premises where the structure or place of business intended for such use is located less than 1,500 feet from a place of business having an existing, un-abandoned, legally established (and not one of the uses excepted from the spacing requirements hereinafter provided) alcoholic beverage use which permits consumption on or off the premises. The 1,500 feet distance requirements shall be measured by following a straight line from the nearest portion of the structure of the place of business.

B. Distance from religious facility or school. Unless approved as a variance, no premises shall be used for the sale of alcoholic beverages to be consumed on or off the premises where the structure or place of business intended for such use is located less than 2,500 feet from a religious facility or school. The 2,500-foot distance requirement shall be measured and computed as follows: From a religious facility or school, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the religious facility grounds or school grounds.

C. Distance from public parks and recreational areas and residential zoned property. Unless approved as a variance, no premises shall be used for the sale of alcoholic beverages to be consumed on or off the premises where the structure or place of business intended for such use that is located less than 500 feet from a public park or residentially zoned property. The 500-foot distance requirement shall be measured and computed as follows: From a public park or residentially zoned property, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the parks or residentially zoned property.

D. Exceptions to spacing and distance requirements. The restrictions and spacing requirements set forth in subsections (a) through (c) of this section shall not apply to the following:

1. Restaurants, bar/lounges accessory to restaurants.
2. Caterers.
3. Food stores/grocery stores/retail drug stores. With sale of beer and wine only as a grocery item for consumption off the premises.
4. Golf course clubhouses and refreshment stands located on said golf course.
5. Hotels and motels, which contain 100 or more guest rooms.

6. Private clubs.
7. Sport facilities, tennis clubs, racquetball clubs, and fitness clubs.
8. Bars/lounges/nightclubs/discotheques/clubs approved as accessory to a racetrack or casino gaming facility.
9. Wholesaler, distributors, manufacturers of alcoholic products.

Sec. 5-908. - Generalized table of sale of alcoholic beverage regulations.

| Type of Establishment | Spacing From Other Uses (Feet) | Spacing From Religious Establish-ment (Feet) | Spacing From Schools (Feet) | Spacing From Parks and Residential (Feet) | Required License |
|---|---|---|---|---|---|
| Banquet hall or dancehall for hire | N/A | N/A | N/A | N/A | 2-COP or 4-COP |
| Bar, lounge, tavern | 1,500 | 2,500 | 2,500 | 1,500 | 2-COP or 4-COP |
| Accessory bar/lounge to restaurant | N/A | N/A | N/A | N/A | 2-COP or 4-COP-SRX |
| Bar/lounge/nightclub/discotheque/club accessory to racetrack or casino gaming facility | 1,500 | 2,500 | 2,500 | 1,500 | 2-COP or 4-COP-SRX |
| Caterer | 1,500 | 2,500 | 2,500 | 1,500 | 2-COP or 4-COP-SRX or 4-COP |
| Coffee shop/ sandwich shop Cafeteria Outdoor Café | N/A | N/A | N/A | N/A | 2-COP or 4-COP-SRX |
| Food stores/ grocery stores/retail drug stores | N/A | N/A | N/A | N/A | 1-APS or 2-APS |
| Nightclub, Discotheque, Club | 1,500 | 2,500 | 2,500 | 1,500 | 4-COP or 4-COP-SRX |
| Package store | 1,500 | 2,500 | 2,500 | 1,500 | 3-PS |
| Restaurant | N/A | N/A | N/A | N/A | 2-COP or 4-COP-SRX |
| Sport facilities, tennis clubs, racquetball clubs, fitness clubs, golf course clubhouses and refreshment stands | N/A | N/A | N/A | N/A | 2-COP or 11-C |

Sec. 5-909. - Distance requirements.

A. Unless a variance is obtained from the board of adjustment, no alcoholic beverage application or business tax receipt shall be approved when the place of business designated in the application does not satisfy the following distance separation requirements of alcoholic beverage establishments from schools, houses of worship, city parks and recreational areas, residential uses and similar uses:

B. The distance limitations provided in this section for similar uses shall not apply to motels and hotels of not less than fifty (50) guestrooms which do not have any entrance from the street to the bar or room primarily devoted to the serving of alcoholic beverages and which do not exhibit any sign or display on the outside denoting that alcoholic beverages are sold or obtainable therein.

C. The distance limitations provided in this section shall not apply to existing licensees and shall not be construed to prevent the renewal of a state alcoholic beverage license.

D. The distance limitations provided in this section shall not apply to a licensee who had procured the beverage license prior to the establishment of a school, a house of worship, a city park or recreational area, or a residential use.

E. The distances provided for in this section shall be measured in a straight line without regard to intervening structures or objects, from the nearest property line of the applicant's premises for which a state beverage license is sought to the nearest point of the lot, tract or parcel of land in use by an established house of worship, school, park or recreational area or other similarly licensed premises. ~~[Note: 5-907, a-c, measures distance from structures].~~

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1337, § 1, 6-26-12)

~~(See Licensing Requirements) (See Licensing Compliance)~~

Sec. 5-~~2310~~910 . - Nightclubs soundproofing required.

Nightclubs shall be soundproofed and their windows, doors and other openings kept closed in order that the noises therefrom may not disturb the peace and quiet of the surrounding neighborhood.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-911 . - License required for music and entertainment.

A. Any vendor licensed to sell alcoholic beverages for consumption on the premises may provide music and entertainment for patrons upon approval of the ~~board of adjustment and final approval of the city council~~city manager or designee, and by paying the city clerk a special regulatory license fee. Any licensee who provides music and entertainment without first obtaining the approval and paying the regulatory license fee is committing a violation subject to a code enforcement ticket or citation pursuant to chapter 2 of this Code and is subject to denial of the issuance of a license for a minimum of six (6) months from the date of the violation.

B. Any vendor providing only one (1) musician or one (1) coin-operated machine and where no dancing or other forms of entertainment are provided for, shall not be required to obtain a music and entertainment license.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-912 . - Standards for providing music and entertainment license.

In reviewing an application for the provision of music and entertainment, the ~~board of adjustment and city council~~city manager or designee shall determine whether the applicant meets the following standards:

1. The granting of a music and entertainment license will not substantially injure or detract from the use of surrounding properties or from the character of the neighborhood;
2. There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion;
3. Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic; and
4. Noise caused by the establishment shall be kept at such a level so as to conform with this Code.
5. Whether or not there is adequate security provided by the establishment.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-913 . - Hours during which sales are allowed; consumption.

A. It shall be unlawful for any person to purchase and for any licensee and any manager, agent or employee of any licensee to sell, serve or distribute in any form or by any method any alcoholic beverage between the hours of 1:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; and between the hours of 2:00 a.m. and 7:00 a.m. on Saturday and Sunday.

B. It shall be unlawful for any person to consume and for any licensee and any manager, agent or employee of any licensee to permit a person to consume any alcoholic beverage, in any place of business between the hours of 1:30 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; and between the hours of 2:30 a.m. and 7:00 a.m. on Saturday and Sunday.

C. The provisions of subsections (a) and (b) of this section shall apply to any licensee under the state beverage law and to any premises licensed under such law. The city council may extend the above hours of sale for alcoholic beverages for consumption on or off the premises on special occasions by resolution.

D. No alcoholic beverages shall be sold in restaurants or cafeterias after the hours of serving food.

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1374, § 1, 6-24-14)

Sec. 5-914 . - Licensee moving to new location.

A licensee may move the licensed place of business and operate at a new location upon making application for such change of location to the city clerk and upon such application being approved as to zoning, distance and other city requirements. The transfer procedure will be the same as outlined in sections 3-5 and 3-6. Approval of the new location must be obtained prior to manufacturing, distributing or selling alcoholic beverages at the new business location.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-915 . - Change of beverage license series.

When a current alcoholic beverage licensee in the city applies to the state for a change of series, the zoning administrator is authorized to sign the certificate of zoning if the location is properly zoned for the operation applied for and all other city requirements, including the distance requirement are met.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-916 . - Variances.

Variances ~~relating to the provisions of section [3-10] (~~ to the hours during which sales are allowed~~)~~ and to ~~section [3-11] (~~the distance requirements~~)~~ as set forth in this division may be granted upon application to the board of adjustment, pursuant to ~~section 29-25~~ the provisions of the applicable sections of these LDRs~~this Code~~.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-917 . - Consumption restricted.

A. Consuming alcoholic beverages in public places or in places solely licensed to sell alcoholic beverages for consumption off the premises is unlawful and prohibited. However, this prohibition shall not be construed to prohibit the sale of alcoholic beverages by a duly licensed concessionaire for individual events in public places, such as in public parks, at public functions, or on the premises of a municipal sports stadium located in the city, in accordance with applicable regulations governing such activities.

B. It shall be unlawful for any person to sell or serve any alcoholic beverage for consumption on the premises except within a building on such licensed premises or at tables on a patio on the licensed premises, or a licensed sidewalk cafe.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-918 . - Moonshine; ownership, possession, or control prohibited; penalties; seizure of apparatus.

A. Any person who owns or has in their possession or under their control less than one (1) gallon of liquor which was not made or manufactured in accordance with the laws in effect at the time shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

B. Any person who owns or has in their possession or under their control one (1) gallon or more of liquor which was not made or manufactured in accordance with the laws in effect at

the time shall be guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083 or 775.084.

C. Any vehicle, vessel, or aircraft used in the transportation or removal of, or for the deposit or concealment of any illicit liquor still or stilling apparatus, or any mash, wort, wash, or other fermented liquids capable of being distilled or manufactured into an alcoholic beverage, commonly known and referred to as moonshine whiskey, where seized by a city police officer within the city, shall be forfeited, as provided for by the Florida Contraband Forfeiture Act.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-919 . - Enforcement.

Unless otherwise provided, the provisions of this ~~chapter~~division may be enforced by:

A. Code ~~enforcement~~compliance violations pursuant to chapter 2 of the North Miami Code of Ordinances~~this Code~~; and/or

B. A suit brought by the city in a court of competent jurisdiction for declaratory, injunctive or other appropriate relief.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-920 . - Regulations to be supplemental to county and state laws.

The regulations contained within this chapter shall be deemed supplemental and additional to all county and state laws or regulations dealing with alcoholic beverages. All county and state laws and regulations shall have full force and effect within the corporate limits of the city.

(Ord. No. 1251, § 1, 2-26-08)

~~DIVISION 9. - FENCES, WALLS, AND OTHER SIMILAR STRUCTURES~~

~~Sec. 5-901. - Construction, maintenance and use.~~

~~A. No fence or wall may be erected, constructed, installed or maintained with barbed wire, spikes and/or spears, broken glass, electrical elements, exposed sharp projections, or other hazardous materials, except as provided in section 5-903.~~

~~B. All fences and walls shall be constructed in compliance with the Florida Building Code.~~

~~C. No fence or wall may be constructed of materials which will be hazardous to the health, safety or welfare of persons or animals.~~

~~D. All masonry walls shall be constructed and maintained with a finish of stucco and paint on all external portions and all such inside portions as are observable from rights-of-way or from abutting property.~~

~~E. No fence, wall or other similar structure may be constructed within an identified and duly recorded easement unless the property owner has:~~

1. Obtained a written, notarized release from all public agencies or utility entities having rights to the easement; or

2. Obtained a written, notarized release from all private interests and parties having rights to the easement; and

3. Submitted a notarized letter to the city's attention and acknowledging that should access or improvements to infrastructure be necessary on the property, the property owner will assume all responsibilities for costs incurred to obtain access to the easement area (which may include removal of the fence, wall or other similar structures) and the property owner shall be responsible for the full restoration of the area - all at property owner's sole cost. Such letter shall hold harmless the city, its officials and agents, as well as all other officials or agents of governmental agencies and public utilities, or any private party interest having a right of access to such easement.

F. All temporary construction fences used at construction or development sites, may, at the discretion of the community planning and development manager, be exempt from the height, opacity and landscaping provisions of this section of LDRs, provided that they do not obstruct the vision of motor vehicle operations, in accordance with the sight triangle in section 5-904 or create other hazards to public safety.

G. Maintenance. All fences, walls and hedges shall be maintained in a safe, nonhazardous condition and in good appearance. Walls and fences, unless of natural materials or galvanized, shall be properly painted.

H. No fence or wall in any zoning district may be used to store or hang items such as, but not limited to: laundry, towels, sheets, rags, clothing or similar items. Fences and walls shall be solely for the demarcation and separation of properties for privacy and use purposes.

(Ord. No. 1386, § 1, 6-23-15)

**Editor's note** — Ord. No. 1386, § 1, adopted June 23, 2015, amended section 5-901 in its entirety to read as herein set out. Formerly, section 5-901 pertained to general standards for residential and nonresidential districts, and derived from Ord. No. 1278, § 1(Exh. 1), adopted April 28, 2009.

Sec. 5-902. - General standards for nonresidential and residential districts.

A. Fences or walls in nonresidential districts shall be subject to the following minimum requirements:

1. Screening adjacent to residential property. A six (6) feet high masonry wall shall be required on all nonresidential property that has a side or rear lot line abutting or separated by a public right-of-way from residentially zoned property. The wall shall be subject to the vision clearance requirements set forth in section 5-904.

2. Outdoor storage. All permitted outdoor commercial or industrial storage shall be visually screened from public view by an opaque fence or wall six (6) feet in height. In no case shall the items stored project above the fence or wall.

3. All fences and walls in nonresidential districts shall be harmonious in color, type and material with adjacent architecture and lots. The community planning and development manager _may approve the installation of a fence with the "wrong side" (post side) facing the adjacent or affected properties if the applicant obtains notarized approval letters from all adjacent or affected property owners.

4. Wood and chain link fences in commercial districts. All fence posts shall face the property upon which the fence is erected. All chain link fences shall be installed with the knuckled side up and shall be plastic coated. All straps, for chain link fences, shall be consistent in color with the color of the principal structure and be maintained in good condition and not weathered, cracked or faded.

B. Nonresidential districts maximum height.

1. In all commercial districts (except for industrial), no fence or wall shall exceed six (6) feet in height.

2. In all industrial districts:

a. No fence, wall or hedge shall exceed eight (8) feet in height.

b. All salvage, junk and storage (vehicle, RV, boat trailers and items of this nature) operations shall be visually screened from the public view by an eight-foot high fence or wall which shall be of masonry construction and shall be without openings, except entrance and exit. Such gates shall be of an opaque material providing screening of interior properties' content from public view.

C. Fences or walls in residential districts shall be subject to the following minimum requirements:

1. Opaque fences or walls. Completely opaque fences or walls exceeding three (3) feet in height shall be prohibited in the required front yard setback. Opaque fences or walls shall be allowed in the required backyard, side yard, or side street setback not exceeding six (6) feet in height and subject to the vision clearance requirements set forth in section 5-904.

2. Side yard and rear yard setbacks. No fence or wall shall exceed six (6) feet in height within the required side and rear yards setbacks.

3. Front yard setbacks. In all single-family residential districts, no fence or wall shall exceed five (5) feet in height within the required front yard; provided however, that decorative arches for gates and driveway gates may extend twelve (12) inches above the approved fence and post exteriors are permitted six (6) inches above the approved fence.

4. No chain link except in backyard.

5. Any fence must be of a decorative design.

6. In all multifamily residential districts (excluding townhouse developments) no fence or wall shall exceed six (6) feet in height within the required front yard.

D. Measurement. All height measurements for determination of compliance with this section shall be made from the finished grade of the lot. No fence or wall may be placed on any

portion of an earthen mound or berm unless the height of the fence or wall is cumulatively not higher than the allowable height in the zoning district from the finished grade of the lot.

(Ord. No. 1386, § 1, 6-23-15)

**Editor's note** — Ord. No. 1386, § 1, adopted June 23, 2015, amended section 5-902 in its entirety to read as herein set out. Formerly, section 5-902 pertained to maximum height, and derived from Ord. No. 1278, § 1(Exh. 1), adopted April 28, 2009.

Sec. 5-903. - Barbed wire.

A. General.

1. A one-foot high nonelectrical barbed wire extension may be allowed in addition to the maximum allowable height as a special exception in the M-1, industrial district.
2. The installation of security wire other than linear-strung barbed wire is prohibited.
3. No barbed wire or other form of security wire shall be permitted in any yard abutting a residential use or street abutting a residential use.
4. If installed, the barbed wire shall be maintained as originally installed.

B. Standards.

1. The merchandise or items to be protected are of such a nature that other means of secured storage are not feasible.
2. No other practical alternatives exist.
3. The incidence and type of crime (if any) indicates the use of security wire may be a reasonable safety measure.
4. The area to be enclosed by the barbed wire is reasonable in terms of the total property area.
5. The proposed method of installation will not result in encroachment upon adjacent property or right-of-way.
6. The distance of the barbed wire from ground level is sufficient for the protection of passersby.

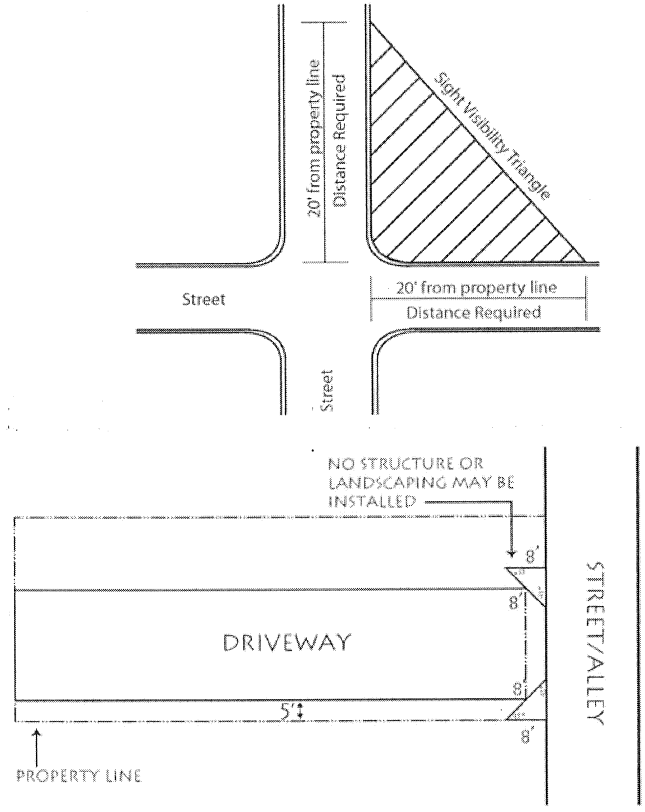
(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-904. - Sight visibility triangle.

A. To minimize traffic hazards at street or driveway intersections, no structure or landscaping may be installed which will obstruct views at a level between thirty (30) inches above grade and seven (7) feet above grade within the sight distance triangle described in the following figure.

B. In order to minimize hazards at intersections of driveways with streets and/or alleys, no landscaping or structure may be installed which will obstruct views at a level between thirty

~~(30) inches above grade and seven (7) feet above grade within the sight distance triangle described in the following figure.~~




(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 10. - GUN SHOPS

Sec. 5-1001. - General requirements.

A. No person shall install, maintain, keep, or utilize any sign advertising firearms or ammunition which sign is visible from the outside, for any multipurpose business dealing in firearms and dealing in other items, not directly related to firearms, to such an extent that the primary business at the premises is for such other items rather than firearms.

B. No firearm sales will be made thereon between the hours of 9:00 p.m. and 7:00 a.m. of the next day.

C. No person shall engage in the operation of a pawnshop or conduct a pawnshop business at the premises of a gun shop.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1002. - Location.

Gun shops shall be allowed only in an authorized zoning district, subject to the following restrictions:

A. No such gun shop shall be located within two thousand (2,000) feet of an existing similar type of business use. The term "similar type of business" shall include both shops dealing solely in firearms as well as multipurpose businesses dealing in firearms and other items. The two-thousand-foot distance shall be measured in a straight line, without regard to intervening structures, from the nearest property line of the gun shop to the nearest property line of an existing similar type business.

B. No such gun shop shall be located within two thousand (2,000) feet of any previously existing child care center, public park, place of public assemblage, school, ~~church~~ religious establishment or hospital. Said distance shall be measured in the same manner as subsection A. of this section.

C. Businesses lawfully engaged in the sale of firearms in any of the city's commercial districts, and existing as of June 25, 1985, shall enjoy grandfathered status and shall constitute a legal nonconforming use, but shall be subject to the limitation upon hours of operation provided by this division.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 11. - HOME OCCUPATIONS

Sec. 5-1101. ~~—~~ Purpose, ~~and~~ authorization, and requirements.

A. ~~[~~Purpose.~~]~~ The purpose of this section is to allow the conduct of certain limited home occupations in residential districts. All home occupations shall conform with all requirements and stipulations of this section prior to the issuance of a business tax receipt and certificate of use by the city.

B. Authorization. Any home occupation which may be conducted entirely within the interior premises of a dwelling unit and which home occupation otherwise complies with all mandatory provisions of this section shall be authorized.

C. Requirements

1. Certificate of use issued by the City for the dwelling unit.

2. Business Tax Receipt. A business tax receipt issued for home occupation use in a residential district by the city shall be clearly marked "special" and shall contain a provision to the effect that such a receipt is revocable upon violation of any of the provisions of this division. The applicant shall further sign a sworn statement attesting to intention of strictly complying with all the provisions regulating home occupations and stating that he/she has completely read and understands such provisions.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1102. - Prohibited home occupations.

Home occupations shall not at any time be deemed to include:

A. Barbershops and beauty parlors;

B. Dancing schools or other special and technical schools;

C. Funeral homes;

D. Nursery schools and day care centers not including family day care;

E. Restaurants;

F. Stables, kennels or animal hospitals;

G. Medical or dental offices and clinics of any kind; or

H. Motor vehicle or boat repair and/or service~~;~~.

~~I. A business tax receipt issued for home occupation use in a residential district by the city shall be clearly marked "special" and shall contain a provision to the effect that such a receipt is revocable upon violation of any of the provisions of this division. The applicant shall further sign a sworn statement attesting to intention of strictly complying with all the provisions regulating home occupations and stating that he/she has completely read and understands such provisions.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1103. - Use limitations.

In addition to any additional restrictions which may be applicable to the residential districts where the home occupation is being conducted, no home occupation shall be permitted unless it complies with the following provisions:

A. No materials of any sort such as equipment, tools, stock, work product, or commercial vehicles related to the home occupation shall be kept, used, displayed or be visible at any time outside of the dwelling unit where the home occupation is being conducted.

B. No more than one (1) individual in addition to members of the family residing on the premises shall be engaged in such occupation.

C. The use may not increase vehicular traffic, including parking, at the site by more than two (2) vehicles.

D. Signs shall not be posted on or about the premises of the building where the home occupation is conducted, with the purpose of advertising the business or giving the residential address as a business address. Further, the services provided by the home occupation shall not be advertised by way of newspaper, leaflets, fliers, mail, radio, television or any other form of advertisement in any manner which may tend to invite, attract or draw persons to the home location. The service provider shall not use such advertisement as a mechanism to establish further contact by which the person attracted by the advertisement is invited to the home location in connection with the provision of such services.

E. Under no circumstances shall the exterior of the unit be altered or the occupation within the unit be conducted in such a way which may cause deterioration of the neighborhood (i.e., exterior displays of lighting, signs, posters, objects or advertising).

F. No services rendered nor any product fabricated shall be prominently and commercially displayed on the premises of the dwelling unit in which the home occupation is conducted.

G. The home occupation shall not be permitted to create a hazard or nuisance to the residents of the surrounding area.

H. No odors or noises, directly resultant from the conduct of the home occupation shall be permitted to emanate from the dwelling unit.

I. Except as provided in subsections B. and J. of this section, no client of the home occupation may be permitted at the site.

J. No teacher, ~~or~~ tutor or babysitter shall gather more than five (5) ~~two (2)~~ students at any one (1) time in the conduct of the home occupation.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 12. -MINIMUM LANDSCAPING AND ~~SCREENING~~ BUFFERING REQUIREMENTS

Sec. 5-1201. - ~~Purpose.~~ In general.

A. Purpose and intent. The purpose this division is to establish minimum standards for the design, installation, and maintenance of landscaped areas that require the use of appropriate vegetation and to promote the preservation of native plant communities on site. The City recognizes the significant benefits of establishing and protecting appropriate vegetation and, therefore, the necessity of maximizing the use of appropriate vegetation in all public and private landscaped areas within the City. It is the policy of the city council to encourage lush landscape and buffering and maximum greenery, and to preserve and maintain natural vegetative communities, and maintain and conserve all natural and conservation areas within the city as identified in the city's comprehensive plan. Moreover, it is the intent of this division that these minimum landscaping and buffering standards be incorporated in order to promote public health, safety, and welfare by:

1. Protecting and promoting appropriate vegetation;
2. Promoting wildlife habitat, maintaining the natural character of neighborhoods, preserving the natural diversity of species, and recognizing the numerous beneficial effects of native trees and sound landscaping practices;
3. Recognizing that trees and landscaping assist in reducing flooding from stormwater runoff, increase aquifer recharge, provide shade for residents and businesses, and reduce heat and noise pollution;
4. Requiring sound landscaping practices, minimizing the loss of native trees and vegetation, and establishing a robust and uniform natural landscape in the city;
5. Promoting Florida Friendly landscaping principles through the use of drought-tolerant plant species, the grouping of plant material by water requirements, and the use of irrigation systems that conserve water, in addition to restricting the amount of lawn area, promoting appropriate plant choice and placement, and appropriate plant fertilization and mulching;
6. Using landscape material, particularly street trees to visually define the hierarchy of roadways, and providing shade and a visual edge along city roadways.
7. Preventing the destruction of the community's existing tree canopy and promoting its expansion;
8. Providing for the preservation of existing natural forest communities and specimen-sized trees in conformance with Section 24-60 of the Miami-Dade County Code of Ordinances as may be amended from time to time;
9. Re-establishing native habitat where appropriate, and encourage the appropriate use of native plant material in the landscape;
10. Promoting the use of trees and shrubs for energy conservation by encouraging cooling through the provision of shade and channeling of breeze;
11. Contributing to the processes of air movement, air purification, oxygen regeneration, groundwater recharge, and stormwater runoff retention, while aiding in the abatement of

noise, glare, heat, air pollution and dust generated by major roadways and intense use areas;

12. Improving the aesthetic appearance of commercial, industrial, and residential development through the use of appropriate landscaping, thereby protecting and increasing property values within the community, and protecting designated historic landscapes;
13. Reducing the negative impacts of exotic pest plant species and prohibiting the use of noxious exotic plants, which may be harmful to native plant communities;
14. Promoting the use of trees to protect structures from the effects of high winds; and
15. Promoting the concept of planting the right tree or plant in the right place in order to avoid problems such as clogged sewers, cracked sidewalks, and power service interruptions.

~~The purpose of this division is to preserve the existing natural environment and provide landscape improvements on private properties and rights-of-way in order to encourage amenities and screening that promotes a positive urban image, enhancement of property values, strengthening of the historic fabric, promotion of orderly growth, and overall enhanced aesthetic quality in the city.~~

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

B. Applicability; and compliance of nonconforming developments. The landscaping and buffering requirements of this division shall apply to all new development and redevelopment where the associated cost exceeds fifty (50) percent of the total improvement value or results in a fifty (50) percent or more increase in total building square footage, as well as to any expansion of an existing parking lot within the city. Existing developments that become nonconforming at the effective date of adoption of these LDRs shall be subject to compliance as follows:

1. Existing development that becomes nonconforming as of the effective date of the adoption of these LDRs or amendments thereto may maintain legally nonconforming status for a period of five (5) years, at which time all landscaping and buffering requirements not in compliance with this division shall be a violation of this division, with the exception of the following:

   i. Existing developments that become nonconforming as of the effective date of adoption of the adoption of or amendments to these LDRs, which, due to physical site limitations or other physical hardships, cannot otherwise comply with the adopted regulations may be found to be in compliance, upon a determination of legal conformity for landscaping and buffering requirements by the community planning and development department.

   ii. Developments that have obtained a vested rights determination.

iii. Single-family residences, duplex residences, and townhouse residences that were built and obtained a certificate of occupancy prior to the effective date of adoption of or amendment to these LDRs.

2. Existing developments that become nonconforming as of the effective date of adoption of or amendment to these LDRs shall submit plans to the city for landscape plan and buffering approval within five (5) years.

~~Sec. 5-1202. - Applicability.~~

C. Additional regulating documents.~~A. Miami-Dade County Code applicability.~~ The minimum landscape requirements for the City of North Miami are governed by all requirements within the following ~~Miami-Dade County Codes~~regulating documents, as may be amended from time to time:

1. Chapter 18A, Landscaping Ordinance of the Miami-Dade County Code of Ordinances;

2. Chapter 24, Environmental Protection Ordinance of the Miami-Dade County Code of Ordinances; ~~and~~

3. The Miami-Dade County Landscape Manual;~~.~~

4. The Miami-Dade Street Tree Master Plan;

5. The Noxious Weed and Invasive Plant List, State of Florida Department of Agriculture and Consumer Services (FLA. Admin. Code r. 5B-57.007);

6. The North Miami Street Tree Management Plan;

7. American National Standards Institute A-300 Tree Care Standards Manual ("ANSI A-300 Standards");

8. Florida Yards and Neighborhoods Handbook titled "A Guide to Florida Friendly Landscaping" by the University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS)

9. The Florida-Friendly Landscaping List , UF/IFAS Extension;

10. The University of Florida's Low-Maintenance Landscape Plants for South Florida;

11. Grades & Standards for Nursery Plants 2015, State of Florida, Department of Agriculture;

12. Florida Power and Light Publication Right Tree, Right Place;

13. Builder's Manual, State of Florida Department of Agriculture; and

14. A Flora of Tropical Florida by Long and Lakela.

~~The provisions in this division are supplemental to and generally more restrictive than Miami-Dade County Code provisions. As provided for in the Miami-Dade County Code provisions, if these provisions are not enforced by the city, Miami-Dade County may enforce the same. Should~~

~~a conflict arise between these provisions and Miami-Dade County provisions, the most restrictive shall apply~~.

~~B. Applicability thresholds. Except for single-family, these provisions shall be a minimum standard and shall apply to all development within the city when a building permit is required for the following:~~

~~1. New construction; or~~

~~2. Redevelopment, if either of the following thresholds are exceeded:~~

~~a. The proposed redevelopment cost exceeds fifty (50) percent of the total improvement value; or~~

~~b. Results in a fifty (50) percent or more increase in building square footage; or~~

~~3. Where a permit is required for expansion of an existing parking lot.~~

~~4. Single-family development shall comply with the provisions of section 5-1204.~~

~~C. [Applications.] All applications for development approval that are required to comply with the provisions of this division shall be accompanied by a landscape plan in accordance with administrative regulation.~~

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

Sec. 5-1203. - General standards.

The following standards shall be considered minimum requirements unless otherwise indicated:

A. Installation. All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures with the quality of plant materials as hereinafter described. All elements of landscaping shall be installed so as to meet all other applicable ordinances and code requirements. Landscaped areas shall require protection from vehicular encroachment.

B. Maintenance. All landscaping shall be permanently maintained in good condition with at least the same quality and quantity of landscaping as initially approved so as to present a healthy, neat and orderly appearance; and shall be provided with adequate irrigation within fifty (50) feet for the maintenance of grass, shrubs, ground covering and other landscaping by utilizing an irrigation system which complies with the following standards: Dead trees shall be replaced immediately with similar, minimum sized trees.

1. Use of nontreated water for irrigation is encouraged if a permanent suitable supply is available.

2. Required landscaping shall be irrigated with a permanent irrigation system unless 100% of required plants are native species and survive after one (1) year of installation. If plants die before one (1) year, then dead plants must be replaced with the same or similar native species at a one (1) to one (1) ratio.

3. Temporary irrigation may be used to establish native grasses and vegetation.

4. Separate landscape water meters shall be installed for all regulated landscapes.

5. All automatic lawn sprinkler systems shall be equipped with an automatic rain shut-off device. Any person who purchases and installs an automatic lawn sprinkler system must install, operate, and maintain a rain sensor device or automatic switch to override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.

C. Plant standards.

1. Type. Landscape materials shall be selected from and follow the guiding principles of the Florida Friendly Landscaping Plant Selection Guide on file with the community planning and development department ~~building and zoning department~~ with due regard to drought-tolerant species, including:

   a. Well-planned planting schemes;

   b. Use of mulch to maintain soil moisture and reduce evaporation;

   c. Zoning of plant materials according to their microclimatic needs and water requirements;

   d. Improvement of the soil with organic matter if needed;

   e. Efficient irrigation systems; and

   f. Proper maintenance and irrigation schedules.

2. Quality. Plant materials used in conformance with provisions of this division shall conform to the Standards for Florida No. 1 or better as given in "Grades & Standards for Nursery Plants" Part I, 1973 and Part II, State of Florida, Department of Agriculture, Tallahassee, or equal thereto. Grass sod shall be clean and reasonably free of weeds and noxious pests or diseases. Grass seed shall be delivered to the job site in bags with Florida Department of Agriculture tags attached indicating the seed growers compliance with the department's quality control program.

D. Lawn area (turf) standards. Grass areas shall be planted in species well adopted to localized growing conditions in Miami-Dade County. Grass areas may be sodded, plugged, sprigged, hydromulched, or seeded except that solid sod shall be used in swales or other areas subject to erosion. In areas where other than solid sod or grass seed is used, overseeding shall be sown for immediate effect and protection until coverage is otherwise achieved.

E. Irrigation.

1. All newly-planted and relocated plant material shall be watered by temporary or permanent irrigation systems until such time as they are established and subsequently on as-needed basis to prevent stress and die-off in compliance with existing water use restrictions.

   a. Irrigation shall be prohibited within native plant communities and natural forest communities, except for temporary systems needed to establish newly planted material. Temporary irrigation systems shall be disconnected immediately after establishment of plant communities.

b. Irrigation systems shall be designed, operated and maintained to:

i. Meet the needs of all the plants in the landscape.

ii. Conserve water by allowing differential operation schedules based on hydrozone.

iii. Consider soil, slope and other site characteristics in order to minimize water waste, including overspray or overflow on to impervious surfaces and other non-vegetated areas, and off-site runoff.

iv. Minimize free flow conditions in case of damage or other mechanical failure.

v. Use low trajectory spray heads, and/or low volume water distributing or application devices.

vi. Maximize uniformity, considering factors such as:

a) Emitters types,

b) Head spacing,

c) Sprinkler pattern, and

d) Water pressure at the emitter.

vii. Use the lowest quality water feasible (graywater shall be used where approved systems are available).

viii. Use the lowest quality water feasible (graywater shall be used where approved systems are available).

c. Rain switches or other devices, such as soil moisture sensors, shall be used with automatic controls.

d. Where feasible, drip irrigation or micro-sprinklers shall be used.

2. During dry periods, irrigation application rates of between one (1) and one and one-half (1½) inches per week are recommended for turf areas.

3. If an irrigation system is not provided, a hose bib shall be provided within seventy-five (75) feet of any landscape area.

F. Trees.

1. Tree size. All trees, except street trees, shall be a minimum of ten (12) feet high and have a minimum caliper of two (2) inches at time of planting except that thirty (30) percent of the tree requirement may be met by native species with a minimum height of eight (10) feet and a minimum caliper of one and one-half (1½) inches at time of planting.

2. Street tree size and spacing. Street trees shall be of a species typically grown in Miami-Dade County which normally mature to a height of at least twenty (20) feet. Street trees shall have a clear trunk of four (4) feet, an overall height of twelve (12) feet and a minimum caliper of two (2) inches at time of planting, and shall be provided along all roadways at a maximum average spacing of thirty-five (35) feet on center, except as otherwise provided in this chapter. Street trees are not required when a colonnade open to the public is located within four (4) feet of the edge of the roadway. The thirty-five (35) foot average spacing requirement for multiple single family units such as zero-lot-line and townhouse shall be based on the total lineal footage of roadway for the entire project and not based on individual lot widths. Street trees shall be placed within the swale area or shall be placed on private property where demonstrated to be necessary due to right-of-way obstructions as determined by the Public Works Department or the appropriate authority within the municipality. Street trees planted along private roadways shall be placed within seven (7) feet of the edge of roadway pavement and/or where present within seven (7) feet of the sidewalk.

3. Power lines. Where the height and location of overhead powerlines requires the planting of low growing trees, street trees shall have a minimum height of eight (8) feet, a minimum caliper of one and one-half (1½) inches at time of planting, and shall meet the following requirements:

    a. Single trunk trees clear of lateral branches to four (4) feet and/or multitrunk trees or tree/shrubs, as referenced in the Landscape Manual, cleared of foliage to a height of four (4) feet.

    b. A maximum average spacing of twenty-five (25) feet on center.

    c. Maturing to a height and spread not encroaching within five (5) feet of overhead power distribution lines.

    d. Under high voltage (50kV and above) transmission lines installed independent of underbuilt distribution lines, tree height and spread shall not exceed the minimum approach distances specified in the current ANSI (American National Standards Institute) Z133.1 Standards, as referenced in the Landscape Manual.

    e. Palms. Palms which meet all of the following requirements shall count as a required street tree on the basis of one (1) palm per tree.

    f. Minimum canopy of fifteen (15) feet at maturity.

    g. Provided at an average maximum spacing of twenty-five (25) feet on center.

    h. Fourteen-foot minimum overall height or minimum caliper of four (4) inches at time of planting.

    i. It is provided however that queen palms (Syagrus romanzoffiana) shall not be allowed as street trees.

4. Minimum number of required trees. Within the City of North Miami, the minimum number of required trees, in addition to street trees, is referenced in the following table:

| Development Type | Acres | Lot | Number of Trees |
|---|---|---|---|
| Commercial | Per Acre | | 28 |
| Multi-Family Residential | Per Acre | | 28 |
| Industrial | Per Acre | | 22 |
| Townhouse | Per Acre | | 28 |
| Single Family | | Per Lot | 3 |

5. Grassed areas that are to be used for organized sports such as football and soccer or other similar sports or playgrounds, that are clearly identified on a landscape plan shall not be counted toward calculating tree requirements.

6. Trees shall be planted to provide shade to residential structures of a height of thirty-five (35) feet or less. At least two (2) required lot trees shall be positioned in the energy conservation zone as defined herein. All exterior air conditioning units, except for air conditioning units placed on the roof, shall be shaded by trees and/or shrubs as referenced in the Landscape Manual.

7. Palms of a ten-foot minimum overall height or minimum caliper of three (3) inches at time of planting shall count as a required tree on the basis of three (3) palms-per tree, except as provided herein for palms used as of street trees. No more than thirty (30) percent of the minimum tree requirements may be met by palms.

8. Existing trees required by law to be preserved on site and that meet the requirements of this division, may be counted toward fulfilling the minimum tree requirements.

9. Prohibited and controlled tree species shall not be counted toward fulfilling minimum tree requirements. Prohibited trees shall be removed from the site.

10. Of the required trees at least:

    a. Thirty (30) percent shall be native species; and

    b. Fifty (50) percent shall be low maintenance and drought tolerant; and

    c. No more than thirty (30) percent shall be palms.

    d. Eighty (80) percent of the trees shall be listed in any of the above-mentioned regulating documents.

    e. In order to prevent adverse environmental impacts to existing native plant communities, cabbage palms (Sabal palmetto) that are harvested from the wild shall not be used to satisfy minimum landscaping requirements.

    f. Only existing cabbage palms, which are rescued from government approved donor sites, transplanted within the site, or commercially grown from seed shall be counted towards the minimum tree and native plant requirements.

g. Consideration shall be given to the selection of trees, plants and planting site to avoid serious problems such as clogged sewers, cracked sidewalks, and power service interruptions.

G. Shrubs.

1. All shrubs shall be a minimum of eighteen (18) inches in height when measured immediately after planting. Shrubs shall be provided at ratio of ten (10) per required tree. Of the provided shrubs at least:

a. Thirty (30) percent shall be native species; and \

b. Fifty (50) percent shall be low maintenance and drought tolerant; and

c. Eighty (80) percent shall be listed in the Miami-Dade Landscape Manual, the North Miami Street Tree Management Plan and/or the University of Florida's Low-Maintenance Landscape Plants for South Florida list.

2. When used as a visual screen, buffer, or hedge, shrubs shall be planted at a maximum average spacing of thirty (30) inches on center or if planted at a minimum height of thirty-six (36) inches, shall have a maximum average spacing of forty-eight (48) inches on center and shall be maintained so as to form a continuous, unbroken and solid visual screen within one (1) year after time of planting. Shrubs used as a buffer, visual screen, or hedge need not be of the same species.

H. Vines. Vines shall be a minimum of twelve (12) inches in length immediately after planting and may be used in conjunction with fences, screens, or walls to meet physical barrier requirements as specified. Planting of perimeter walls with vines is recommended as a deterrent to painting of graffiti.

I. Ground covers. Ground cover plants used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one (1) year after planting.

J. Mulch.

1. Mulches shall be applied and maintained in accordance with the most recent edition of the Florida Yards and Neighborhoods Handbook titled “A Guide to Florida Friendly Landscaping” by the University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS).

2. Cypress mulch shall not be used because its harvest degrades cypress wetlands.

K. Buffers between dissimilar land uses. Where dissimilar land uses exist on adjacent properties, and where such areas will not be entirely visually screened by an intervening building or structure from abutting property, that portion of such area not so screened shall be provided with a buffer consisting of a six (6) foot wall or fence with a life expectancy of at least ten (10) years, or shrubs which normally grow to a minimum height of six (6) feet. Where chain link fencing is used, shrubs shall also be required. Shrubs used as a buffer shall be a minimum of thirty (30) inches in height at time of planting, and shall be planted at a maximum average spacing of thirty-six (36) inches on center, or a minimum of thirty-six (36) inches in height at time of planting and planted at a maximum average spacing of forty-eight (48) inches on center. Said buffer shall form a continuous screen between the dissimilar land

uses within one (1) year after planting. Buffers screening dissimilar uses shall include trees planted at a maximum average spacing of thirty-five (35) feet on center within a minimum five (5) foot landscaped strip.

L. Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting and/or three (3) foot high wall with a seven (7) foot landscaped strip incorporating said planting and/or wall on private property. Planting material at time of planting shall be either a minimum height of eighteen (18) inches with a maximum average spacing of thirty (30) inches on center, or a minimum height of thirty-six (36) inches with a maximum average spacing of forty-eight (48) inches on center.

M. Landscaped areas in parking lots. Ten (10) square feet of landscaped area per parking space shall be provided within a parking lot. In order to maximize the distribution of shade, trees shall be planted throughout the interior of the parking lot at a minimum density of one (1) tree per eighty (80) square feet of landscaped area, exclusive of parking lot buffers. Planting areas for each tree shall have a minimum width of five (5) feet, exclusive of the curb dimension, and shall be planted or covered with other landscape materials.

N. Plant quality.

1. Plants installed pursuant to this Code shall conform to, or exceed, the minimum standards for Florida Number One as provided in the most current edition of "Grades and Standards for Nursery Plants, Part I and II," prepared by the State of Florida Department of Agriculture and Consumer Services.

2. Trees installed pursuant to this Code shall have one (1) primary vertical trunk and secondary branches free of included bark up to a height of six (6) feet above natural grade.

O. Stormwater retention/detention areas.

1. Stormwater retention/detention areas shall be designed to maximize the perimeter dimension, where feasible.

2. Stormwater retention/detention areas shall be planted throughout with native herbaceous facultative plants, with the following exceptions:

   a. In areas that are designated and actively used for play and/or picnic areas, overflow parking, or sports shall be planted with grasses which are very drought tolerant, as referenced in the Landscape Manual, as well as tolerant to wet soils.

   b. In areas where the minimum required stormwater retention capacity would be adversely affected.

3. The minimum required number of native herbaceous facultative plants shall be one (1) plant per square foot of retention/ detention area, including the slope. Minimum required herbaceous plant container size shall be one and one-half (1½) inches, commonly, referred to as a liner. Sprigging, seeding, plugging, hydro-mulching or sodding with native herbaceous facultative plants grown from local seed sources may be used in lieu of liners. Herbaceous plants shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one (1) year after planting.

4. Native facultative trees or shrubs may be used in lieu of native herbaceous facultative plants, provided that the minimum required stormwater retention capacity is not adversely affected.

P. Generalized table of minimum landscape and buffering requirements. The following table shall be used as general interpretation of the required minimum landscape and buffering standards for the underlying zoning district that all development shall comply with.

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| Minimum Landscape and Buffering Standards Generalized Table | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Zoning district/ landscape requirement | R-1<br>R-2 | R-4<br>R-5<br>R-6 | C-1 | C-2BE<br>C-2BW | C-3 | M-1 | PU | RO | BZ | PD | AOD | NRO | PCD | PCUD |
| Shade trees | Min. 3 per lot | 28 per net acre | 22 per net acre | 22 per net acre | 22 per net acre | 15 per net acre | 28 per net acre | 28 per net acre | 28 per net acre | * | * | * | * | * |
| Shade trees—off street parking areas | N/A | N/A | 1 per req. landscape island | 1 per req. landscape island | 1 per req. landscape island | 1 per req. landscape island | 1 per req. landscape island | 1 per req. landscape island | 1 per req. landscape island | * | * | * | * | * |
| Street trees | 1 per 30′ lot frontage | 1 per 30′ lot frontage | 1 per 30′ lot frontage | 1 per 30′ lot frontage | 1 per 30′ lot frontage | 1 per 30′ lot frontage | 1 per 30′ lot frontage | 1 per 30′ lot frontage | 1 per 30′ lot frontage | * | * | * | * | * |
| Shrubs/Hedging | Min. 10 per req. shade tree | 10 per req. tree per req. shade tree | 10 per req. tree | 10 per req. tree | 10 per req. tree | 10 per req. tree | 10 per req. tree | 10 per req. tree | 10 per req. tree | * | * | * | * | * |

| Zoning district/ landscape requirement | R-1<br>R-2 | R-4<br>R-5<br>R-6 | C-1 | C-2BE<br>C-2BW | C-3 | M-1 | PU | RO | BZ | PD | AOD | NRO | PCD | PCUD |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Knee wall, off-street parking areas | N/A | N/A | 30” | 30” | 30” | 30” | 30” | 30” | 30” | * | * | * | * | * |
| Sod, lawn area, ground cover | Min. 50% | Min. 50% | Required | Required | Required | Required | Required | required | Required | * | * | * | * | * |
| Landscaped open space | N/A | Min 20% | Min. 20% | Min. 20% | Min. 20% | Min. 25% | | | | * | * | * | * | * |
| Landscape buffers—front yard/ROW | N/A | N/A | Min. 5′ | Min. 5′ | Min. 5’ | Min. 5′ | Min. 5′ | Min. 5′ | Min. 5′ | * | * | * | * | * |
| Landscape buffers—side yard | N/A | N/A | Min. 5′ | Min. 5′ | Min. 5’ | Min. 5′ | Min. 5′ | Min. 5′ | Min. 5′ | * | * | * | * | * |

| Landscape buffers—rear yard | N/A | N/A | Min. 5′ | Min. 5′ | Min. 5’ | Min. 5′ | Min. 5′ | Min. 5′ | Min. 5′ | * | * | * | * | * |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Zoning district/ landscape requirement | R-1<br>R-2 | R-4<br>R-5<br>R-6 | C-1 | C-2BE<br>C-2BW | C-3 | M-1 | PU | RO | BZ | PD | AOD | NRO | PCD | PCUD |
| Landscape buffers—off-street parking areas | N/A | N/A | Min. 5′ | Min. 5′ | Min. 5’ | Min. 5′ | Min. 5′ | Min. 5′ | Min. 5′ | * | * | * | * | * |
| Landscape islands—off-street parking areas | N/A | N/A | 1 per every 10 req. parking spaces | 1 per every 10 req. parking spaces | 1 per every 0—10 req. parking spaces* | 1 per every 10 req. parking spaces | 1 per every 10 req. parking spaces | 1 per every 10 req. parking spaces | 1 per every 10 req. parking spaces | * | * | * | * | * |
| Fence, wall, hedge heights—maximum | 6’ rear, 5’ front, 30” hedge (front) | 6’ rear, 5’ front, 30” hedge (front) | Max. 6′; hedges 8′ | Max. 8′; hedges 8′ | Max. 8′; hedges 8' | Max. 8'; hedges 8′ | Max. 8′; hedges 8′ | Max. 8′; hedges 8′ | Max. 8′; hedges 8′ | * | * | * | * | * |

| | | |
|---|---|---|
| * denotes reference to the underlying Zoning District. | | |
| ** denotes additional requirements are applicable as set forth in article _____ | | |
| *** denotes exceptions in the _____ | | |

Sec. 5-1204. - Extra standards, exceptions, prohibitions.

The generalized table of landscape and buffering requirements are subject to extra requirements and subject to certain exceptions. All landscaping and buffering shall be in compliance with the following standards:

A. Shade trees. All developments shall provide the required number of shade trees in compliance with the following standards:

1. All trees, shall be a minimum of 12 feet high and have a minimum caliper of three inches at time of planting and four feet of clear trunk;

   a. Thirty (30) percent shall be native species;

   b. Fifty (50) percent shall be low maintenance and drought tolerant; and

   c. No more than thirty (30) percent of required shade trees shall be palms, where every three palms shall equal one required shade tree;

   d. Minimum species diversity standards. When more than ten (10) trees are required to be planted in accordance with the provisions of this division, a diversity of species shall be required. The number of species to be planted shall be based on the overall number of trees required. The applicant shall be required to meet the following minimum diversity standards, except that applicant shall not be required to plant in excess of six species:

| Minimum Diversity Standards | |
|---|---|
| Required Number of Trees | Minimum Number Species |
| 11—20 | 3 |
| 21—50 | 4 |
| 51 or more | 8 |

e. Eighty (80) percent of the trees used shall be as otherwise listed in the applicable regulating documents listed in this division.

i. Residential shade trees. Trees shall be planted to as to provide shade to residential structures that are of a height of thirty-five (35) feet or less. At least two required shade trees shall be positioned in the energy conservation zone as defined herein this chapter. All exterior air conditioning units, except for air conditioning units placed on the roof, shall be shaded by trees and/or shrubs as referenced in the applicable regulating documenst listed in this division.

ii. Shade trees, off-street parking areas. A minimum of one (1) shade tree shall be provided per required landscape island in parking lots. The provision of shade trees in off-street parking areas shall count towards the required number of shade trees, otherwise required.

iii. Shade trees, grassed areas. Grassed areas that are to be used for organized sports such as football and soccer or other similar sports or playgrounds, that are clearly identified on a landscape plan shall not be counted as part of the net lot area for the purpose of calculating tree requirements.

B. Street tree requirements.

1. Height, spacing and species. Street trees shall be of a species as listed in the Landscape manual and which normally mature at a height of at least twenty (20) feet. Street trees shall have a clear trunk of four feet, an overall height of fourteen (14) feet and a minimum caliper of three (3) inches at time of planting, and shall be provided along all roadways at a maximum average spacing of twenty-five (25) feet on center, except as otherwise provided in these tree regulations. The 25-foot average spacing requirement for multiple single-family units such as zero-lot-line and townhouse units shall be based on the total linear footage of roadway for the entire project and not based on individual lot widths. Street trees shall be planted no further apart than 60-foot intervals and no closer than eighteen (18) feet apart depending on the species.

2. Location. Street trees shall be installed on private property within seven (7) feet of the property line. Street trees planted along private roadways shall be placed within seven (7) feet of the edge of roadway pavement or, where present, within seven feet of the sidewalk. Appropriate types of street trees shall be in compliance as listed in the city's adopted Street Tree Management Plan.

3. Maintenance of street ~~streets~~trees. When trees are planted within the right-of-way, the owners of land adjacent to the areas where street trees are planted must maintain those areas including the trees, plants and sod, using pruning methods specified in this chapter. Where the city determines that the planting of trees and other landscape material is not appropriate in the public right-of-way, they may require that said trees and landscape material be placed on private property.

4. Exceptions.

a. Power lines. Where the height and location of overhead power lines require the planting of low growing trees, street trees shall have a minimum height of eight

feet, a minimum caliper of two inches at time of planting with a maximum average spacing of twenty-five (25) feet on center.

b. Street lights. No street trees shall be located closer than 12 feet from street lights, no palms may be closer than seven (7) feet.

c. Electric, utility lines. The spacing of trees from electric utility lines must follow those guidelines established by Florida Power and Light Publication Right Tree, Right Place.

C. Shrubs, hedging. A continuous, extensively planted greenbelt of shrubs and hedging shall be provided along all property lines abutting a public rights-of-way in accordance the following minimum standards, except as otherwise permitted in this division. All shrubs shall be a minimum of eighteen (18) inches in height when measured immediately after planting. Shrubs shall be provided at ratio of ten (10) per required tree and shall include a minimum of:

1. Thirty (30) percent shall be native species;

2. Fifty (50) percent shall be low maintenance and drought tolerant; and

3. Eighty (80) percent shall be as otherwise listed in the applicable regulating documents listed in this division.

4. When used as a visual screen, buffer, or hedge, shrubs shall be planted at a maximum average spacing of thirty (30) inches on center, or, if planted at a minimum height of 36 inches, shall have a maximum average spacing of forty-eight (48) inches on center, and shall be maintained so as to form a continuous, unbroken and solid visual screen within one (1) year after time of planting, except penetrated only at approved points for ingress or egress to the property. Shrubs used as a buffer, visual screen, or hedge need not be of the same species;

5. The height of any hedge shall not exceed eight (8) feet in height;

6. Hedges may be placed on the property lines; however, this regulation shall not be construed to permit such hedges to extend beyond the official right-of-way lines or property lines.

D. Bioswales. The following standards shall be considered minimum requirements unless otherwise indicated:

1. In general.

a. A bioswale is a conventional ditch or swale, modified and planted with deep rooted native and Florida Friendly plants that increase water percolation and pollutant remocal as stormwater flows through it. Bioswales shall be composed of a combination of low growing plants that can survive wet and dry conditions over extended periods of time.

b. Bio-swales shall be designed to maximize the perimeter dimension, where feasible;

c. Bio-swales shall be planted throughout with native herbaceous facultative plants, with the following exceptions:

d. In areas that are actively used for play, overflow parking, or sports shall be planted with grasses which are very drought tolerant as well as tolerant to wet soils

e. The minimum required number of native herbaceous facultative plants shall be one (1) plant per square foot of retention/detention area, including the slope. Minimum required herbaceous plant container size shall be one and one-half (1 ½) inches, commonly referred to as a liner. Sprigging, seeding, plugging, hydro-mulching or sodding with native herbaceous facultative plants grown from local seed sources may be used in lieu of liners. Herbaceous plants shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one (1) year after planting.

f. Native facultative trees or shrubs may be used in lieu of native herbaceous facultative plants, provided that the minimum required stormwater retention capacity is not adversely affected.

2. Swale Composition. Swale shall mean a natural or manmade trench that:

a. Has a top width-to-depth ratio of the cross section equal to or greater than 6:1, or side slopes equal to or greater than four (4) feet horizontal to one (1) foot vertical; and

b. Contains contiguous areas of standing or flowing water only following a rainfall event; and

c. Is planted with or has stabilized vegetation suitable for soil stabilization, surface water treatment, and nutrient uptake; and

d. Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any Stormwater as defined in chapter 24 of the Miami-Dade County Water Quality Standards.

e. Swale shall be mulched at all times and shall have a 12" minimum sad boarder around the bioswale area to create a boarder for the swale.

f. Vegetation in the swale shall not exceed over 30" inches in overall height above the driveway elevation.

g. Wet detention shall mean water storage with the bottom elevation lower than one (1) foot below the control elevation of the system.

~~a.~~3. Design Considerations: Bioswales must be functional, maintainable and attractive to ensure long-term success.While similar in design, bioswales are more linear than bioretention areas or rain gardens, and are designed for conveyance. Only shallow slopes are effective. Steep slopes result in rapid travel and less filtration. Check for or consider installing dams that may enhance pollutant removal.They are primarily used for small sites and may not be effective on larger sites. Choosing the proper landscaping is critical to the performance of a bioswale: Select native vegetation with deep root structures. Select species that withstand the frequent and substantial water flow. Plants that can tolerate both wet and dry conditions may work best. Consider the flow path to maximize conveyance. Bioswales may be more linear or curvaceous, depending on site

characteristics. Design the planting layout to allow for easy access and to facilitate periodic removal of sediments without significant disruption or removal of plant materials. A lack of consideration for these details can lead to failed plantings and site flooding.

4. Standard of Maintenance.
   a. Swale areas will be considered maintained if all of the following requirements are met:
      i. Areas must be kept free from any accumulation of debris, litter, decayed vegetable matter, filth, rubbish, trash, discarded building materials, glass, or any other materials which are dangerous to the public health, safety and welfare;
      ii. Areas must not be allowed to become overgrown with untended vegetation.
   b. Sodding of the swale area shall be permitted. All such sodded areas shall be kept in good condition. The paving of any swale shall be prohibited.
   c. The placement of swings or similar apparatus on trees located in the swale area shall be prohibited.
   d. Owner shall only permit parking of motor vehicles in swale area if it does not damage the sod or paved material on the swale.
   e. Swale areas, which are not maintained in accordance with the provisions set forth in this section are hereby declared to be nuisances; detrimental and dangerous to the public health, safety and welfare. Any violation of this section may be subject to landscape mitigation and/or penalties.

5. Plans required. Any person wanting to install a bioswale either on their property or on an adjacent public right-of-way shall apply for a landscape permit, for which no fee shall be required, with the community planning and development department. The permit application shall be accompanied by a site plan and a cut section drawn to scale no smaller than one (1) inch equals sixteen (16) feet indicating size, location, composition, drainage and plant type installed in the swale. Said permit shall be reviewed by both the city's public works department and community planning and development department for engineering and plant types, respectively.

E. Prohibitions.

1. Prohibited plant species. Prohibited species shall not be planted and shall be removed from any site which is subject to the requirements of this division .
2. Controlled plant species. Controlled species shall not be planted within five hundred (500) feet of a Natural Forest Community or native habitats as defined herein.
3. West Indian Mahogany. West Indian Mahogany, Swietenia mahagoni, shall not be planted within five hundred (500) feet of a rockland hammock or pine rockland.

4. Tree abuse. Tree abuse is prohibited. Abused trees shall not be counted toward fulfilling the minimum tree requirements.

Sec. 5-1205. - Landscape plans and permit required.

Prior to the issuance of a building permit, a landscape plan shall be submitted to and approved by the community planning and development department, except for installation of landscape and related improvements in rights-of-way by the city.

A. Permit application. The applicant must file an application for a landscape permit to the planning and development department in a form approved by the department containing all the information necessary which may include, but not be limited to, the following.

B. Landscape plan required. The landscape plan shall be drawn to a scale not less than one (1) inch: thirthy (30) feet, including dimensions, areas and distances, and clearly delineate the existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways, coverage of required irrigation systems, water outlet locations and the location and size of buildings. The plan shall also designate, by name, size and location, the plant material to be installed, or if existing, to be used in accordance with the requirements hereof. No permit shall be issued for such building unless such landscape plan complies with the provisions herein. Only the design professional whose seal is affixed to the landscape plan or his designee may make minor modifications to the landscape plans. In R-1, R-2 districts only, a landscape plan is not required, but shall be in the form of a plot plan or drawing that may be prepared by the owner or the owner's representative showing required landscaping detail, including quantity, size and location. A landscape permit is required for all landscape installations including new single-family homes that are not part of a planned community. No trees or other plant material may be planted in public rights-of-way (swale areas) without a landscape permit from the city.

C. Vegetation survey. A vegetation survey shall be provided for all sites at the same scale as the landscape plan. The vegetation survey shall provide the following information.

D. Location and graphic representation. The accurate location and graphic representation by size DBH, canopy, and type of tree, in relation to existing development of all existing trees of a minimum two inches DBH or ten feet in height or, for native trees, of a minimum 1½ inches DBH or eight feet in height, including those which are proposed to be removed, relocated or preserved on-site in accordance with the requirements of landscape regulations. The boundaries of any native habitat, native plant community, native plant species, and/or natural forest community and associated understory that exists on site, as determined by the planning and zoning administrative official.

E. Table. A table showing the following information:

1. The scientific and common name of each tree, each of which shall be numbered;
2. The diameter at breast height (DBH) of each tree, or if a multiple trunk tree, the sum DBH for all;
3. Estimated height, canopy cover, and physical condition of each tree, and whether specimen trees exist on-site;

4. Common areas within residential zoning districts, such as amenity centers, project entrances, and miscellaneous open spaces including but not limited to tot lots and recreation areas, shall have a minimum of one tree and 20 shrubs for each 2,000 square feet of site area or portion thereof, and shall not utilized for structures or vehicular use areas; and

5. Common areas within a private community;

6. All ground-mounted mechanical equipment, storage areas, walls, fences, and common trash receptacles shall be screened from view using trees, shrubs, and/or hedges in addition to the common area requirement noted above.

F. Irrigation plan required. An irrigation plan shall be submitted in conjunction with a landscape plan and shall shall be subject to the following standards:

1. For a new one-family or duplex dwelling the irrigation plan may be indicated on a plot plan or a separate drawing prepared by the owner or the owner's agent indicating area(s) to be irrigated, location and specifications of lines and heads and pump specifications.

2. All other development other than those provided in a subsection (a) above shall:

a. Be drawn on a base plan at the same scale as landscape plan(s);

b. Delineate landscape areas, major landscape features, and hydrozones;

c. Delineate existing and proposed structures, parking areas or other vehicular use areas, access aisles, sidewalks, driveways, the location of utilities and easements, and similar features;

d. Include water source, design operating pressure and flow rate per zone, total volume required for typical depths of application, and application rate;

e. Include locations of pipes, controllers, valves, sprinklers, back flow prevention devices, rain switches or soil moisture sensors, and electrical supply.

f. Irrigation details.

G. Drip line encroachment plan. This plan shall be presented as part of the tree permit and shall be required for all trees whose drip line is planned to be encroached upon by any construction, excavation, fill or other activities associated with the development of the site. It shall include:

1. Designation of each tree subject to any drip line encroachment;
2. The reasons for the encroachment;
3. Detailed description of the proposed efforts to protect the tree from damage due to the encroachment; and
4. A plan to ensure its survivability as described in the Builder's Manual of Department of Agriculture.

H. Consideration of credits for existing plant material. In instances where healthy plant material exists on a site, and is to be retained, the administrative official or his designee may adjust the application of the minimum requirements to allow credit for or consideration of such plant material, if such an adjustment is in keeping with and will preserve the intent of this

chapter. When allowances are given, in no case shall the quantities of existing plant materials retained to be less than the quantities required in this chapter. In such cases, the applicant shall provide a survey specifying the species, approximate height and caliper, as well as the location and condition of any plant material used as a basis for requesting this adjustment. Any adjustment shall be based on unique circumstances applicable to the plot in question with the object of such adjustment being to preserve existing vegetation or to maintain a tree canopy.

I. Landscape plan review criteria. Landscape plans shall be reviewed in accordance with the following criteria:

1. Compliance with division. Compliance with all applicable regulations set forth in this division. Landscape design.

2. Landscape design shall enhance architectural features, relate structure design to the site, visually screen dissimilar uses and unsightly views, reduce noise impacts from major roadways and incompatible uses, strengthen important vistas and reinforce neighboring site design and architecture.

3. Preservation requirement. Existing specimen trees and native vegetation (including canopy, understory, and ground cover) shall be preserved to the maximum extent possible and to all applicable requirements of these landscape regulations.

4. Water conservation. In order to conserve water, reduce maintenance, and promote plant health, plant species shall be selected and installed based on their water needs, growth rate and size, and resource needs. Plants with similar needs shall be grouped in hydrozones. Adequate growth area based on natural mature shape and size shall be provided for all plant materials.

5. Use of native plant species. The plan shall include use of native plant species in order to reestablish an aesthetic regional quality and take advantage of the unique diversity and adaptability of native species to the environmental conditions of South Florida. Where feasible, the reestablishment of native habitats shall be incorporated into the landscape plan.

6. Planting in energy conservation zone. Trees and shrubs shall be planted in the energy conservation zone where feasible, in order to reduce energy consumption by shading buildings and shall be used to reduce heat island effects by shading paved surfaces.

7. Street trees. Street trees shall be used to shade roadways and provide visual order. Where feasible, selected species shall be used to establish a road hierarchy by defining different road types.

8. Planting material near utility lines. Special attention shall be given to the use of appropriate species located under, or adjacent to, overhead power lines, near native plant communities, and near underground utility lines. Adequate growth area shall be provided for all plant materials.

9. Avoidance of visual obstructions. Landscaping shall be designed to provide safe and unobstructed views at intersections of roadways, driveways, recreational paths and sidewalks. Historic landscapes and features.

10. Historic landscapes and landscape features designated by local, state or federal governments shall be preserved.

J. Issuance of landscape permit. Upon processing and reviewing a landscape permit, the community planning and development department official shall approve, approve with conditions, or deny the permit application. A denial of the permit application may require the applicant to provide additional information or an alternative plan for consideration.

K. Issuance of certificate of occupancy. The community planning and development department official shall inspect all landscaping, and no certificate of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided. Under certain circumstances, a temporary certificate of occupancy may be issued to allow an applicant time to comply with the requirements herein.

L. Certification of landscape compliance required. Prior to issuance of any final certificate of occupancy for all new development and redevelopment where the associated cost exceeds fifty (50) percent of the total improvement value or results in a fifty (50) percent or more increase in total building square footage, a preparer's certificate of landscape compliance bearing the original letterhead of the designing firm and licensing number shall be submitted to and approved by the community planning and development department official. The preparer's certification of landscape compliance shall contain a statement signed and sealed by the landscape architect or by persons authorized to prepare plans, who prepared the approved plans, that the landscape and irrigation plans have been implemented and that all requirements of these landscape regulations have been met. Any changes or substitutions to the approved plan shall be approved by the planning and zoning administrative official prior to the implementation of said changes and substitutions. All changes or substitutions to the approved plan shall be noted on all copies and a revision shall be submitted and approved before installation. Changes and substitutions of plant material shall be of similar quality, quantity and size, as originally approved and shall be in compliance with the intent and requirements of these landscape regulations.

M. For a new single-family or duplex residence on its own lot or applicable existing development, the owner or owner's agent may certify in writing that landscape and irrigation improvements have been installed as per the requirements of this division or approved plans.

~~. [Trees.] Trees other than palms shall be species having an average mature spread ofcrown of greater than fifteen (15) feet in this geographical region and having trunk(s) which can be maintained in a clean condition over five (5) feet of clear wood. The required trees shall be at least twelve (12) feet in overall height and six (6) feet in spread. The trees when planted shall have a medium top, a minimum caliber of two and one-half (2½) inches in the trunk, a clear trunk height of at least five (5) feet, and shall be properly braced. The number of such trees shall be determined by the application of the standards in sections 5-1207, 5-1208 and 5-1211 [1210], provided however, that in no instance shall there be less than two (2) such trees in conjunction with the development of any parking facility or lot.~~

~~4. Environmental considerations.~~

a. All landscapes shall strive to maximize the use of native plants. Where native material is not appropriate for the intended use or appearance, plant species that are regionally adapted and noninvasive may be used.

b. Landscapes shall consist of a variety of species to enhance biodiversity. No one (1) species may make up more than twenty-five (25) percent of the total nongrass plant materials on the site.

c. Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainage ways.

5. [Invasive species.] Invasive species such as members of the Ficus family with extensive root systems, Melaleuca (Melaleuca Leucadendra), Brazilian Pepper-Tree (Schinus Terebinthifolius), Toog (Bischofia Javanica), Australian Pine (Casuarina Equisetifolia), Poison Wood (Metopium Toxiferum), Schefflera (Brassia Actino-phylla) may not be utilized for any public or private properties.

6. [Palm trees.] Palm trees may be substituted for the types of trees required, if planted in groups of three (3).

7. Shrubs and hedges. A living hedge or wall, or berm shall be provided (unless specifically exempted) in accordance with the standards in section 5-1207 and 5-1208. No hedge shall be less than two (2) feet in height at the time of installation. Hedges, where required, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one (1) year after time of planting. No hedge, wall or berm shall exceed three (3) feet in height within twenty (20) feet of any driveway opening. The shrubs used in the development of such a hedge shall be placed so as to be not more than twenty-four (24) inches on center. All road rock used as a base for asphaltic concrete parking areas must be removed from all planting areas and replaced with a mixture of one-half (½) black soil and one-half (½) of salt-free sand.

8. Vines. Vines shall be a minimum of thirty (30) inches in height at planting time and may be used in conjunction with fences, screens, or walls to meet physical barrier requirements as specified.

9. Ground covers. Ground covers used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within ninety (90) days after planting.

10. Lawn grass. Grass areas shall be planted in species normally grown as permanent lawns in this geographical area. Grass areas shall be fully sodded. Solid sod shall may be used in swales or other areas subject to erosion.

11. Existing plant material. In instances where healthy plant material exists on a site prior to its development, in part or in whole, for purposes of off-street parking or other vehicular use areas, the building and zoning department may adjust the application of the above-mentioned standards to allow credit for such plant material if, in its opinion, such an adjustment is in keeping with and will preserve the intent of this division.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1339, § 1, 8-28-12)

Sec. 5-1204. - General residential standards.

A. In connection with single-family, duplex and triplex uses, the front yard shall be solidly sodded and/or landscaped with living materials and is encouraged to use xeriscape principles and the provisions of this division, except for those areas which must be paved to meet the minimum offstreet parking requirements of article 5, division 14.

B. In the R-1, swale areas shall be entirely sodded, or contain solely, pea rock or gravel or a combination of pea rock or gravel, or combination of sod and paving as long as the paved impermeable area does not exceed the specifications of chapter 17, section 17-96 of the city's code. The incidental use of other swale materials such as trees, berms, and railroad ties shall also be permitted as long as their placement and location do not violate the city's code. In addition, if pea rock or gravel is used in the swale, the area containing the pea rock or gravel shall be kept free of weeds. The swale area shall be maintained such that no spill over of pea rock or gravel material is allowed to occur onto the adjacent roadway, adjacent sidewalk or other property owner's swale.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1205. - Minimum commercial and industrial landscape design standards for energy conservation.

Landscape designs shall be provided to aid in shading, and in directing breezes, allowing for the reduction of usage of energy consuming climatic control devices throughout the year. Trees and medium-to-high hedges within ten (10) feet of a building shall be placed relative to openings in the building so that they assist in channeling and directing beneficial breezes through the openings.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1206. - Minimum residential landscape design standards for energy conservation.

A. Landscape treatment. Landscaping shall be designed as an integral part of a coordinated landscape design for the entire project providing for the shading of the dwelling as well as outdoor living areas.

B. Selection of landscape materials. Vegetation and other landscape materials shall be selected from the Florida Friendly Plant List and specified as to enhance solar radiation utilization and to conserve the maximum amount of energy.

C. Placement of landscape materials.

1. The placement of landscape materials shall allow for existing and future solar access to solar collection devices, if any, and the encroachment of shade shall not be excessive to abutting properties.

2. Where possible, shade shall be provided to paved areas, windows, southerly and westerly walls, and roof areas to reduce reflected and direct heat gain.

3. Lawns and grassy materials shall be used in the immediate area of the dwelling unit as to provide for relatively even temperatures throughout the day aiding in the minimum usage of climatic control devices.

4. In all cases, consideration shall be given as to provide for the optimum placement of landscaping materials to reduce solar heat gain.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1207. - Parking areas interior landscaping.

A. Minimum landscaping of parking area. A minimum of fifteen (15) percent of the gross parking area is to be devoted to living landscaping, which includes grass, ground cover, plants, shrubs and trees.

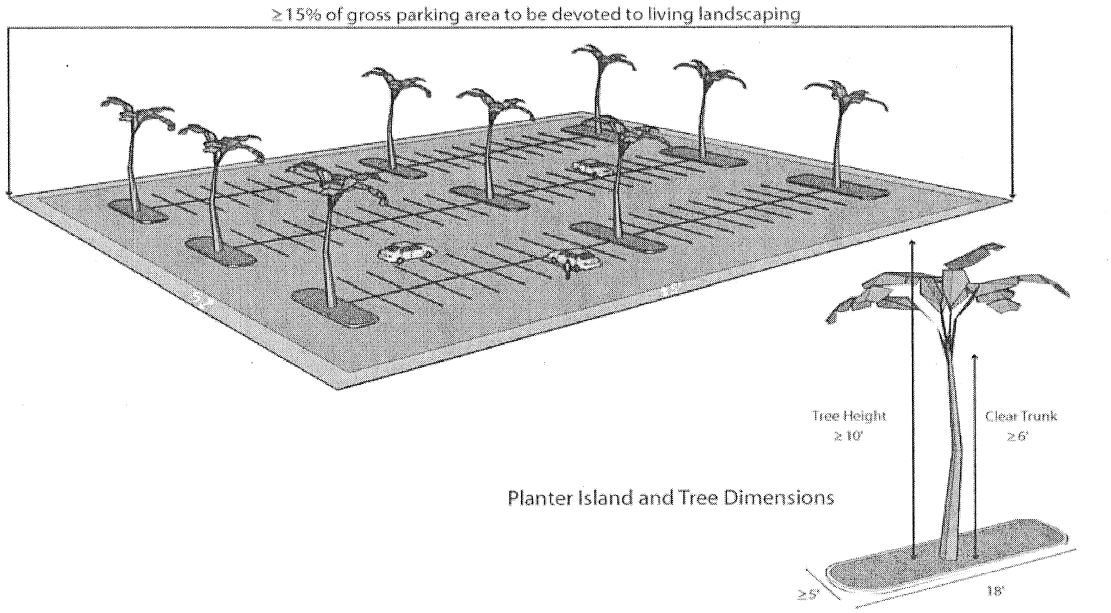
B. Interior areas of parking lots shall contain planter islands located so as to best relieve the expanse of paving. Planter islands must be located no further apart than every ten (10) parking spaces and at the terminus of all rows of parking. A planter island shall be a minimum of five (5) feet wide, shall be eighteen (18) feet long as measured from the end of the parking stall, and shall be curbed to prevent vehicular encroachment.

C. All planter islands must contain a minimum of one (1) tree for every one hundred and twenty-five (125) square feet or less of area. All required interior trees shall have a minimum clear trunk of six (6) feet and a minimum height of ten (10) feet. The remainder of the planter islands shall be landscaped with shrubs, lawn, ground cover or other approved material not exceeding three (3) feet in height.

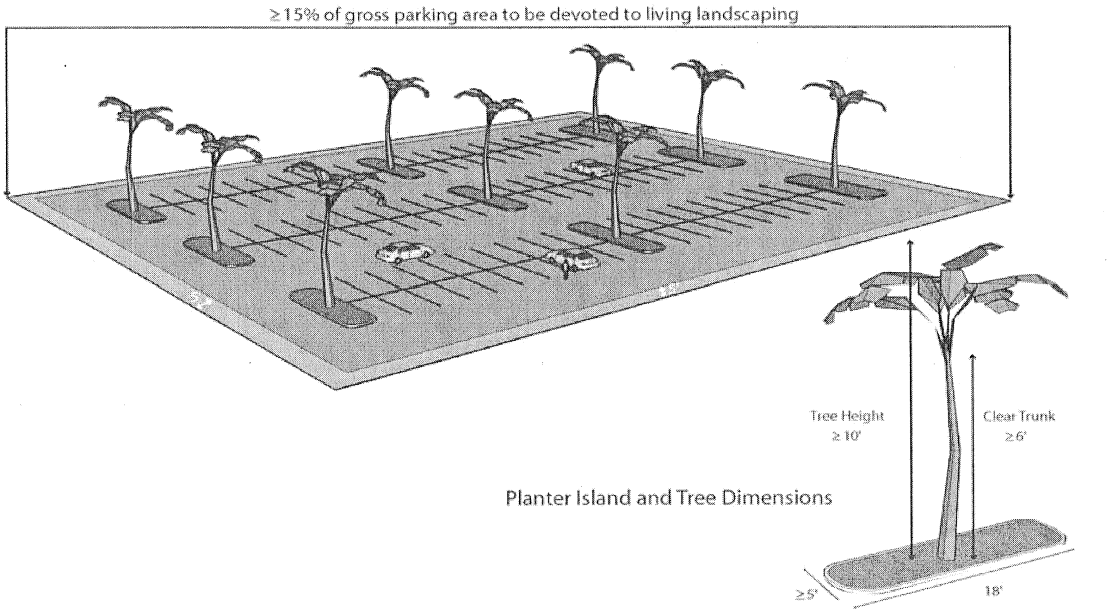
D. The design of driveways and the screening of parking lots and means of circulation shall be done so as to provide a minimum of solar radiation on paved surfaces.

E. Paving with hard surfaces should be either reduced as much as possible on the south and western sides of the structure or paving shall be sufficiently shaded to reduce excessive heat and reflectivity.

F. Proper facilities shall be maintained so as to allow for the use and parking of bicycles, smaller cars, and motorcycles.




Planter Island and Tree Dimensions



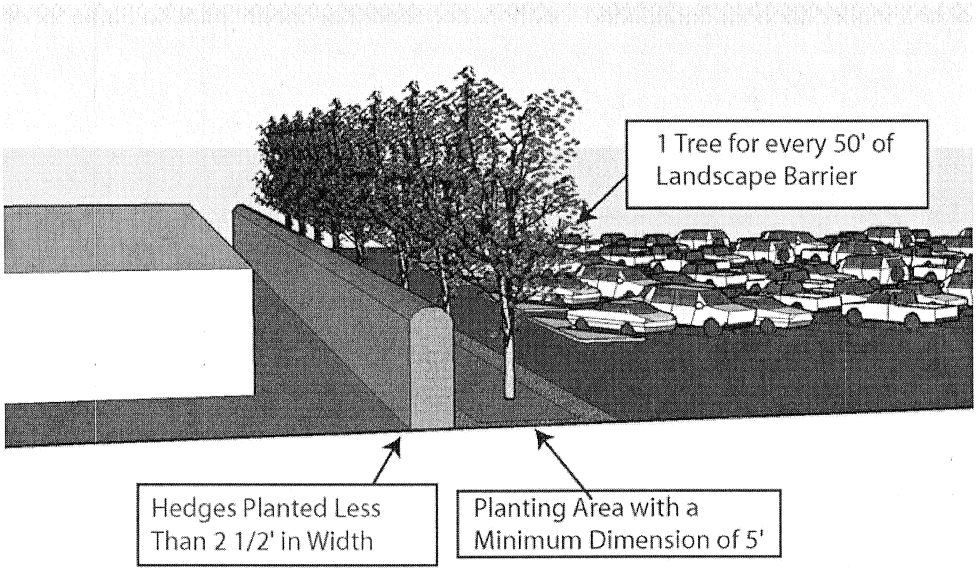

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

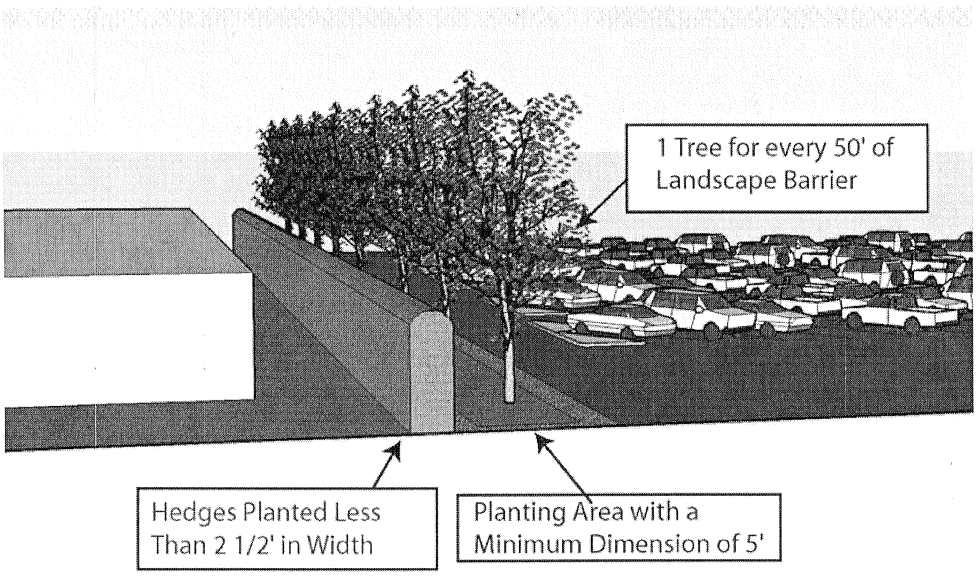
Sec. 5-~~1208~~1206. - Perimeter landscaping relating to abutting properties.

A. It is the purpose and intent of this section to require adequate landscaping which shall provide reasonable protection for contiguous property against undesirable effects from the creation and operation of parking areas, including garages, and to protect and preserve the appearance and character of the surrounding neighborhood through the screening effects and aesthetic qualities of such landscaping. Such landscape barrier shall be located between the common lot line and the off-street parking area, garage or other vehicular use area exposed to the abutting property so that the screening of offstreet parking areas and other vehicular use areas is accomplished. If such barrier consists of all or in part of plant materials, such plant materials shall be planted in a planting strip of not less than two and one-half (2½) feet in width.

B. The landscaping shall include, to the extent necessary to further the intent of this section, screening elements such as shrubs, bushes, hedges, and trees.

C. One (1) tree shall be provided for each fifty (50) lineal feet of such landscape barrier or fractional part thereof. Each such tree shall be planted in at least fifty (50) square feet of planting area with a minimum dimension of at least five (5) feet. Each such planting area shall be landscaped with grass, ground cover mulch, or other landscape material, excluding paving, in addition to the required tree.


1 Tree for every 50' of
Landscape Barrier
Hedges Planted Less
Than 2 1/2' in Width
Planting Area with a
Minimum Dimension of 5'




D. The provisions of this subsection shall not be applicable in the following situations:

1. Where a proposed parking area or other vehicular use area abuts an existing hedge, wall or other durable landscape barrier on an abutting property, said existing barrier may be used to satisfy the landscape barrier requirements of this section provided that said existing barrier meets all applicable standards and protection against vehicular encroachment is provided for the hedges.
2. Where the abutting property is zoned or used for nonresidential uses, only the tree provision with its planting area as prescribed in this subsection shall be required; however, the number of trees may be reduced to one (1) tree for every one hundred twenty-five (125) lineal feet or fraction thereof.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~1209~~1207. - Protection of solar access.

A. The proposed landscape plan by its approval shall not result in the shading of a solar collector.

B. In choosing the species of trees and other vegetation, and the placement planting of such vegetation, the effect on existing or future solar access of neighborhood properties must be considered.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~1210~~1208. - Required landscaping for off-street parking adjacent to public rights-of-way.

In multifamily and nonresidential districts, on the site of an offstreet parking area or other vehicular use area, where such area will not be entirely screened visually by an intervening

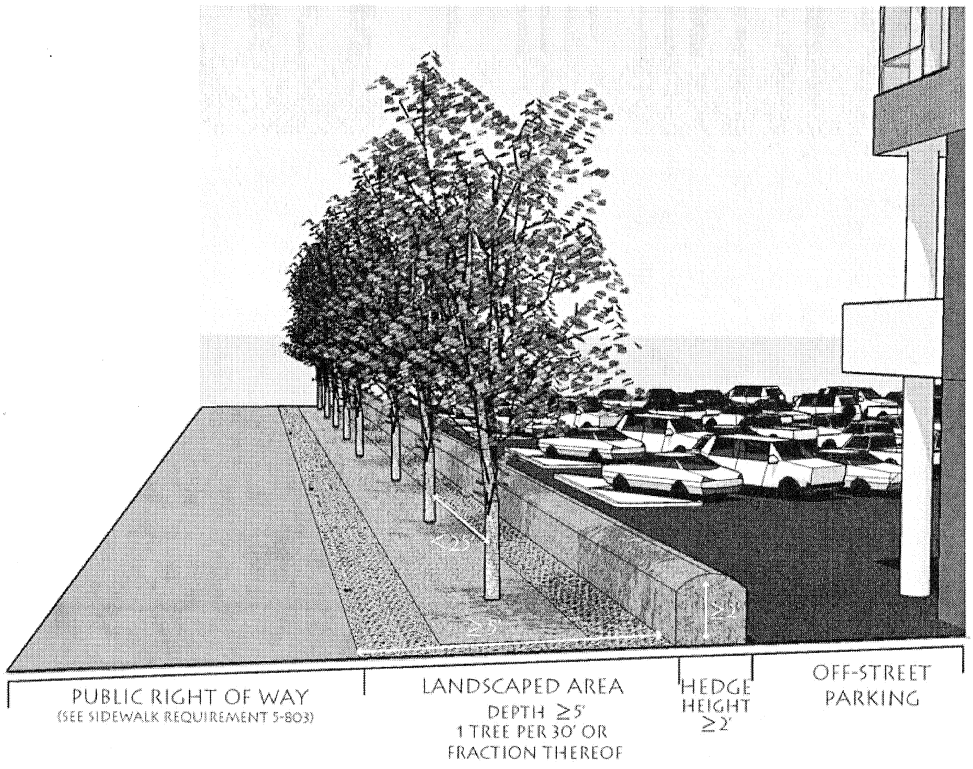
~~building~~ _or structure from any abutting right-of-way, there shall be provided landscaping between such area and such right-of-way, as follows:

A. Offstreet parking and vehicle use areas in multifamily and nonresidential districts abutting a public right-of-way shall be landscaped as follows:

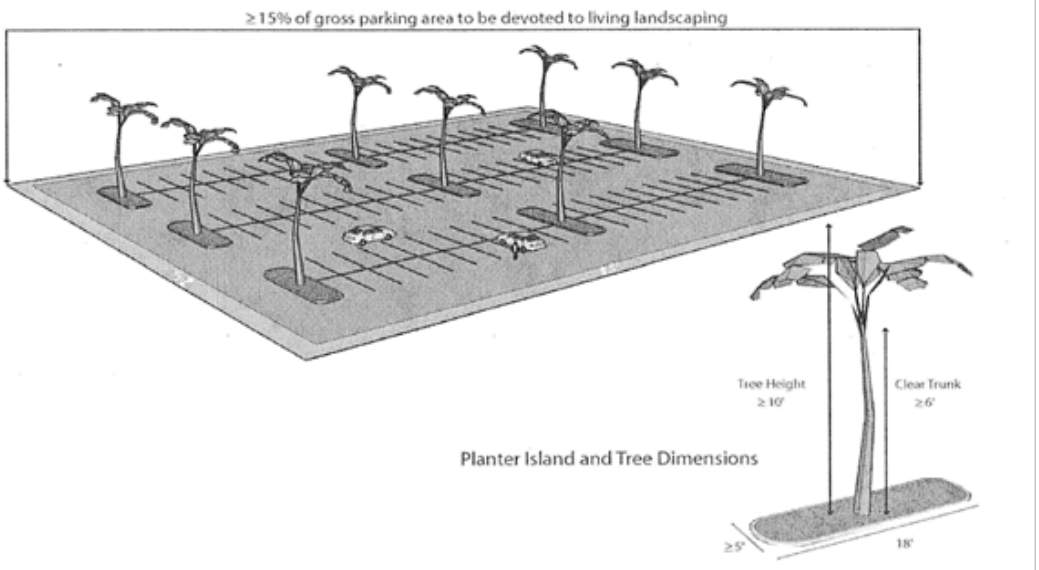
1. A landscape buffer of at least five (5) feet in width parallel to the public right-of-way planted with grass, ground cover or other permeable landscape treatment.

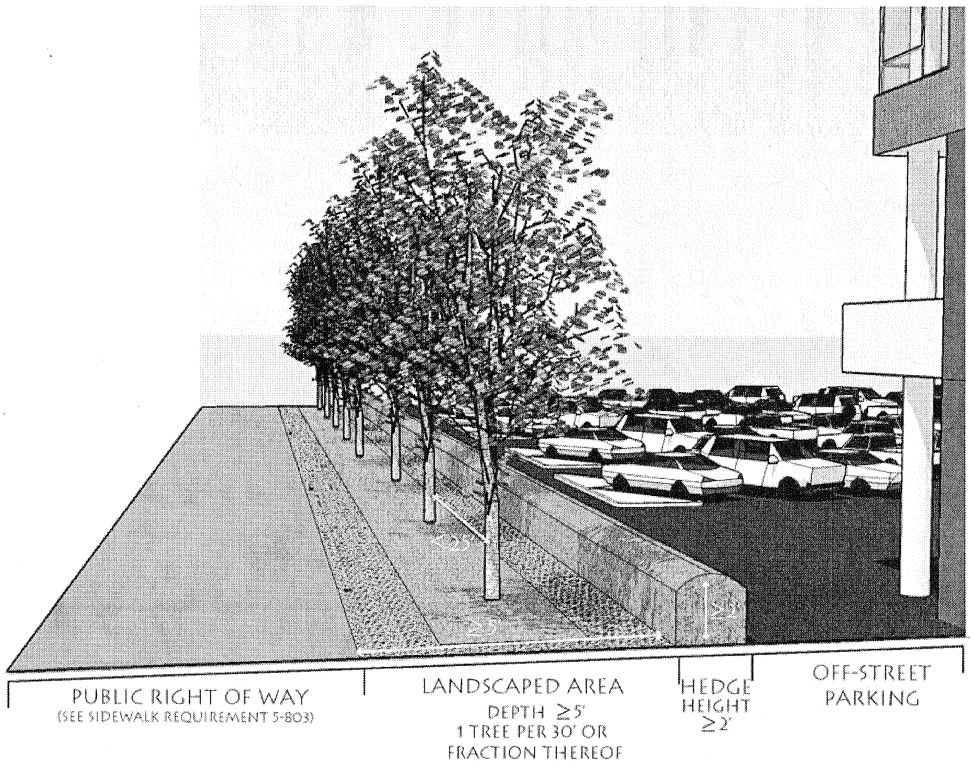
2. One (1) tree for each thirty (30) lineal feet of landscape buffer.

3. A hedge, wall or other durable landscape barrier shall be installed between the parking area and the landscape buffer. If the barrier is of nonliving material, the barrier~~s~~ shall be planted with shrubs or vines along the right-of-way side of the landscape buffer or~~,~~ along the non-right-of-way side [????] if the shrubs or vines are of sufficient height to be visible above the landscape barrier.




These requirements are in addition to any other requirement listed in this division and as shown in the following picture.


≥15% of gross parking area to be devoted to living landscaping
Tree Height
≥ 10'
Clear Trunk
≥ 6'
Planter Island and Tree Dimensions
≥5'
18'


≤2½'
≥5'
≥2'
PUBLIC RIGHT OF WAY
(SEE SIDEWALK REQUIREMENT 5-803)
LANDSCAPED AREA
DEPTH ≥5'
1 TREE PER 30' OR
FRACTION THEREOF
HEDGE
HEIGHT
≥2'
OFF-STREET
PARKING

B. Necessary accessways from the public right-of-way through all such landscaping shall be permitted to service the parking or other vehicular use areas and such accessways may be subtracted from the lineal dimension used to determine the number of trees required.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1209. – Fences, walls and hedges; safety barriers for swimming pools.

A. Public safety. No fence, wall or hedge shall be constructed or maintained within three feet of a fire hydrant, water connection, or other emergency apparatus placed for the purpose of fire protection. Fences, walls or hedges shall not be placed within the area required by applicable fire and life safety codes to be clear and unobstructed for passage of emergency vehicles or for the ingress and egress of persons or animals.

B. Permits required. All fences, walls, or hedges shall comply with appropriate zoning clearance and building permit procedures. A certificate of occupancy or certificate of use shall not be issued until all required fences, walls, or screening hedges are erected, constructed, or installed.

C. Location on property lines. Except as hereinafter restricted, all walls, fences or hedges may be placed on the property lines. This section, however, shall not be construed to permit such walls, fences to extend beyond the official right-of-way lines or property lines. In addition, no fence, wall, gate, or opening shall be permitted to swing, roll or otherwise encroach into the right-of-way

D. Maintenance. All fences and walls shall be maintained in a safe and nonhazardous condition and in good appearance. Walls and fences, unless of natural materials or galvanized, shall be properly painted .

E. Special fence prohibitions.

1. No barbed wire, spike and/or spears, broken glass, electrical elements, exposed sharp projections, or other hazardous materials shall be maintained as a fence or part of a fence or wall, except as provided in this section. The top surface of any chain link or cyclone fence shall be crimped to eliminate the exposure of sharp edges. All other use of barb wire, electrical elements or other hazardous materials shall only be allowed after special exception approval in the M-1 district as set forth herein.

2. No fence or wall in any zoning district may be used to store or hang items such as, but not limited to: laundry, towels, sheets, rags, clothing or similar items. Fences and walls shall be solely for the demarcation and separation of properties for privacy and use purposes.

F. Construction. All fences and walls shall be constructed in compliance with the Florida Building Code. No fence or wall shall be constructed of materials, which will be hazardous to the health, safety or welfare of persons or animals. All masonry walls shall be constructed and maintained with a finish of stucco and paint on all external portions and all such inside portions as are observable from rights-of-way or from abutting property.

G. Encroachment on recorded easement. No fence, wall or other similar structure may be constructed within an identified and duly recorded easement unless the property owner has:

1. Obtained a written, notarized release from all public agencies or utility entities having rights to the easement; or

2. Obtained a written, notarized release from all private interests and parties having rights to the easement; and

3. Submitted a notarized letter to the city's attention and acknowledging that should access or improvements to infrastructure be necessary on the property, the property owner will assume all responsibilities for costs incurred to obtain access to the easement area (which may include removal of the fence, wall or other similar structures) and the property owner shall be responsible for the full restoration of the area - all at property owner's sole cost. Such letter shall hold harmless the city, its officials and agents, as well as all other officials or agents of governmental agencies and public utilities, or any private party interest having a right of access to such easement.

H. Chainlink fence prohibited in all districts front yards, side yards and side street yards. Notwithstanding anything in the LDRs to the contrary, chain link fences shall be permitted only behind the rear building line, and shall not be permitted along property lines abutting side streets or on through (double frontage) lots. It is provided, however, that the aforementioned restriction on chain link fences shall not apply in the M-1 district.

I. Wall or fence required between dissimilar land uses. Where dissimilar land uses abut to or are adjacent to each other, a six-foot-high wall or fence meeting the approval of the community planning and development director shall be provided along common property lines, except for dissimilar land uses that are separated by a right-of-way. Where an adjacent or abutting property is undeveloped land, said wall shall be not be required until such time the unimproved land is developed. In this event, the requirement of the wall shall be borne by the developer of the unimproved land.

J. Height between different districts. Notwithstanding any provision in this division to the contrary, where an R-1 or R-2 district abuts another district, a fence, wall or hedge on the

R-1 or R-2 property may be erected, or maintained on the common property line of the height permitted in the abutting district.

K. Increase and decrease of height. Fence, wall, and hedge heights shall be increased, or decreased for compliance with the following:

1. Double frontage lots. When a higher wall, fence or hedge is required as a visual screening buffer at the rear of double frontage lots as set forth in this division, such fence or wall may be increased to a height of eight (8) feet, if not otherwise permitted in the underlying zoning district.

2. Height at intersection. Fences, walls, or hedges shall not exceed two and one half (2½) feet in height within the safe sight distance triangle, as defined in this division.

3. Height limitation. The height of fences, walls, and hedges shall not exceed two and one half (2½) feet in height within ten (10) feet of the edge of driveway leading to a public right-of-way, except that in the R-1 or R-2 district, a fence may be permitted up to the maximum permitted height providing such fence is a maximum twenty five (25) percent opaque, and no other structures or portions of the fence or wall interferes with the safe distance visibility triangle.

4. Fences for tennis courts; fences and walls for other recreational uses. Fences, and walls for tennis courts may be erected up to fourteen (14) feet in height, if such fence conforms to accessory use setbacks. Fences and/or walls in connection with other permitted recreational uses, such as baseball backstops, handball courts, and the like, shall be permitted of a height necessary for the particular use if required accessory use setbacks are observed.

L. Exterior finish of wooden fences and walls. When a wooden fence is installed, the wrong or unfinished side shall not faced the adjoining property. When a CBS wall is installed, it shall be completely finished with stucco and paint. Each side of a decorative masonry wall shall be completely painted. If a wall is to be placed on a shared property line, consent for access must be obtained from the adjoining property owner prior to finishing the opposite side of the wall. If such consent cannot be obtained, the property owner erecting the wall must present proof that a request for access approval was mailed to every adjacent property owner, by certified mail, return receipt requested, to the mailing addresses as listed in the most current county tax roll, and the mailing was returned undeliverable or the adjacent property owners failed to respond to the request within thirty (30) days after receipt. Upon such a showing, the property owner erecting the wall shall not be required to finish the opposite side of the wall.

M. Measuring height of wall, fence, and hedge. The height of a wall, fence or hedge shall be the vertical distance measured from the finished grade of the lot or from the average

elevation of the finished building site to the top of the wall, hedge or fence. The average elevation shall be measured along both sides of the wall, hedge or fence line. Vacant or undeveloped land may not be increased or decreased to affect the permitted (or required) height of a wall, hedge or fence unless the entire building site is graded to even out the level of the site or to increase it to the required the city flood criteria elevation. Average elevation shall be determined by taking elevations along both sides of the wall, hedge or fence line, at five-foot intervals and totaling the same and then dividing the total by the number of stations at which the elevations were taken. No fence or wall may be placed on any portion of an earthen mound or berm unless the height of the fence or wall is cumulatively not higher than the allowable height in the zoning district from the finished grade of the lot. Decorative columns, or other types of architectural features shall not be measured as the fence or wall height provided said decorative columns or other types of architectural features do not exceed twenty (20) percent of the permitted height of the fence or wall.

N. Temporary construction fences. All temporary construction fences used at construction or development sites, may, at the discretion of the community planning and development director, be exempt from the height, opacity and landscaping provisions of this division, provided that they do not obstruct the vision of motor vehicle operations, in accordance with the sight triangle provided herein or create other hazards to public safety.

Sec. 5-1210. - General standards for residential and residential office districts, nonresidential districts, safety barriers for swimming pools, and barbed wire.

A. Minimum standards for fences or walls in residential and residential office districts. All fences or walls in the residential or residential office district shall be subject to the following minimum requirements:

1. Opaque fences or walls. Completely opaque fences or walls exceeding three (3) feet in height shall be prohibited in the required front yard setback. Opaque fences or walls shall be allowed in the required rear yard, side yard, or side street setback not exceeding six (6) feet in height and subject to the safe sight distance triangle requirements set forth in section 5-1211.

2. Side yard and rear yard setbacks. No fence or wall shall exceed six (6) feet in height within the required side and rear yards setbacks.

3. Front yard setbacks. In all single-family residential districts, no fence or wall shall exceed five (5) feet in height within the required front yard; provided however, that decorative arches for gates and driveway gates may extend twelve (12) inches above the approved fence and post exteriors are permitted six (6) inches above the approved fence.

4. No chain link except in rear yard.

5. All fences must be of a decorative design.

6. In all multifamily residential districts (excluding townhouse developments) no fence or wall shall exceed six (6) feet in height within the required front yard.

B. Fences or walls in nonresidential districts shall be subject to the following minimum requirements:

1. Screening adjacent to residential properties. A six-foot-high masonry wall shall be required on all nonresidential properties with a side or rear lot line abutting or separated by a public right-of-way from residentially zoned property. The wall shall be subject to the vision clearance requirements set forth in this division.

2. Outdoor storage. All permitted outdoor commercial or industrial storage shall be visually screened from public view by an opaque fence or masonry wall of eight (8) feet in height and shall be without openings, except entrance and exit. Any gate/opening shall be of an opaque material providing screening of interior properties' content from public view. In no case shall the items stored project above the fence or wall.

3. All fences and walls in nonresidential districts shall be harmonious in color, type and material with adjacent architecture and lots. The community planning and development director may approve the installation of a fence with the "wrong side" (post side) facing the adjacent or affected properties if the applicant obtains notarized approval letters from all adjacent or affected property owners.

4. Wood and chain link fences in commercial districts. All fence posts shall face the property upon which the fence is erected. All chain link fences shall be installed with the knuckled side up and shall be plastic coated. All straps, for chain link fences, shall be consistent in color with the color of the principal structure and be maintained in good condition and not weathered, cracked or faded.

5. Nonresidential districts maximum height. In all non-residential districts, no fence or wall shall exceed eight (8) feet in height, except that for commercial properties that abut single family neighborhoods no fence or wall may exceed six (6) feet in height.

C. Required safety barriers for swimming pools.

1. Required for final inspection of pool. No final inspection and approval for a swimming pool shall be given by the building services department, unless there has been erected a safety barrier as hereinafter provided. No pool shall be filled with water unless a final inspection has been made and approved, except for testing purposes as may be approved by the community planning and development department.

2. Types permitted. The safety barrier shall take the form of a screened-in patio, a wooden fence, a wire fence, a rock wall, a concrete block wall or other materials, so as to enable the owner to blend the same with the style of architecture planned or in existence on the property.

3. Height. The minimum height of the safety barrier shall be not less than four (4) feet.

4. Location of barrier. The safety barrier shall be erected either around the swimming pool or around the premises or a portion thereof on which the swimming pool is erected. In either event, it shall enclose the area entirely, prohibiting unrestrained admittance to the enclosed area. Pools located in enclosed structures or on the roofs of buildings shall not require the installation of barriers as required herein.

5. Gates. Gates shall be of the spring lock type, so that they shall automatically be in a closed and fastened position at all times. Gates shall also be equipped with a safe lock and shall be locked when the swimming pool is not in use.

6. Permits required. Before any work is commenced, permits shall be secured for all swimming pools and for the safety barriers. Plans shall contain all details necessary to show compliance with the terms and conditions of this chapter. No swimming pool permit shall be issued unless simultaneously therewith a permit is secured for the erection of the required safety barrier, provided however, that in lieu of the permit for a safety barrier, a written statement from the owner certifying that he understands and agrees that the pool cannot be used or filled with water until a permit has been obtained for an approved safety barrier and such barrier erected, inspected and approved will be acceptable. This certification, however, will not eliminate the need for obtaining a permit and erecting an approved barrier prior to final inspection and use of the pool. If the premises are already enclosed, as hereinbefore provided, permit for the safety barrier shall not be required, if, upon inspection of the premises, the existing barrier and gates are proven to be satisfactory.

7. Wooden fences. In the wooden type fence, the boards, pickets, louvers, or other such members, shall be spaced, constructed, and erected, so as to make the fence nonclimbable and impenetrable.

8. Walls. Walls, whether of the rock or block type, shall be so erected to make them nonclimbable.

9. Wire fences. Wire fences shall be the two inch chain link or diamond weave nonclimbable type, or of an approved equal, with top rail, they shall be of a heavy, galvanized material.

10. Refusal of permit. It shall be within the discretion of the community planning and development director to deny a permit application for a safety barrier, which does not meet the safety requirements of this section.

11. Maintenance. It shall be the responsibility of the owner and/or occupant of the premises upon which the swimming pool is hereafter erected to maintain and keep in proper and safe condition the safety barrier required and erected in accordance with this division.

D. Barbed wire.

1. General.

a. A one-foot-high, nonelectrical, barbed wire extension may be allowed in addition to the maximum allowable height through special exception approval in the M-1, district.

b. The installation of security wire other than linear-strung barbed wire is prohibited.

c. No barbed wire or other form of security wire shall be permitted in any yard abutting a residential use or street abutting a residential use.

d. If installed, the barbed wire shall be maintained as originally installed.

2. Standards.

a. The merchandise or items to be protected are of such a nature that other means of secured storage are not feasible.

b. No other practical alternatives exist.

c. The incidence and type of crime (if any) indicates the use of security wire may be a reasonable safety measure.

d. The area to be enclosed by the barbed wire is reasonable in terms of the total property area.

e. The proposed method of installation will not result in encroachment upon adjacent property or right-of-way.

f. The distance of the barbed wire from ground level is sufficient for the protection of passersby.

Sec. 5-1211. – Safe sight distance triangle.

Safe sight distance triangle. The safe sight distance triangle area shall not contain obstructions to cross-visibility at a height of two and one half (2 ½) feet to seven (7) feet above grade, in

order to minimize traffic hazards at street or driveway intersections. Potential obstructions include, but are not limited to, structures, grass, ground covers, shrubs, vines, hedges, trees, rocks, walls and fences.

The following table represents minimum criteria for determining the required area of cross-visibility:

| Safe Sight Distance Triangle | | | |
|---|---|---|---|
| | Required Visibility | | |
| Functional Classification of Through Street | Left (ft.)* | Right (ft.)* | Depth on Minor Street (ft.)** |
| Local | 0 | 0 | 0 |
| (50-foot or less right-of-way) | (triangle lies within public right-of-way) | | |
| Collector | 190 | 40 | 7 |
| (60-foot—70-foot right-of-way) | | | |
| Arterial | 260 | 40 | 7 |
| (80-foot or over right-of-way) | | | |

- Visibility distances measured from center line of minor street, along right-of-way line of through street.
- Depth visibility on minor street measured from right-of-way line of through street, along center line of minor street (public or private street).

DIVISION 13. - LIGHTING

Sec. 5-1301. - Purpose.

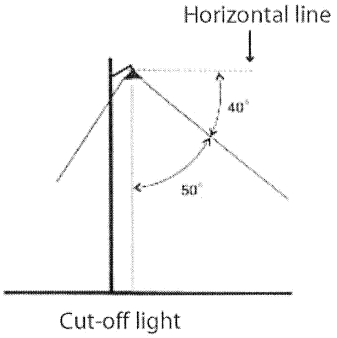
The purpose of this division is to establish minimum standards for the provision and use of outdoor lighting in order to provide for the safe and secure night time use of public and private property while at the same time protecting adjacent land uses from intrusive light conditions.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1302. - Site lighting.

All outdoor lighting, other than outdoor recreational facility and street lighting, shall comply with the following requirements:

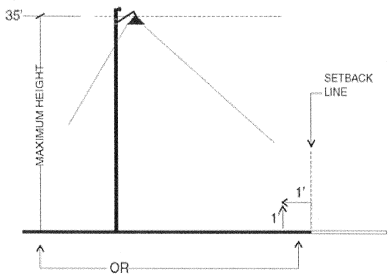
A. Fixture-type. All light fixtures which are visible from the boundaries of the parcel of land, other than fixtures which are designed and installed to illuminate a wall and are directed away from adjacent properties, shall be cut-off lights where direct illumination is cut-off above forty (40) degrees below horizontal.



B. Location. All outdoor light fixtures shall be located so that objects or land which are located beyond the boundaries of the parcel of land are not illuminated to an extent of producing more than a diffuse shadow.

C. Height.

1. Cut-off fixtures. The height of the lamp in a light fixture shall not exceed thirty-five (35) feet, or one (1) foot in height for each one (1) foot the light fixture is setback from the setback in subsection B., whichever is less.




2. Down-lights. The height of a down-light shall not exceed eighteen (18) feet or two-thirds (2/3) of the height of the structure or tree which is being downlighted, whichever is less.

3. Up-lights. The height of the lamp in an up-light light fixture shall not exceed eighteen (18) feet or one-half (½) of the height of the structure or tree which is being uplighted, whichever is less.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1303. - Outdoor recreational facility lighting.

A. Orientation. All outdoor recreational facility lighting shall be located as close as possible to the recreational facility to be lighted and the light from such fixtures shall be oriented, to the maximum extent possible, away from adjacent residential areas.

B. Operation. Outdoor recreational facility lighting installed at a recreational facility, located adjacent to residential areas, shall be operated only when such facilities are in use and a period of one-half (½) hour before such use and one-half (½) hour after such use.

C. Location and intensity. Outdoor recreational facility lighting shall be located so that objects or land which are located beyond the boundaries of the parcel proposed for development are not illuminated to the extent of more than a diffuse shadow on the objects or land.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1304. - Adequate lighting of offstreet parking.

A. Adequate lighting shall be provided of offstreet parking areas for nonresidential properties and multifamily development over fifteen (15) units and shall be approved by the planning and community development department.

B. Except as provided in subsection C., adequate lighting is a combination of first class equipment during all nondaylight hours in compliance with the standards of the Illuminating Engineering Society of North America (IESNA) RP-33 and Crime Prevention Through Environmental Design (CPTED) standards.

C. Adequate lighting shall be maintained on parking areas adjacent to single-family only during the hours of operation of the use.

D. Parking lot lighting shall follow American Society of Heating, Refrigerating and Air Conditioning Engineers/Illuminating Engineering Society of North America (ASHRAE/IESNA) standards 90.1-2004, Section 9.4.4.

E. Landscaping shall be installed in a manner that does not interfere with the adequacy of the lighting of offstreet parking areas.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1305. - Energy conservation/lighting.

All new construction and substantial renovations shall utilize new energy star qualified compact fluorescent light bulbs to the extent feasible.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 14. - PARKING AND LOADING

Sec. 5-1401. - General criteria.

A. Purpose and intent. The intent of this division is to ensure adequate and appropriately located off-street parking and loading, to avoid undue congestion on streets, to avoid unnecessary conflicts between vehicles and pedestrians, to preserve and enhance pedestrian activity areas within the city, and to facilitate vehicular access from public rights-of-way to off-street parking facilities.

B. ~~A~~. General criteria. In all districts there shall be provided at the time any development is commenced, offstreet parking spaces in accordance with the requirements set forth in this division.

C. ~~B. Size. Each offstreet parking space shall have an area of not less than nine (9) feet in width and eighteen (18) feet in depth exclusive of access drives or aisles, and shall be in usable shape and condition.~~ Dimensional requirements.

1. All off-street parking spaces shall be 8.5 feet in width and 18 feet in depth, unless modified in the table below based upon the angle at which the parking spaces intersect the drive aisle.
2. A minimum 25 feet spacing shall be required between the edge of pavement and an intersecting drive aisle or off-street parking space.
3. Dimensions for parking aisles and parking spaces for various angles of parking shall be as provided in figure 1 in this section. Two-way directional movement requires a minimum of 24 feet of wide aisle width regardless of parking angle and dimensions.

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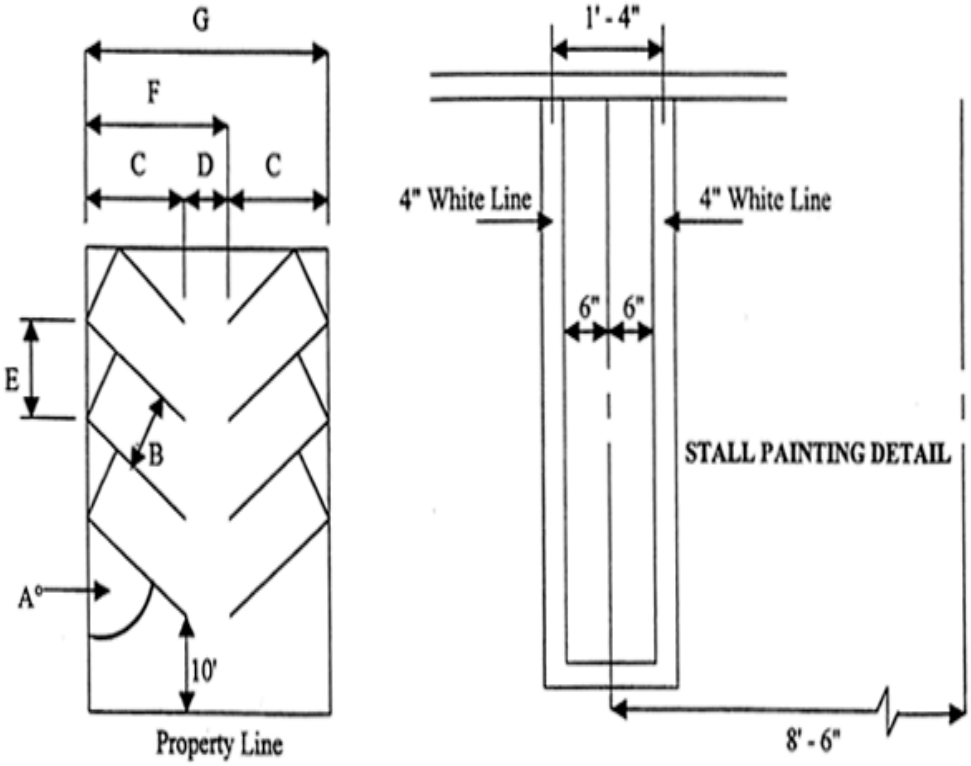
| General Parking Dimensions | | | | | | |
|---|---|---|---|---|---|---|
| A | B | C | D | E | F | G |
| Parking Angle | Stall Width | Stall Depth | Aisle Width | Curb Length | Half Bay | Full Bay |
| 0 | 8'6" | 8'6" | 12'0" | 22' | 20'6" | 29'0" |
| 30 | 8'6" | 16'4" | 12'0" | 17'0" | 28'4" | 44'8" |
| 40 | 8'6" | 18'1" | 12'0" | 13'3" | 30'1" | 48'2" |
| 45 | 8'6" | 18'9" | 13'0" | 12'0" | 31'9" | 50'6" |
| 50 | 8'6" | 19'3" | 15'0" | 11'1" | 34'3" | 53'6" |
| 60 | 8'6" | 19'10" | 18'0" | 9'10" | 37'10" | 57'8" |
| 70 | 8'6" | 19'10" | 20'4" | 9'0" | 40'2" | 60'0" |
| 75 | 8'6" | 19'7" | 20'10" | 8'10" | 40'5" | 60'0" |
| 80 | 8'6" | 19'2" | 21'8" | 8'8" | 40'10" | 60'0" |
| 90 | 8'6" | 18'0" | 24'0" | 8'6" | 42'0" | 60'0" |

4. Tandem and valet parking dimensions. Where tandem and valet parking is provided towards required off-street parking or as additional parking, such parking areas shall conform to the dimensional standards set forth in the figure below. Except that the tandem parking stalls may be stacked no more than two spaces deep.




D. ~~C.~~ Number of parking spaces required. Except as provided in sections 5-1403 and 5-1404, the number of offstreet parking spaces required shall be as set forth in the offstreet parking schedule in section 5-1402.

E. Construction standards, markings and signage.

1. All parking areas shall be paved per requirements of the city public works department. It shall be a violation of this chapter to park on any unpaved areas as described in this division.

2. Markings and signage. Traffic control signs and pavement markings shall be used as necessary to ensure safe and efficient traffic operations within all parking and loading areas. Required off-street parking spaces shall be delineated by four-inch white double striped lines. All signs shall comply with the Manual of Uniform Traffic Control Devices Federal Highway Administration, United States Department of Transportation, 1978, as adopted by the state department of transportation, as revised.

3. Curbs, wheel-stops, or bollards: Precast concrete wheel-stops, or curbing shall be provided for all angled parking spaces that abut landscaped areas, pedestrian areas, buildings, or property lines, such that cars are curbed at sixteen and one-half (16.5) feet. The balance of the required depth of the parking spaces between the wheel stop or curb and the sidewalk shall be clear of obstructions. All landscaped areas in or adjacent to parking areas or other vehicular use areas shall be provided with type D curbing, or extruded curbing in combination with wheel stops, to restrict the destruction of the

landscaped areas by vehicles. Bollards may be provided in lieu of wheel-stops or curbing, upon a determination by the DRC committee. Adequate scuppers and/or weep holes shall be provided to permit proper drainage, as required by the city

F. ~~D. Parking lots. Where such lot is accessory to any use,~~ Storm drainage for parking and loading spaces. Off-street parking and loading spaces, for other than single-family residences and duplexes, shall be provided with drainage systems adequately designed and maintained as required by the following:

1. To prevent the accumulation of water from normal rainfall; and
2. To prevent the runoff of rainfall onto neighborhood property at rates greater than would result if the site were undeveloped. Drainage systems shall be designed in accordance with standards set forth in the city's public works manual and meeting the approval of the public works department.
3. Maintenance and good repair. All required off-street parking areas shall be maintained in good repair and shall be kept in a reasonably clean and sanitary condition free from rodents, insects and vermin.
4. Maximum front yard coverage for single-family residences. No single-family residential driveways or parking areas shall be paved more than sixty (60) percent of the front yard.

~~such lot shall be paved and provide drainage as approved by the city engineer; provided however, that no residential driveways or parking area shall be paved more than sixty (60) percent of the front yard.~~

G. ~~E.~~ Parking area and lot screening. All parking areas shall contain adequate screening, as required by the city's landscaping regulations in article 5, division 12.

H. ~~F.~~ Location.

1. Offstreet parking areas shall be located on the same lot, parcel or premises as the use to be served or on a parcel of land within six hundred (600) feet, provided there is a unity of title or declaration in lieu of unity of title between the parcel being served and the parcel on which such off-street parking is located, or provided that a parking agreement, in conformance with the provisions of section 5-~~1603~~1403, ~~that~~ which ensures the availability of parking ~~is approved by~~ has met with the approval of the city manager and city attorney before being ~~and~~ recorded in the public records of Miami-Dade County.
2. ~~No parking shall be located on the lawn in the front yards of homes.~~Parking in open space areas prohibited. Parking in areas for open space, landscaped areas, and lawns shall be prohibited.

G. Materials. Driveways and parking areas shall be composed of asphalt, pavers, permeable structured grass or concrete and not gravel or concrete strips. Gravel and concrete strip driveways existing at the time of adoption of these LDRs for single-family dwellings shall be allowed to remain in perpetuity, provided that they are properly maintained. ~~Gravel driveways and concrete strip driveways for properties other than single family residences shall be brought into conformance with the provisions of this subsection within seven (7) years of the adoption of these LDRs.~~

H. Access. All driveways to parking lots shall be designed in accordance with the following:

1. Except as provided for corner lots or in subsection 3. hereof, driveways shall be setback from the side property line at least five (5) feet.

2. Except as provided for corner lots, an administrative variance may be obtained for a setback from the side property line of two and one-half (2.5) feet provided that the driveway is composed of pervious materials.

3. No driveway shall be located closer than fifteen (15) feet to the corner, or as measured in accordance with standards of the public works department.

4. Adjacent nonresidential properties shall provide a cross access drive and pedestrian access to allow circulation between sites wherever feasible.

5. All driveways shall be constructed in accordance with the engineering standards of the public works department.

I. Configuration of parking and loading ingress and egress.

1. Ingress to and egress from parking and loading spaces shall be provided in either of the following ways:

a. Ingress and egress from parking and loading spaces shall be provided by means of clearly defined drives which lead from public rights-of-way to clearly defined maneuvering lanes which in turn provide access to individual parking or loading spaces. Configurations which require backing directly onto a street, excluding alleys, from a parking or loading space are prohibited except as provided in section 5-1408(B). There shall be a minimum of ten feet separation between all access drives. The separation shall be measured along the curb line.

b. Ingress and egress from parking stalls may be provided directly from public alleys. If existing alley width does not comply with minimum aisle requirements, additional parking space aisle or setbacks shall be required as indicated in subsection C of this section.

2. Common vehicular access points.

a. Applicability. The community planning and development director, in conjunction with the recommendation of the development review committee, may require the provision of common vehicular access points between abutting lots or tracts when all of the following criteria are met:

i. The proposed use is nonresidential.

ii. The lot or tract has frontage on a street classified as an arterial or collector in the traffic circulation plan element of the comprehensive development master plan.

iii. The provision of common vehicular access points and related common access ways will help mitigate future adverse transportation impact of the proposed use upon traffic safety and vehicular operating capacity of the major thoroughfare in question.

iv. The existing or anticipated land uses adjacent to the lot or tract in question are generally of a similar or compatible character to the proposed use of the lot or tract in question.

v. The provision of common vehicular access points between lots or tracts is not impractical due to the configuration of existing buildings, structures or other related circumstances.

3. Design of common vehicular access points. When common vehicular access points are required, the following design criteria shall apply:

   a. Common vehicular access points shall provide two-way traffic circulation to accommodate a 12-foot-wide access way in each direction.

   b. Common vehicular access points should be located between the parcel line with frontage on the major thoroughfare and the required front yard building setback or base building line, whichever is greater.

   c. Stub-outs and other design features shall be provided to the parcel line in question in order to tie together on-site vehicular traffic circulation of abutting properties.

   d. Off-street parking, common vehicular access ways and related facilities shall be arranged in a manner that coordinates on-site vehicular circulation between abutting lots and tracts.

4. Submittal of draft common vehicular access point agreement. When a common vehicular access point agreement is required, a draft copy of such agreement, easement or other similar instrument shall be submitted with a proposed site plan or a proposed tentative plat, whichever is applicable.

5. Recording and evidence of common vehicular access point agreement. All common vehicular access point agreements, easements or other similar legal instruments required by the provisions of this schedule shall be recorded in the public records of Miami-Dade County. A notarized copy of such recorded agreement, easement or instrument shall be provided to the community planning and development department prior to the issuance of a building permit or certificate of completion.

6. Identification of common vehicular access point agreements on official zoning map. Upon receipt of evidence of common vehicular access point agreement, the community planning and development department shall cause such agreement to be identified on the properties party to the agreement.

7. Temporary vehicular access points. When the lot in question is developed prior to an abutting lot, a temporary vehicular access point on a major thoroughfare may be approved provided, however, that a condition of approval of such temporary vehicular access point shall be removal of same when development of the abutting lot or tract provides common vehicular access and a coordinated system of on-site traffic circulation for both premises. The community planning and development director shall notify the owner of record of the lot in question by certified mail as to when the temporary vehicular access point shall be removed and any applicable conditions for its removal. The owner shall be responsible for all costs involved in removing the temporary vehicular access point.

~~Requirements.] Location and design of entrances and exits shall be based upon reasonable requirements for traffic safety regulations and standards. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians. All egress and ingress to offstreet parking areas shall be so designed as to prohibit backing out of vehicles into public rights-of-way~~.

J. ~~[~~Interior drives~~.]~~ or aisles~~.~~ As specified above in this section, i~~I~~nterior drives or aisles shall be ~~of adequate width~~ a minimum of twelve (12) feet for one-way directional movement and a minimum of twenty-four (24) feet for two-way directional movement, regardless of parking angles, in order to serve the arrangement of parking spaces.

K. Renovation or change of use. In the event a building is substantially renovated or a use is changed so that there is a substantial change in the intensity of use, additional parking shall be provided in accordance with the terms of this division to the maximum extent practical. A substantial change in the intensity of use shall be construed to be a twenty-five (25) percent increase in required parking and a substantial increase in retail and pedestrian activity.

L. Reduction in parking requirements.

1. Preferential parking is encouraged to promote sustainable practices and encourage a reduction in the number of vehicles needed to transport individuals to destinations. Buildings may dedicate ten (10) percent of their parking spaces to these modes of transportation which may include:

   a. Hybrid vehicles;

   b. Van pools;

   c. Car pools.

   In the event such preferential parking is provided, a ten (10) percent reduction in required parking may be allowed.

2. Exchanging vehicle parking spaces for bicycle facilities is encouraged to promote cleaner, more sustainable energy saving trips and is required pursuant to subsection 5-803G.. Buildings may substitute bicycle accommodations for vehicle spaces on a five-to-one basis or two-to-one for motorcycle spaces.

3. In no instance shall the number of vehicle parking spaces provided be reduced pursuant to this subsection, or the TDM provisions in section 5-702 by more than fifteen (15) percent of the requirements of this division.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1402. - Schedule of required parking.

| USE | MINIMUM PARKING REQUIREMENT |
|---|---|
| Accessory dwelling | One (1) parking space. |
| Adult entertainment businesses | See "Retail." |
| Adult day care | One (1) space per three hundred seventy-five (375) s.f. of floor area. |
| Adult living facility | One (1) parking space per bedroom. |
| Auto service station | See "Retail." |
| Banquet | See "Community facilities." |
| Bar, lounge or tavern | One (1) space for every three hundred fifty (350) s.f. of gross floor area. |
| Beauty, barber shop and nail salon | 1/300 s.f. (retail). |
| Catering kitchen | See "Light industrial." |
| Check cashing store | See "Retail." |
| Childcare centers | One (1) space for two hundred (200) s.f. of gross floor area. |
| Community facilities | 1/200 s.f. |
| Community residential homes ~~(∃ 7 residents)~~ | One (1) per ~~resident room.~~each 2 beds plus 1 per each 2 employees |
| Convention centers | One (1) parking space for each five (5) spectator seats, or one (1) parking space for each two hundred (200) s.f. of gross floor area, whichever is greater. |
| Country club | One (1) space per every four (4) members. |

| | |
|---|---|
| Day spa | One (1) parking space for each four hundred (400) s.f. of gross floor area. |
| Dry cleaning drop-off and pick-up | One (1) parking space per four hundred (400) s.f. of gross floor area. |
| Dry cleaning establishment (retail and plant) | One (1) parking space per four hundred (400) s.f. of gross floor area, plus one (1) per six hundred (600) s.f. of plant area. |
| Dry cleaning plant | One (1) per six hundred (600) s.f. of gross floor area. |
| Educational facilities | The greater of one (1) space per two hundred (200) s.f. of floor area. |
| Elderly Housing | 0.5 per dwelling unit |
| Family day care home | One (1) parking space per five hundred (500) s.f. of floor area. |
| Film studios | One (1) per six hundred (600) s.f. of gross floor area. |
| Fitness center | One (1) parking space per three hundred (300) s.f. of gross floor area. |
| Funeral homes | One (1) parking space for each one hundred (100) s.f. of chapel and/or parlor area. |
| Government uses | One (1) parking space for each three hundred (300) s.f. of gross floor area. |
| Gun shops | See "Retail." |
| Hospitals | Two (2) parking spaces for each bed. |
| Hotels | One (1) parking space for each guest room, cabin or rental unit, plus 1 (one) space per each one hundred (100) s.f. of banquet, assembly, meeting, and restaurant seating area. |
| Institutional uses | One (1) parking space for each four hundred (400) s.f. of gross floor area. |

| | |
|---|---|
| Light industrial and manufacturing | One (1) parking space per each three hundred (300) gross s.f. of office area, and showroom or retail space, if any, plus one (1) space per one thousand (1,000) s.f. of all other floor area. |
| Marinas | One (1) per eight (8) dry racks and one (1) per two (2) wet slips, plus such parking as may be required for accessory uses. |
| Mechanical car washing (stand-alone) | Four (4) nonstacking parking spaces plus stacking areas not obstructing vehicles ingressing or egressing the site. |
| Medical | One (1) parking space for each three hundred (300) s.f. of gross floor area. |
| Mixed use | See section 5-1403. |
| Movie theaters | One (1) parking space for each four (4) fixed seats. |
| Museum | One (1) space for every three hundred (300) s.f. of gross floor area devoted to office or retail space, plus one (1) space for every three hundred (300) s.f. of gross floor area. |
| New car rental/vehicle rental | One (1) space per three hundred (300) s.f. of gross floor area, plus one (1) per rental vehicle. |
| Nightclubs | Five (5) parking spaces plus one (1) parking customer space for each fifty (50) s.f. of floor area of customer service area. |
| Nursing and convalescent homes | One (1) parking space per bedroom. |
| Offices | One (1) parking space for each three hundred (300) s.f. of gross floor area. |
| Radio or TV stations | One (1) parking space per each six hundred (600) gross s.f. of office area. |
| Recreation, indoor | For bowling alleys, two (2) parking spaces for each bowling lane. For other indoor recreation uses, one (1) space per three hundred (300) s.f. of floor area |

| | |
|---|---|
| Recycling machines | No spaces required. |
| Religious institutions | One (1) space for one hundred (100) s.f. of gross floor area. |
| Research and technology uses | One (1) per three hundred (300) s.f. office floor area plus one (1) space per one thousand (1,000) s.f. of all other floor area. |
| Residential: single-family | Two (2) spaces per dwelling unit. |
| Residential: multifamily | One and one-half (1.50) spaces per dwelling unit plus five (5) percent of total required parking for guest parking. |
| Restaurants; restaurants, fast-food (with indoor dining) | One (1) space for each one hundred fifty (150) s.f. of gross floor area. No additional parking required for outdoor dining. |
| Retail sales and services | One (1) parking space for each three hundred (300) s.f. of gross floor area. |
| Schools, elementary | See "State requirements for educational facilities (Florida State Board of Education 2008)." |
| Schools, junior and senior high | See "State requirements for educational facilities (Florida State Board of Education 2008)." |
| Schools, special and technical | One (1) for each two hundred (200) s.f. of gross floor area. |
| Self-service laundry facilities | One (1) space per three (3) washers plus one (1) space. |
| Self-storage facilities | One (1) parking space per five thousand (5,000) s.f. of gross floor area, plus two (2) parking spaces for any on-site management or security services living quarters. Parking for additional uses, such as office and retail, shall be calculated based upon the respective parking requirements for such use. |
| Sound recording | One (1) space for each six hundred (600) s.f. of gross floor area. |

| | |
|---|---|
| studios | |
| Vehicle rental | One (1) space per three hundred (300) s.f. office floor area plus one (1) space for each vehicle to be rented. |
| Vehicle sales/displays | One (1) space per three hundred (300) s.f. office and customer floor area, plus one (1) space per seven hundred (700) s.f. showroom floor area, plus one (1) space per five hundred (500) s.f. of all other floor area. |
| Vehicle sales/displays, major | One (1) parking space per each three hundred (300) gross s.f. of office and customer floor area, plus one (1) parking space for each one thousand (1,000) s.f. of remaining gross building area. |
| Vehicle service, major | One (1) space per three hundred (300) s.f. office and customer floor area, plus one (1) space per seven hundred (700) s.f. of all other floor area. |
| Veterinary clinics, animal boarding and grooming | One (1) space per three hundred (300) s.f. of floor area. |
| Warehouses | One (1) space per three hundred (300) s.f. of office floor area, plus one (1) space per one thousand five hundred (1,500) s.f. of all other floor area. |

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1403. - Shared parking.

A. General. Shared parking occurs when one or more required parking spaces are shared by more than one use. Shared parking may be proposed in conjunction with development approval and shall comply with the methodologies and standards set forth herein. Single-family residential. Single-family residential uses shall not be eligible for shared parking.

B. Methodology. The determination of the required number of parking spaces for a specific use under an approved shared parking program shall be based upon the minimum required parking spaces set forth in section 5-1402. The methodology for calculating the required parking for a use under a shared parking program shall be as follows:

1. Multiply the minimum parking requirement for each individual use, as provided in section 5-1402 by the appropriate percentage in this section for each of the five designated time periods.

2. Add the resulting sum for each of the five vertical columns in the table.

C. Minimum requirement. The minimum requirement for shared parking is the highest sum among the five columns resulting from the calculation in subsection (b)(1) of this section.

1. Shared parking shall not result in a reduction of more than 25 percent from the minimum parking required without shared parking.

2. Parking spaces which are reserved for use by specified individuals, classes of individuals or specified businesses shall not be counted toward meeting shared parking requirements.

3. Reserved parking for the disabled shall not be counted towards meeting shared parking requirements.

~~A.~~D. Shared parking agreement. The owner or owners of record of a property for which shared parking is requested shall be responsible for preparing a written agreement between the owners of the properties sharing parking, indicating the terms under which the shared parking shall be used. The agreement shall be approved by the city attorney and the community planning and development department, and shall be recorded in the county official records. The owners of record shall update the shared parking agreement to address any change in the uses identified in the agreement which would cause an increase in peak parking demand, or a finding of any other related change in conditions by the city. The modified agreement shall be subject to the review and approval of the city attorney and the community planning and development department.

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E. Percent Demand for Parking by Use and Time of Day.

| | Night | Weekday | | Weekend | |
|---|---|---|---|---|---|
| Uses | 12:00 a.m.—7:00 a.m. | 7:00 a.m.—6:00 p.m. | 6:00 p.m.—12:00 a.m. | 7:00 a.m.—6:00 p.m. | 6:00 p.m.—12:00 a.m. |
| Residential | 100% | 60% | 90% | 80% | 90% |
| Office/Industrial | 5% | 100% | 10% | 10% | 5% |
| Commercial/Retail | 5% | 70% | 90% | 100% | 70% |
| Hotel | 80% | 55% | 100% | 50% | 100% |
| Restaurant | 10% | 50% | 100% | 50% | 100% |
| Entertainment | 10% | 40% | 100% | 70% | 100% |
| Places of Public Assembly | 50% | 40% | 50% | 100% | 100% |
| All Others | 100% | 100% | 100% | 100% | 100% |

Source: Shared Parking, Urban Land Institute

F. Other methodologies for the calculation of shared parking requirements. In lieu of using the table in this section, the minimum total number of required parking spaces may be determined using other acceptable methodologies, as reviewed and approved by the city.

G. All shared parking agreement applications shall be accompanied by an application fee sufficient to cover all costs associated with the review and processing of such application. The amount of the application fee and cost recovery shall be as set forth in the fee schedule adopted by resolution of the City Council, as per Article 3, Division 2, Section 3-202 of these LDRs.

~~A. General. Shared parking shall be encouraged to permit a reduction in the total number of required parking spaces when a development is occupied by two (2) or more uses which typically do not experience peak parking demands at the same time. Parking spaces serving uses possessing divergent operating hours, may share parking spaces with another use on the same site or within six hundred (600) feet of the proposed use, provided that the area where the sharing occurs is not heavily impacted by a parking shortage. Such shared parking may~~

be approved administratively unless the use otherwise requires approval as a special exception or conditional use.

B. Methodology.

1. When any site or building is used for two (2) or more uses, as listed below, the minimum total number of required parking spaces shall be determined by the following calculation:

a. Multiply the minimum required parking for each individual use, excluding spaces reserved for use by specified individuals or classes of individuals, by the appropriate percentage listed in the table below for each of the designated time periods. Add the resulting sum for each of the five (5) vertical columns for the table. The minimum parking requirement is the highest sum resulting from the foregoing addition.

| | WEEKDAY | | | WEEKEND | |
|---|---|---|---|---|---|
| | Night | Day | Evening | Day | Evening |
| | Midnight — 6:00 a.m. | 9:00 a.m — 4:00 p.m. | 6:00 p.m. — Midnight | 9:00 a.m. — 4:00 p.m. | 6:00 p.m. — Midnight |
| USE | | | | | |
| Residential | 100% | 60% | 90% | 80% | 90% |
| Office | 5% | 100% | 10% | 10% | 5% |
| Retail | 5% | 70% | 90% | 100% | 70% |
| Hotel | 80% | 80% | 100% | 80% | 100% |
| Restaurant | 10% | 50% | 100% | 50% | 100% |
| Entertainment | 10% | 40% | 100% | 80% | 100% |
| Others | 100% | 100% | 100% | 100% | 100% |

2. An applicant for shared parking approval may submit an alternative calculation based on another established methodology for review and approval by the city.

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

_____

Sec. 5-1404. - Exempt parking areas.

Any redevelopment of an existing structure or change of use on a parcel of land located between the area bounded by the following streets: centerline of 126th Street, 124th Street, 9th Avenue, and Dixie or within two hundred (200) feet of a municipal parking lot shall not be required to provide on-site parking.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1405. - Storage, maintenance and/or parking of trucks, boats and/or recreational vehicles.

Parking and/or storage of boats, mounted or un-mounted, boat trailers, recreational vehicles, camping trailers, converted and chopped vans, full-tent trailers, mini-motor homes, motor homes, motorized homes, pickup campers and travel trailers may be permitted by administrative variance accordance with the following:

A. Within an enclosed building or structure having been erected in compliance with the provisions of the Florida Building Code and applicable zoning regulations.

B. On paved material on any lot or parcel of property within a single-family residential zone subject to the following:

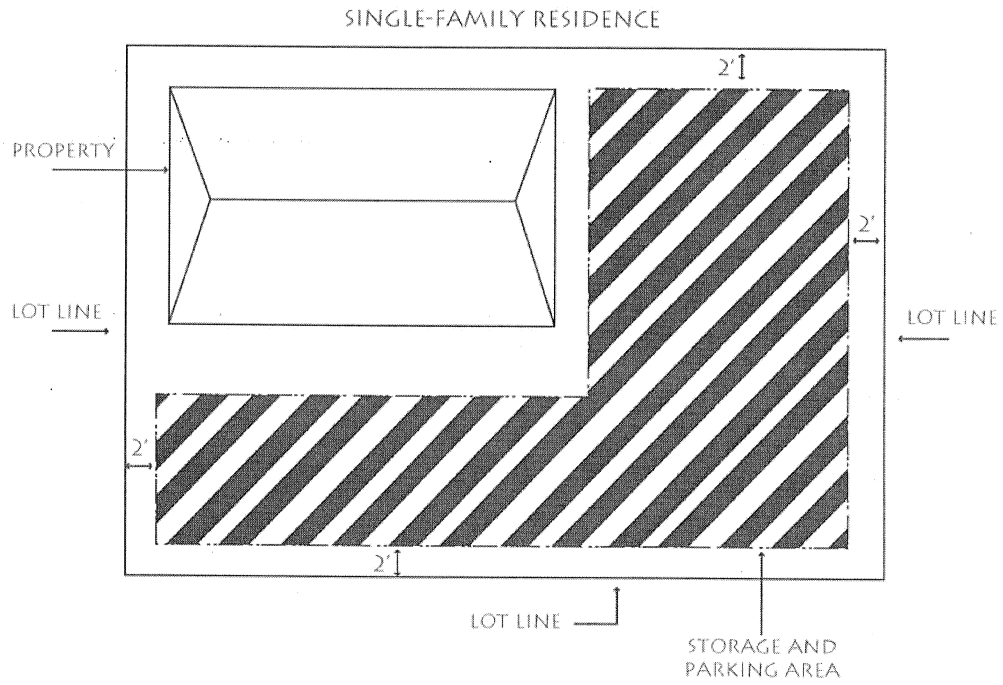
1. ~~t~~To ~~the rear of the face of the main building, and~~ Nnot closer than two (2) feet to any ~~side or rear~~ lot line, except however, that in the case of a corner lot, parking of any of the above-listed vehicles within the setbacks of the side yard which fronts on the right-of-way shall be subject to the same landscaping requirements as outlined in subsection ~~D~~C. of this section.

~~C. On paved material on any lot or parcel of property within a single-family residential zone in the required side yard to the rear of the face of the main building fronting upon a street, not closer than two (2) feet to any lot line.~~

2. ~~, except however, that in~~In the case of a corner lot, parking of any of the above-listed vehicles within the setbacks of the side yard which fronts on the right-of-way shall be in accordance with subsection ~~D~~C. of this section.

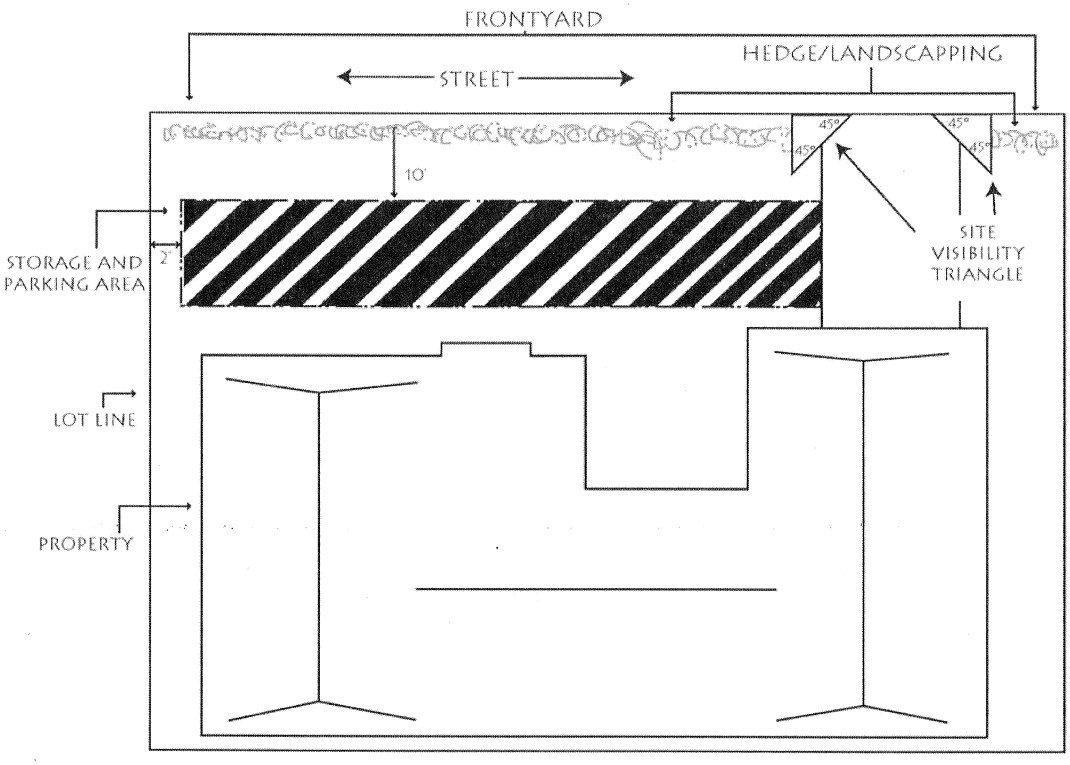
3. Only one (1) boat, boat trailer and one (1) travel trailer, motor coach, converted and chopped van, motor home or recreational vehicle shall be permitted provided they are lawfully registered to occupants of the residence; or in the case of a vacant parcel or lot, the owner of the property.

4. Boats and/or boat trailers shall not be stored in the front yard of single family waterfront residential properties.




~~D~~C. If in the opinion of the ~~building and zoning department~~community planning and development department, the side or rear yard is not accessible, such storage may be permitted in the front yard but not closer than ten (10) feet from the front lot line. The paved area, except for access thereto, reserved for storage shall have placed upon the periphery thereof, where visible from an alley, street or highway, a hedge or landscaping to aesthetically screen a recreation vehicle from public view, which said screening and landscaping plan shall be as approved by the community planning and development department~~building and zoning department~~. Such landscaping shall be thirty-six (36) inches

at the time of planting, two (2) feet on center, so that it appears as a solid continuous screen.




~~E~~D. Existing areas reserved for storage of recreational vehicles where no such screening exists along the boundaries thereof shall within ninety (90) days from the effective date of this ordinance provide such screening as heretofore required.

1. In a legally marked and designated parking stall in any area zoned for multifamily development with the approval of the owner or owners.

2. A recreational vehicle may be stored or parked in a lot or parcel of property in a single-family residential zone without regard to subsections B., C. and D. of this section for the sole express purpose of loading or unloading, not in excess of a twenty-four-hour period.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1406. - Prohibited parking and/or storage.

A. No recreational vehicle, truck, van, or bus shall be ~~occupied or~~ used for human habitation overnight ~~including, but not limited to, sleeping, eating or resting,~~ in any area of the city.

B. No recreational vehicle, truck, van or bus or unmounted boat which is in a state of externally visible disrepair or partial construction shall be stored or parked upon any single-family or multiple-family zoned properties, or upon commercially zoned properties, except as may be permitted under junk or derelict property, article II of chapter 10 of the city's code.

C. No recreational vehicle or bus except as otherwise provided herein, shall be stored or parked overnight upon a street or public right-of-way, nor upon any property designated or used for a park or public land.

D. No truck in excess of one and one-half (1 1/2) ton load capacity shall be stored or parked in any residential area of the city unless said truck is actively engaged in the loading or unloading of materials.

E. No bus shall be stored or parked in any residential area of the city, except that a bus used by a school or ~~church~~ religious establishment lawfully established in a residential area may be stored or parked on the premises of said school or ~~church~~ religious establishment property.

F. No wrecker shall be maintained, parked or stored in residential district of the city upon any private or public property or right-of-way within said districts or upon any street abutting said districts. Nothing in this paragraph shall prohibit the temporary parking of a wrecker while actively engaged in the process of removing or towing a vehicle.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1407. - Offstreet loading.

A. In connection with every building, or building group or part thereof thereafter erected and having a gross floor area of four thousand (4,000) square feet or more, there shall be provided and maintained, on the same lot with such building, offstreet loading berths or unloading berths as follows:

Four thousand (4,000)—Twenty-five thousand (25,000) square feet—One (1) space.

For each additional twenty-five thousand (25,000) square feet ~~–~~ or part thereof —One (1) space.

B. The loading berth required for each building under twenty-five thousand (25,000) square feet shall be scaled to the delivery vehicles expected.

C. If the building is greater than twenty-five thousand (25,000) square feet, loading spaces shall be a minimum of ten (10) feet in width and a length of not less than twenty-five (25) feet and shall be directly accessible from a street or alley without crossing or entering any other required offstreet loading or offstreet parking spaces. All loading spaces shall be arranged for convenient and safe ingress and egress by delivery vehicles, both motor truck and/or trailer combination.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 5-1408. - Geometric standards for parking and vehicular use areas.~~

~~A. Dimensions and configuration of parking spaces. . [THIS NEEDS TO BE REVISITED; LOOK AT COUNTY PUBLIC WORKS MANUAL]~~

~~1. Required parking space dimensions:~~

~~a. Parallel parking spaces: eight and one-half (8 ½) nine (9) feet by twenty-two (22) feet.~~

~~b. Angled parking spaces: eight and one-half (8 1/2 ) nine (9) feet by eighteen (18) feet.~~

~~c. Disabled parking spaces and their accessible areas shall be dimensioned in accordance with Chapter 11 of the Florida Building Code.~~

~~2. Wheel stops and curbing. Precast concrete wheel stops or curbing shall be provided for all angled parking spaces that abut a sidewalk such that cars are curbed at sixteen and one-half (16.5) feet. The balance of the required depth of the parking spaces between the wheel stop or curb and the sidewalk shall be clear of obstructions.~~

~~3. All landscaped areas in or adjacent to parking areas or other vehicular use areas shall be provided with type D curbing, or extruded curbing in combination with wheel stops, to restrict the destruction of the landscaped areas by vehicles. Adequate scuppers and/or weep holes shall be provided to permit proper drainage, as required by the city engineer.~~

~~4. Required aisle widths. Minimum required aisle widths shall be as follows:~~

| ~~Parking Angle~~ | ~~One-Way Aisle~~ | ~~Two-Way Aisle~~ |
|---|---|---|
| ~~0° (parallel) (a); 30° (b); 37.5° (c)~~ | ~~11 ft.~~ | ~~22 ft.~~ |
| ~~45° (d)~~ | ~~12 ft.~~ | ~~22 ft.~~ |
| ~~52.5° (e)~~ | ~~14 ft.~~ | ~~22 ft.~~ |
| ~~60° (f)~~ | ~~16 ft.~~ | ~~22 ft.~~ |
| ~~90° (g)~~ | ~~22 ft.~~ | ~~24 ft.~~ |

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~1409~~1408. - Parking garages abutting single family.

A. ~~[~~Parking garages.~~]~~

1. All parking garages on parcels of land which are adjacent or abutting the R-1 and R-2 districts shall:

   a. Be set back a minimum of thirty-five (35) feet from the adjacent or abutting property line, or set back one (1) foot for every one (1) foot of building height, whichever is greater;

   b. Be separated from the R-1 or R-2 district by a landscape buffer-yard of at least fifteen (15) feet in width which is landscaped with over-story canopy or palm trees and under-story trees at a density of one (1) over-story and one (1) under-story tree per one hundred fifty (150) square feet of buffer-yard;

   c. Be designed and constructed with architectural features so that the use of the structure for a parking garage is masked from the R-1 or R-2 sides of the structure;

   d. Be designed so that automobile headlamps are screened with an opaque structure to height of at least four (4) feet above any drive surface within the garage;

   e. Screening shall use the architectural elements used in the building development and will incorporate at a minimum: architectural screening, awnings, Bahama shutters or similar treatments to assure that the garage is both architecturally pleasing and provides a buffer for light intrusion and allows for privacy of adjacent or abutting residential neighbors; and

   f. Provide lighting fixtures which are cut-off fixtures or directed (aimed) so that they are not directly visible from any property in the R-1 or R-2 district within two hundred (200) feet of the parking structure.

2. All parking garages on all other parcels of land shall:

   a. Not abut street intersections, be adjacent to squares or parks except when specifically designed to incorporate massing, scale and detail that contributes to the adjoining public space.

   b. Unless otherwise provided in these LDRs, a~~A~~t least 75% of the ground floor space abutting a major corridor shall include retail.

   c. Unless included as a part of a multifamily structure, the garage shall be setback a minimum of fifteen (15) feet from R-4, ~~or~~ R-5, R-6 or BZ parcels and be separated by a bufferyard of at least ten (10) feet in width.

   d. Be designed and constructed with architectural features so that the use of the structure for a parking garage is masked from the R-4 ~~or~~ R-5, R-6 or BZ sides of the structure;

d. Be designed so that automobile headlamps are screened with an opaque structure to height of at least four (4) feet above any drive surface within the garage;

e. Screening shall use the architectural elements used in the building development and will incorporate at a minimum: architectural screening, awnings, Bahama shutters or similar treatments to assure that the garage is both architecturally pleasing and provides a buffer for light intrusion and allows for privacy of adjacent or abutting residential neighbors; and

f. Provide lighting fixtures which are cut-off fixtures or directed (aimed) so that they are not directly visible from any property in the R-4 ~~or~~ R-5, R-6 or BZ district within two hundred (200) feet of the parking structure.

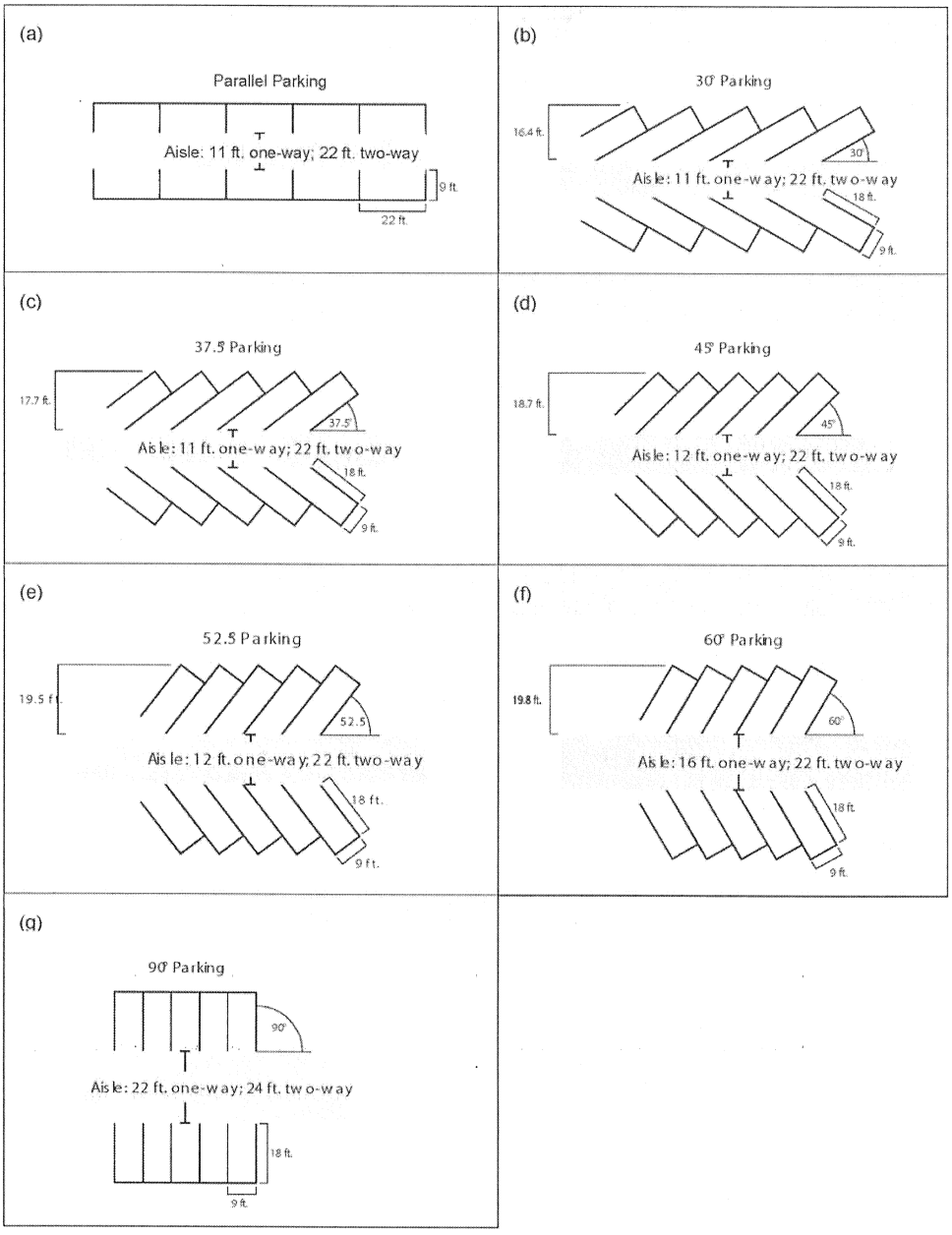
3. All parking garage entry or exit drives shall be architecturally designed with pavers and other aesthetic treatments which ensure that the drive area is consistent with the streetscape on either side of the drive.

~~3~~4. All parking garages shall be designed in the same architectural style with the same materials and finishes at the principal building or buildings which are served by the garage structure.

~~4~~5. No light fixture on the top floor of a parking garage shall be located at height above the surface of the top parking level of greater than three and one-half (3½) feet.

**Error!**

Garages with more than two cars in other than multifamily projects shall have maximum dimension of multiples of the above subjet to the review of the Development Review Committee.


(a)
Parallel Parking
Aisle: 11 ft. one-way; 22 ft. two-way
9 ft.
22 ft.
(b)
30° Parking
16.4 ft.
30°
Aisle: 11 ft. one-way; 22 ft. two-way
18 ft.
9 ft.
(c)
37.5° Parking
17.7 ft.
37.5°
Aisle: 11 ft. one-way; 22 ft. two-way
18 ft.
9 ft.
(d)
45° Parking
18.7 ft.
45°
Aisle: 12 ft. one-way; 22 ft. two-way
18 ft.
9 ft.
(e)
52.5 Parking
19.5 ft.
52.5
Aisle: 12 ft. one-way; 22 ft. two-way
18 ft.
9 ft.
(f)
60° Parking
19.8 ft.
60°
Aisle: 16 ft. one-way; 22 ft. two-way
18 ft.
9 ft.
(g)
90° Parking
90°
Aisle: 22 ft. one-way; 24 ft. two-way
18 ft.
9 ft.

* Parallel parking spaces shall be setback an additional one and one-half (1½) feet from walls.

** Ninety-degree parking spaces shall be setback an additional one (1) foot from walls.

5. The ~~minimum~~ maximum dimensions of new garages and carports are:

| Type | Interior Width | Interior Length |
|---|---|---|
| One-car garage | 12 ft. | 20 ft. |
| Two-car garage | 20 ft. | 20 ft. |
| ~~One-car carport~~ | ~~12 ft.~~ | ~~20 ft.~~ |
| ~~Two-car~~ Cearport | 20 ft. | 20 ft. |

B. Configuration and connectivity of access driveways and aisles.

1. Access to parking spaces. Access to parking spaces shall be provided in accordance with the following:

| Access to parking spaces from: | Permitted methods of access to parking: | Permitted methods of egress from parking: |
|---|---|---|
| Alley | Direct access from alley to parking space; or access from aisle to parking space | Directly from parking space to alley or from aisle to alley. Forward and reverse (back-out) movements are permitted. |
| Local residential street | Direct access from street to parking space; or access from aisle to parking space | Directly from parking space to street or from aisle to street. Forward and reverse (back-out) movements are only permitted for single-family residences. |
| Arterials | Access only from aisle | Directly from aisle to street; back out for single-family residence on lots of less than 75′ in width. |

2. Ingress and egress driveways.

a. The minimum width of ingress and egress driveways shall be:

i. One-way drive: twelve (12) feet.

ii. Two-way drive: twenty ~~four (24)~~ (20) feet.

b. Ingress and egress driveways shall be designed such that:

i. Drivers can enter and exit the from the property without endangering themselves, pedestrians, or vehicles traveling on abutting streets;

ii. Interference with the free and convenient flow of traffic on adjacent streets or alleys is minimized.

3. No dead-end parking areas shall be provided. A turnaround space shall be provided.

C. Configuration of parking bays within ~~automated~~ mechanical parking systems. ~~Automated~~ Mechanical parking systems shall be designed or restricted such that the positioning of any one (1) vehicle within the ~~automated~~ mechanical parking system does not prevent access to any other vehicle, unless the bays that contain the obstructing vehicle and obstructed vehicle are under the control of the same person.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~1410~~1409. - Vehicle rental.

Required parking for a vehicle rental facility shall only ~~not~~ be provided with stacking or tandem spaces if expressly approved as part of site plan review.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~1411~~1410. - Valet parking.

A. Valet parking services may be provided for development within multifamily residential ~~the R-5 or R-6~~ districts or any of the nonresidential districts in the city upon approval of a plan for such services by the community planning and development department~~building and zoning department~~. Such plan shall be submitted by the valet company and the owner of the property for which valet services approval is sought.

B. Up to fifty (50) percent of required parking for the site may be designated for use by valet parking, except that a larger percentage may be approved by the planning director at time of site plan review upon a demonstration that the site and/or use is suitable for such increased percentage.

C. Valet operator's booths and signage shall be well marked and portable. A clear path for pedestrians on the sidewalk where the valet operations may be located shall be maintained at all times.

D. Drop-off and pick-up of vehicles shall not interfere with the safe and efficient operation of traffic on adjacent streets. Drop-off and pick-up areas may be designated for street parking areas adjacent to the site but no parking of valet vehicles shall be allowed in the public right-of-way.

E. The valet operator shall provide the city with indemnification and insurance as may be required by the city manager.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-~~1412~~1411 . - Prohibition against operating helipad.

In all zoning districts, except the M-1 Industrial district, it shall be unlawful for any person to operate a helipad or to land any aircraft, including helicopters, within the city limits at any time except at established landing sites which have been licensed and certified by the federal and state government in accordance with applicable statutes and regulations. However, nothing in this section shall be construed to prohibit landings by government agencies, landings for medical emergencies, and landings by law enforcement officers in the performance of their law enforcement duties.

(Ord. No. 1285, § 1, 10-27-09)

Sec. 5-~~1413~~1412. - Penalty.

Any violation of this section shall constitute a fine in the amount of five hundred dollars ($500.00), with each incident of the violation constituting a separate offense.

(Ord. No. 1285, § 1, 10-27-09)

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DIVISION 15. - SIGNS

Sec. 5-1501. - Purpose.

~~It is the purpose of this division to promote the public health, safety and general welfare through a comprehensive system of reasonable, consistent and nondiscriminatory sign standards and requirements. These sign regulations are intended to:~~

~~A. Enable the identification of places of residence and business.~~

~~B. Allow for the communication of information necessary for the conduct of commerce.~~

~~C. Lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic.~~

~~D. Enhance the attractiveness and economic well-being of the city as a place to live and conduct business.~~

~~E. Protect the public from the dangers of unsafe signs.~~

~~F. Permit signs that are compatible with their surroundings and aid orientation, and preclude placement of signs in a manner that conceals or obstructs adjacent land uses or signs.~~

~~G. Encourage signs that are appropriate to the zoning district in which they are located and consistent with the category of use to which they pertain.~~

~~H. Curtail the size and number of signs and sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business.~~

~~I. Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains.~~

~~J. Preclude signs from conflicting with the principal permitted use of the site or adjoining sites.~~

~~K. Regulate signs in a manner so as to not interfere with, obstruct vision of or distract motorists, bicyclists or pedestrians.~~

~~L. Require signs to be constructed, installed and maintained in a safe and satisfactory manner.~~

~~M. To ensure that the constitutionally guaranteed right of free speech is protected.~~

A. Short Title. This article shall hereafter be known and cited as “The North Miami Sign Code”.

B. Purpose and Intent. The purpose of this article is to set forth the regulations for the use of signs within the City’s jurisdictional limits for site identification, communication, and advertisement. It is the intent of this article to promote the health, safety, convenience, aesthetics, morality, and general welfare of the City by regulating signs in order to meet the following objectives:

1. Identification. Promote and aid in the identification and location of an establishment, organization, residence or neighborhood;

2. Aesthetics. Preserve the beauty and unique character of the City by protecting it from visual blight and providing a pleasing environmental setting and community appearance, which is deemed vital to the attraction and retention of business and commerce;

3. Land Values. Protect property values by assuring the compatibility of signage with surrounding land uses;

4. Safety. Promote general safety and protect the general public from damage or injury caused by, or partially attributed to, the distractions, hazards, and obstructions that result from improperly designed, constructed, maintained, or located signs;

5. Compatibility. Ensure that signs are compatible with the surrounding built environment, including adjacent architecture and neighborhoods, and they compliment each other rather than detract from one another; and

6. Sustainability. To promote signage and support structures that employ sustainable designs and technologies with respect to their construction, maintenance, and operation (e.g. recycled materials, energy efficient, low energy usage bulbs, etc.).

C. Administration**.** The community planning and development director or designee shall have the authority to coordinate, interpret, and administer this article.

D. Applicability. The provisions of this article shall be considered the minimum standards and are applicable to all new signs constructed or displayed after the date of enactment of these regulations or modification to signs which were permitted prior to the date of adoption of these regulations. Signs shall only be permitted as provided for herein. Billboards within the city are regulated pursuant to Ordinance no. 1246, adopted October 23, 2007, which provides:

*Outdoor Advertising Billboards in proximity to expressways*. Outdoor advertising billboards shall be permitted only within the area bordered on the east by Interstate 95 right-of-way extending west 400 feet from Interstate 95 right-of-way. No billboard shall be placed north of 143rd street or south of 119th street. The number of billboards permitted shall be limited to a total of six (6) billboards and shall have no more than two (2) sides each. Notwithstanding the foregoing, the southernmost sign may be a triangular sign, with a third side facing west. The billboards shall be placed so as to be primarily visible from the traffic lanes on Interstate 95. The billboards must meet the Florida Department of Transportation permitting requirements, including state limitations on size, shape, and height. No part of any billboard shall extend over any property line. No billboard shall be illuminated in a manner that interferes in any way with traffic or obscures a traffic sign, device or signal. The location of each billboard must be in an

area zoned business, commercial, or industrial. All billboards shall first be permitted by the city prior to its placement. A licensing fee shall be payable monthly to the city in an amount to be agreed upon by the city and billboard agent.~~.~~

E. Definitions. See Chapter 29, Article 7 for definitions of signs and related equipment.

F. Assure that murals are reviewed and approved pursuant to 5-2102, Art Selection Committee.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1345, § 1, 12-11-12)

Sec. 5-1502. - Prohibited signs.

The following types of signs are prohibited, and are not eligible for a variance:

A. Abandoned signs. When an establishment, organization, or service is discontinued, and the planning director has determined that the use is abandoned, all signs relating to such establishment, organization, or service shall be removed within forty-five days from the date of discontinuance. The sign structure may remain in place if the sign text is not visible, provided the sign text is covered with an approved durable material. Failure to so remove such a sign shall subject the sign to removal and disposition pursuant to the provisions of this article. ~~Abandoned signs and/or sign structures which are determined to be nonconforming with the provisions of this division shall be required to be removed by the property owner within sixty (60) days after receipt of notification, or refusal to accept delivery of notification by certified mail, that such removal is required. Alternatively, the sign panels within the abandoned sign structure may be removed and replaced with sign panels of neutral color and containing no message.~~

B. Balloons, cold air inflatable, streamers, and strings of pennants, except where allowed as governmental and public purpose signs for special events of limited time and frequency, such as ~~grand opening~~ special events, as approved and permitted by the community planning and development department ~~building and zoning department~~ and located in a safe and proper location with at least eight foot (8') clearance (banners).

C. Except as provided in subsection 5-1506B., changeable message signs, ~~except time and temperature~~, on which the message changes more rapidly than once every twenty-four (24) hours.

D. Pavement markings, except official traffic-control markings and street addresses.

E. Portable signs.

F. Roof and above roof signs. Any sign erected, placed, or affixed 1) to the slope of a hip or gable roof; 2) above the roofline or parapet wall; or 3) on rooftop structures, including but not limited to mechanical enclosures, mechanical equipment, or chimneys. All signs shall be located a minimum of six (6) inches below the top of the mansard or parapet wall, where applicable.

G. Rooftop balloons.

H. Sandwich board signs~~, except in the C-3 district~~.

I. Signs attached to or painted on piers or seawalls, other than official regulatory or warning signs.

J. Signs in or upon any river, bay, lake, or other body of water, except government signs that aid in navigation or protect water quality or wildlife.

K. Signs located on publicly owned land or easements or inside street rights-of-way, except official government informational, directional or safety signs. ~~required or erected by permission of the city manager or city council~~.

L. Handbills, posters, advertisements, or notices that are attached in any way upon lampposts, telephone poles, utility poles, cars, bridges, and sidewalks.

M. Signs that emit sound, vapor, smoke, odor, particles, or gaseous matter.

N. Signs that have unshielded illuminating devices or which reflect lighting onto public rights-of-way thereby creating a potential traffic or pedestrian hazard.

O. ~~Except for vintage/traditional barbershop signs, signs~~ Signs that move, revolve, twirl, rotate, flash, including animated signs, and multi-prism signs. This prohibition shall not include indoor or outdoor electronic message centers and electronic scrolling signs operating in conformance with this ordinance.

P. Signs that obstruct, conceal, hide, or otherwise obscure from view any official traffic or government sign, signal, or device.

Q. Signs that present a potential traffic or pedestrian hazard, including signs which obstruct visibility.

R. Signs maintained at any location where by reason of color, illumination, position, size or shape may obstruct, impair, obscure, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead, or confuse vehicular traffic.

S. Signs attached to or placed on any tree or other vegetation.

T. Signs carried, ~~waived~~ waved or otherwise displayed by persons either on public rights-of-way or in a manner visible from public rights-of-way. This provision is directed toward such displays intended to draw attention for a commercial purpose, and is not intended to limit the display of placards, banners, flags or other signage by persons participating in demonstrations, political rallies and similar events or other individual or group expressive activity.

U. Signs that obstruct any window, door or other opening used as a means of regular ingress and egress, or used for required light and ventilation or used for fire escapes and other openings for emergency access and escape.

V. Signs on vacant or unimproved land, except real estate signs and/or development and construction signs, and city-approved government-issued signs (both regulatory and notice).

W. Illuminated signs which, by virtue of intensity, direction, or color of lighting or illumination, interfere with the proper operation of or cause confusion to the operator of a motor vehicle on the public streets. No sign shall be illuminated to an intensity in excess of that of the public street lamp in the immediate vicinity.

X. Signs whose area, characters, letters, illustrations, or ornamentation consists of light bulbs except for holiday decorations.

Y. A sign that significantly covers, interrupts, or disrupts the architectural features of a building.

Z. Any sign affixed temporarily or permanently to a vehicle where the principle purpose of the vehicle as used is not transportation, but merely the support of the sign itself. Signs mounted on taxis, buses, trucks, or other modes of general transportation, when in the course of their normal service and use, are expressly excluded.

AA. Window coverings and signs, whether placed on the interior or exterior of windows, constructed of any kind of thickness, are prohibited when such covering or sign exceeds fifteen (15) percent of the total transparent area of any window(s).

BB. Snipe signs.

CC. Window signs in residential districts, except for sale or for rent signs in the window of the property to be sold or rented, and signs with noncommercial messages.

DD. Three-dimensional objects that are used as signs.

EE. Vehicle signs~~,~~ and portable trailer signs~~~~ intended to serve as a portable sign that can be viewed from a public right-of-way and that does not meet the definition established in article 7.

FF. Any sign that is not specifically described or enumerated as permitted within the specific zoning district classifications in this Code.

GG. Pole or pylon signs.

HH. Box or painted signs, except in M-1 districts.

Note: In the event any word, sentence, clause, or other portion of this section is determined invalid, then any sign otherwise prohibited by this section shall comply with the requirements set forth in this code as if this section was never enacted.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1345, § 1, 12-11-12)

Sec. 5-1503. - General standards.

A. The following general standards shall apply to all signs city-wide;

1. Sign Content

~~a. Obscene. It shall be unlawful for any person to display upon any sign or other advertising structure any obscene or indecent matter. No sign shall display any statement, word, character, or illustration of an obscene nature, as defined by Chapter 847, Florida Statutes, as may be amended from time to time.~~

~~b. False or misleading. It shall be unlawful for a person to display false or misleading statements upon commercial signs, misleading the public as to anything sold, or any~~

~~services to be performed. The fact that any commercial sign contains words sufficient to mislead a reasonable and prudent person in reading same, shall be prima facie evidence of a violation of this section by the person displaying the sign or permitting same to be displayed. This subsection does not apply to any owner or operator of a media primarily devoted to advertising, who disseminates an advertisement in good faith without knowledge of its false, deceptive or misleading character.~~

~~a~~e. Noncommercial copy. Any sign authorized in this article may contain noncommercial copy in lieu of any other copy so long as the sign complies with the size, height, area and other requirements of this article.

~~A~~B. Setback. No portion of any sign shall be located within five (5) feet of a property line of a parcel proposed for development, except as required or permitted by law.

~~B~~C. Neon signs and lighting.

1. Neon signs and lighting shall be permitted as freestanding and attached signage as provided in this division. When neon lighting is utilized to emphasize the architectural features of a building, such as when used to outline doorways, windows, facades, or architectural detailing, or when used to accentuate site landscaping, it shall not be regarded as signage. In addition, neon lighting used as freestanding designs or murals or as attached murals or designs unrelated to the architectural features of the building to which the lighting is attached shall be permitted, but shall be counted toward the allowable area of the property's or occupancy's freestanding or attached signage, as applicable. No neon sign shall be a flashing, animated or rotating sign.
2. In areas accessible to or within reach of the general public, exposed neon strings shall be covered with a clear acrylic cover, or electrode sleeves, or electrode boots. Neon connections must be insulated with glass or other appropriate material; transformers must be enclosed within transformer cans; and secondary voltage wires must be insulated with piping.

~~C~~D. Illuminated signs.

1. The light from any illuminated sign shall be shaded, shielded, or directed away from adjoining street rights-of-way and properties.
2. No sign shall have blinking, flashing, or fluttering lights or other illumination devices which have a changing light intensity, brightness, or direction. This prohibition shall not include electronic message centers or indoor electronic scrolling signs operating in conformance with this ordinance.
3. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic-control devices.
4. Neither the direct nor the reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
5. The light which illuminates a sign shall be shaded, shielded, or directed so that no structure, including sign supports or awnings, are illuminated by such lighting.

~~D~~E. Banners and flags. A banner or flag may be used as a permitted attached sign and, if so used, the area of the banner or flag shall be included in, and limited by, the computation of allowable area for freestanding or attached signs on the property.

~~E~~F. Gasoline price signs. Gasoline price display signs shall be allowed in all districts where automobile service stations are permitted. Gasoline price display signs shall not exceed twelve (12) square feet and shall be placed in the immediate vicinity of the pump islands and shall not extend above any pump island canopy or they shall be attached to the primary freestanding sign for the property. The area of the gasoline price display sign shall be counted toward the allowable area for the freestanding sign.

~~F~~G. Electronic message center. Electronic message center signs shall be allowed in all nonresidential districts on major corridors and not face local streets. The maximum area for the electronic message center portion only shall not exceed fifty (50) percent of the allowed sign area for ~~pole,~~ monument or freestanding shopping center sign on which it is placed. The area of an electronic message center sign, whether attached or freestanding, shall be included in determining the cumulative area of signs on a property.

1. Such signs shall display static images for a period of at least eight (8) seconds at a time.
2. Transitions from one static image to the next shall appear instantaneously without the appearance of animation, flashing or movement of any kind.
3. All electronic message centers shall come equipped with automatic dimming technology which automatically adjusts the sign's brightness in direct correlation with ambient light conditions.

4a. No electronic message center shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area. The measurement distance shall be calculated with the following formula: The square root of the product of the sign area and one-hundred.

Example using a twelve (12) square foot sign:

$$\text{Measurement Distance} = \sqrt{(12 \text{ Sq. Ft.} \times 100)} = 34.6$$

4b. Intensities in illumination shall be subject to review by the city's electrical inspector. The applicant will be required to submit an affidavit attesting to the intensities in illumination as outlined in subsection 4a above.

5. The electronic message center sign shall contain a default mechanism that freezes the image in one (1) position in the event of malfunction. The sign owner shall respond to a malfunction within one (1) day of a city notification of malfunction.

~~G~~H. Indoor electronic scrolling signs. Such signs are allowed indoors with scrolling text and shall not exceed four (4) square feet in size. Images or text that flash are prohibited. These signs are intended primarily for pedestrian view and not vehicular traffic. Such signs are subject to the illumination standards listed in subsections 5-1503.F.4a. and 4b.

~~H~~I. Building and electrical code compliance. All signs shall comply with applicable building and electrical code requirements.

~~I~~J. Sign projection. No sign or any part shall project above the roof line or be located within five (5) feet of property lines or within the visibility triangle in section 5-904.

~~J~~K. Sign attachment. Attached signs shall be parallel and flush to the building.

~~K~~L. Sign maintenance. All signs shall be maintained in good condition, free from fading, peeling or any other condition which renders the sign unreadable, either partially or totally.

M. A non-residential building located on a corner of two (2) public streets shall be allowed wall-mounted signage on the wall not considered to be the front (i.e., a side street) equal in area to one (1) square foot times the length of such wall.

N. The side of a nonresidential building not on a corner of two (2) public streets shall be allowed wall-mounted signage on the side walls equal in area to one-half (1/2) square foot times the length of the side of the building.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1345, § 1, 12-11-12)

Sec. 5-1504. - Signs permitted without a permit.

The following signs may be developed without a permit pursuant to article 3 of this Code:

A. One (1) address sign of no more than four (4) square feet of total sign face area for each parcel of land used for residential or nonresidential purposes.

B. One (1) nameplate sign per single-family dwelling ~~denoting the name of the occupant and/or street address~~, not exceeding two (2) square feet in area attached at the entrance to the building, not above the top of the first floor of building.

C. One (1) nameplate sign per multifamily dwelling per street frontage ~~denoting the name and street address~~ of the multiple-family dwelling only, attached to and parallel with the face of the building facing such street, not exceeding twelve (12) square feet in area, not projecting above the roofline.

D. Holiday decorations.

E. A single sign indicating a valet parking station no more than four (4) square feet visible only during hours that the valet is operating.

F. One (1) garage and yard sale sign of no more than four (4) square feet of total sign face area located on the parcel of land where the garage or yard sale is to be conducted only on the date or dates on which the garage or yard sale is conducted. In addition, no more than two (2) directional signs of no more than four (4) square feet of total sign face area per sign related to a garage or yard sale which are located on privately owned parcels of land other than the parcel of land where the garage or yard sale is to be conducted only on the date or dates on which the garage or yard sale is conducted.

G. A temporary open house sign is permitted in a public right-of-way or with permission of a private property owner, provided that such sign does not exceed four (4) square feet in area per face, is composed of durable materials (not paper, handbills, or posters), is placed for a period of time not exceeding seventy two (72) hours during a weekend, and is promptly removed no later than 7:00 p.m. on Sunday. No such sign shall be attached

in any way to lampposts, telephone poles, utility poles, bridges, sidewalks or trees/landscaping.

H. Signs which are integral and incidental to equipment, or machinery and cover not more than twenty (20) percent of the exterior surface of such equipment, facilities or machinery.

I. Attached menu signs of no more than four (4) square feet of sign face area located at the entrance or service window of a restaurant.

J. Onsite directional and traffic control signs of no more than four (4) square feet of sign face area provided that business logos or other nontraffic control symbols do not exceed twenty-five (25) percent of the sign face area.

K. Signs identifying parking space numbers provided that such signs are painted on the paved surface of each space or do not exceed one-half (½) square foot of sign face area per sign.

L. Signs identifying bicycle parking in accordance with subsection 5-803G.

M. Signs identifying marina slip numbers provided that such signs are painted on the dock in front of each slip or do not exceed one (1) square feet of sign face area per sign.

N. In lieu of a development sign or banner, one (1) freestanding nonilluminated double-face real estate sign per parcel of land per street frontage indicating that a parcel of land or a building located on the parcel of land or part thereof is for sale, for lease or otherwise available for conveyance, provided that such sign does not exceed:

1. Four (4) square feet per sign face area plus required rider on parcels of land designated or used for single-family residential purposes.
2. Six (6) square feet per sign face on parcels of land designated or used for multifamily purposes.
3. Twelve (12) square feet of total sign face area on parcels of land designated or used for nonresidential purposes.

O. Signs located within a stadium which are not visible from outside of a stadium, except for illuminated or structural signs.

P. Window signs which occupy fifteen (15) percent or less of the total area of the window where the sign is located.

Q. Safety or warning signs which do not exceed four (4) square feet of sign face area per sign.

R. A change in the changeable copy portion of a sign message on a previously approved, lawful sign.

S. ~~One (1) flag per dwelling unit, not to exceed fifteen (15) square feet, unless the flag is proposed to be installed in the ground. See subsection 5-1505A.1.~~ Any flag shall not exceed fifteen (15) square feet. If a flag is proposed to be installed in the ground, it is subject to the requirements in 5-1505A.1.

T. Painted pavement markings.

U. Governmental instruction signs or public notice signs (e.g., self-service, no smoking etc.), to the extent necessary to comply with state, federal, or county laws; provided however, that unless required by law, such signs shall not exceed four (4) square feet in area or one (1) per service island for automotive uses.

V. Signs of a noncommercial nature erected by public utilities.

W. Nonelectric or plug-in only window signage; incidental signage (ATMs, gas pumps, clearance); safety signs.

X. Awning or canopy signs provided that the lettering cannot exceed six (6) inches in height and shall be no more than one (1) inch below the bottom of the awning or canopy.

~~Y. A non-residential building located on a corner of two (2) public streets shall be allowed wall-mounted signage on the wall not considered to be the front (i.e., a side street) equal in area to one (1) square foot times the length of such wall.~~

~~Z.. The side of a nonresidential building not on a corner of two (2) public streets shall be allowed wall-mounted signage on the side walls equal in area to one-half (1/2) square foot times the length of the side of the building.~~ **~~<Relocated to 5-1503>~~**

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1345, § 1, 12-11-12)

Sec. 5-1505. - Permitted signs requiring development review.

A. Residential districts.

1. ~~One (1) flag per detached dwelling unit not to~~ In single family residential districts, any flag shall not exceed fifteen (15) square feet or fifteen (15) feet in height if the flag is proposed to be installed in the ground.
2. ~~One (1)~~ Any flag shall not to exceed fifteen (15) square feet or twenty (20) feet in height per parcel of land used for multifamily residential purposes.
3. Freestanding identification sign for multifamily development with at least two hundred (200) lineal feet of street frontage: One (1) per entrance of not more than twelve (12) square feet of total sign face per sign, two (2) not exceeding forty (40) square feet for all identification signs (including attached identification signs). The height shall not exceed six (6) feet.
4. Attached identification sign per multifamily building not exceeding twelve (12) square feet of sign face, unless two (2) freestanding identification signs are used.
5. Except in single-family residential districts, one (1) development sign is authorized per active construction or redevelopment site. Such sign shall be single-faced, not exceeding fifty (50) square feet in area and shall not be illuminated. If the sign is mounted on a building, it shall be attached flush to and parallel with the face of the building below the roof line. If it is freestanding, it shall not exceed ten (10) feet in height. Such sign shall be removed upon the issuance of a partial or final certificate of occupancy.

6. Banner sign for multifamily properties not exceeding six ~~months~~ (6) months or during the construction or redevelopment of a property. The placement of and size of such signs shall be approved by the director of community planning and development ~~building and zoning~~ but shall not exceed one hundred fifty (150) square feet or be erected for more than six (6) months. The six-month period is automatically extended for an additional six (6) months if after inspection by code enforcement, the banners are substantially in the same condition as originally approved. An extension beyond one (1) year may only be obtained through the special exception process.

B. Nonresidential districts. The following signs are permitted in nonresidential districts subject to review of and approval of a sign permit:

| Type of Sign | Number | Maximum Size | Maximum Height | Other |
|---|---|---|---|---|
| Identification | One (1) single-faced sign per street frontage (if for a single use).<br><br>If a multiuse building, a single-faced sign per use which has direct entrance to the street (may also have a blade sign).<br><br>Plus<br><br>One (1) per rear of building or one (1) per accessway if multiple uses opposite the facade. | One hundred fifty (150) s.f. max.; one (1) s.f. for each lineal foot of building frontage, including corner lots, facing the street or one-half (.5) s.f. for each lineal foot of that portion of the building opposite the facade. Except that wall signs for large scale single-use developments with property frontages exceeding 500 feet, then the maximum shall be 300 s.f.<br><br>blade sign = 3 s.f. | | If a multitenant office building, specific listing of occupancies shall only be identified on a nameplate sign identification signs, except for franchise or chain companies; must be consistent in total size, letter size and color with other ID signs on a building or in shopping centers, except for rear signs, may be illuminated. |

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| | | The building name shall not count toward allowable sign square footage | | |
| ~~Freestanding identification (pole)~~ | ~~One (1) double-faced sign for buildings or centers or ground sign.~~ | ~~Forty (40) s.f./face~~ | ~~Twenty (20) ft.~~ | ~~May be illuminated or include electronic message center~~ |
| Shopping center, ground, monument, or freestanding sign | One (1) single or double-faced sign may also have a ground sign for out parcels only. | ~~Ninety (90) s.f. per face for ten (10) or more stores; forty-eight (48) s.f. per face of less than ten (10) stores~~ For properties with less than 500 feet frontage, max. 250 s.f., and 500 feet frontage or more, max. 500 s.f. | Twenty (20) ft. ~~for ten (10) or more stores~~ | May be illuminated or include electronic message center; landscaping required. |
| ~~Ground or monument~~ | ~~One (1) sign bearing the name of the business and/or address.~~ | ~~Forty (40) s.f./face~~ | ~~Ten (10) ft.~~ | ~~Landscaping required; may be illuminated or include electronic message center~~ |
| Temporary sign | One (1) per active construction site, single-faced. | Not exceeding fifty (50) s.f. in area | If freestanding, not exceeding ten (10) ft. | Not illuminated |
| Development | One (1)(if no | Not exceeding | | Not more than six (6) |

| | | | | |
|---|---|---|---|---|
| banner sign | temporary sign). | one hundred fifty (150) s.f. | | months; may be automatically extended another six (6) months if inspected by city and it is determined that it is substantially in same condition as originally approved. Additional extension may be obtained through the special exception process. |
| Real estate sign | One (1) single or double-faced per street frontage. | Twelve (12) s.f.; Banner sign, up to 150 s.f., max. | Twelve (12) ~~Eight (8)~~ ft. if freestanding; if mounted on a building, attached to and parallel with the face of the building below the roof line. | Not more than six (6) months; may be automatically extended another six (6) months if inspected by city and it is determined that it is substantially in same condition as originally approved. Additional extension may be obtained through the special exception process. |
| Marquee | One (1) sign per theater with changeable copy. | | | Sign face located on the face of the marquee and not projecting above or below the marquee; may be illuminated. |
| Directional | Hospitals: no more than six (6); nonresidential: one (1) or more if | Fifteen (15) s.f. (hospitals); or four (4) s.f. per face for other | If freestanding cannot exceed three and one-half (3½) ft. in | Minimum distance between multiple signs to be determined by |

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| | determined to be necessary by the department of community planning and development. ~~building and zoning.~~ | nonresidential. | height. | ~~building and zoning department~~the c~~C~~ommunity p~~P~~lanning and d~~D~~evelopment d~~D~~epartment. |
| Changeable copy ~~(only for religious institutions and educational institutions)~~ | ~~One (1) religious institution; one (1) educational institution; or~~ one (1) changeable copy sign allowed | If in addition to identification sign, cannot exceed fifty (50) percent of allowed sign area | See monument, pole or shopping center sign | |
| Electronic message centers | One (1) electronic message center as a component to a pole, ground or monument shopping center sign | Cannot exceed fifty (50) percent of allowed sign area of a pole, ground or monument shopping center sign | See monument, pole or shopping center sign | See additional regulations for electronic message centers in subsection 5-1503.F. |
| Indoor electronic scrolling sign | One (1) sign per business with a distance separation of ten (10) ft. from another similar indoor message sign | Not to exceed four (4) sq. ft. in size | Not to exceed two (2) ft. in height. | |
| Nameplate | One (1) per entrance | Two (2) s.f.; if more than one (1) occupancy, may be increased one (1) s.f. for each additional occupant up to four (4) s.f. | | Attached to main structure at entrance and flush and parallel with face of building unless there is an overhang protecting pedestrian sidewalk in which case it may be hung from the |

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| | | | | overhang so as to be perpendicular to building face with a minimum clearance of seven (7) ft. |
| Sandwich sign | One (1) per restaurant | 4" x 6" | Six (6) ft. | Only in the C-3 district |
| Flag | Two (2) flags per parcel of land | 5" x 8" | Thirty (30) ft. | |
| Special event/grand opening | One (1) banner per business per street frontage of business. In multitenant office buildings, banner signs are restricted to one (1) banner sign per building ~~and said sign may only advertise a special event or grand opening for that building~~. | Fifty (50) s.f. | | Allowed for forty (40) days two (2) times/year maximum; no flags, pennants or streamers (or other attention getting mechanisms). |

Note: In the event any word, sentence, clause, or other portion of this section is determined invalid, then any sign otherwise allowed by this section shall comply with the requirements set forth in this code as if this section was never enacted.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1345, § 1, 12-11-12)

Sec. 5-1506. - Comprehensive sign program.

A. General principles.

1. The intent of the comprehensive sign program is to provide private property owners and businesses with flexibility to develop innovative, creative and effective signage and to improve the aesthetics of the City of North Miami.

2. The minimum sign standards established in this division ensure that signage will not have an adverse impact on the aesthetics, community character and quality of life of the city. The city recognizes, however, that in many circumstances, there are innovative and creative alternatives to minimum standard signage which are desirable and attractive and will enhance community character and individual property values.

3. The purpose of the comprehensive sign program is to provide an alternative to minimum standard signage subject to flexibility criteria which ensure that alternative signage will not have an adverse impact on the aesthetics, community character and quality of life of the City of North Miami.

B. Eligibility. The following forms of development are eligible to utilize the comprehensive sign program: new large scale development, shopping centers, institutions, mixed use, office complex and residential complex.

C. Permitted signage. Signage which is proposed as a part of a comprehensive sign program may deviate from the minimum sign standards in terms of numbers of signs per business or parcel of land, maximum area of a sign face per parcel of land and the total area of sign faces per business or parcel of land subject to compliance with the flexibility criteria set out in subsection 5-1506D. A comprehensive sign program shall be approved as a part of the approval required for the development to which it relates.

D. Flexibility criteria.

1. Architectural theme.

   a. The signs proposed in a comprehensive sign program shall be designed as a part of the architectural theme of the principal buildings proposed or developed on the parcel proposed for development and shall be constructed of materials and colors which reflect an integrated architectural vocabulary for the parcel proposed for development; or

   b. The design, character, location and/or materials of the signs proposed in a comprehensive sign program shall be related to the size of a site and be demonstrably more attractive than signs otherwise permitted on the parcel proposed for development under the minimum sign standards.

2. Community character. The signage proposed in a comprehensive sign program shall not have an adverse impact on the community character of the city.

3. Property values. The signage proposed in a comprehensive sign program will not have an adverse impact on the value of property in the immediate vicinity of the parcel proposed for development.

4. Elimination of unattractive or nonconforming signage. The signage proposed in a comprehensive sign program will result in the elimination of existing unattractive signage or will result in an improvement to the appearance of the parcel proposed for

development in comparison to signs otherwise permitted under the minimum sign standards.

Sec. 5-1507 Nonconforming Signs

A. General. A sign that does not conform to the requirements of this Division, shall be deemed nonconforming. A nonconforming sign cannot be modified (excluding re-lettering or change of copy) unless the modification brings the sign into compliance with all sections of this Division, or as outlined in Section 5-1507.C. below.

B. Nonconforming Freestanding Signs at Shopping Centers. The city's objectives to improve the visual aesthetics, appearance, and economic vitality of multi-tenant properties along city thoroughfares will permit property owners to modify nonconforming freestanding signs at shopping centers beyond the limitations contained within Section 5-1507.A. above, in conformance with the following requirements:

1. The shopping center shall have an adopted sign program in place, or adopts a sign program as part of this process.

2. A request for an amendment to the existing sign program is approved.

3. The amended sign program will allow improvements to the existing sign structure(s) which do not increase the mass of the sign (i.e. height, length, width), including removal, repair and/or replacement of sign cabinets.

4. The proposed improvements will bring the sign into further compliance with the sign regulations, and improve the aesthetics of the sign.

5. As part of the city's economic development initiatives, additional sign square footage, also known as "copy area," may be added to the sign in instances when aesthetic improvements and required landscape improvements are made to, and immediately surrounding the sign, and in situations where the additional signage does not increase the mass of the sign (i.e. height, length, width).

6. The amount of future repairs of the newly renovated sign that the property owner will be allowed to complete will be an amount not to exceed fifty percent (50%) of the new value of the sign, as determined by a licensed sign contractor and confirmed by staff.

7. The regulations contained in this Section are not intended to allow removal and reconstruction of the sign in entirety, as such a situation would require the sign to come into compliance with current sign regulation.

C. Repair or Removal. Any nonconforming sign and corresponding support structure that is damaged or otherwise in need of repair, to such an extent that the cost of repairing the sign equals fifty percent (50%) or more of the original cost of the sign, then its classification as a

"nonconforming" sign under this section shall be automatically revoked and either repairs be made so that such sign shall meet all the requirements of this article or said sign shall be removed from the property. Furthermore, any nonconforming sign and corresponding support structure shall be removed by the owner, agent, or person having beneficial use of the building, structure, or premises, where such sign may be found if a bona fide establishment, organization, or residential development ceases its operation or occupancy for more than six (6) consecutive months.

D. Annexation of Nonconforming Freestanding Signs. Any freestanding monument, pylon, pole, or similar type of sign located on a property that is proposed to be annexed into the city shall comply with all provisions of this article within six (6) months following the date of such annexation. Any signs subject to this requirement shall be documented by the city in any applicable ordinance, development order, or annexation agreement.

Sec. 5-1508. Abandoned signs.

When an establishment, organization, or service is discontinued, and the planning director determines that the use is abandoned, all signs relating to such establishment, organization, or service shall be removed within forty-five (45) days from the date of discontinuance. The sign structure may remain in place if the sign text is not visible, provided the sign text is covered with an approved durable material. Failure to so remove such a sign shall subject the sign to removal and disposition pursuant to the provisions of this article.

Sec. 5-1509. - Nuisances and hazards prohibited.

Any nonconforming sign that creates a nuisance or poses a hazard to the public shall be either repaired, removed or brought into compliance with these regulations within ten (10) days of notification of the nuisance or hazard, unless the enforcing official determines that earlier compliance is required due to risks to the public health, safety and welfare.

Sec. 5-1510 Conflict.

Whenever the regulations and requirements of this code conflict with any other lawfully enacted and adopted rules, regulations, ordinances, or laws, the most restrictive shall apply, unless otherwise stated herein.

Sec. 5-1511 Severability. Should any section, subsection, paragraph, sentence, clause, phrase, or other part of this Division be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Division as a whole or any section, subsection, paragraph, sentence, clause, phrase, or word thereof, other than that so declared to be invalid.

Sec. 5-1512 Relief from standards.

A. Unless described otherwise, any deviation from the sign standards contained herein shall require approval of a variance application, which is subject to review and approval by the Board

of Adjustment. Any request for a variance shall be reviewed in accordance with division 6, article 3. No variance may be granted for any sign expressly prohibited by this article. The Board of Adjustment however, may grant a variance if it finds that the unusual shape or topography of the property or other mitigating factors (e.g., required landscape buffers), prevent signage allowable under the provisions of these LDRs from adequately identifying the business or other activity located on such property or prevent the viewing of non-commercial messages. The Board of Adjustment may only grant a variance to the following:

1. Required Setback. Allow a setback less than that required under the chapter;

2. Sign Area or Height. Allow the area and/or height of a sign to be increased by up to twenty-five percent (25%) of the maximum allowable height or area; or

3. Number of Signs. Allow the number of signs to be increased over the maximum allowed by this code.

B. City approval required. No signs, including support structures shall be erected, altered, displayed, or modified on private property, public lands, or within city rights-of-way without first securing the necessary city approvals and permits as provided hereunder, except in instances when exempt from these ~~Regulations~~LDRs ~~pursuant to Section 1.E. above~~. The following processes and permits are intended to ensure that all signage complies with the standards of this article:

1. Site plan review. Except for individually platted lots containing single-family and duplex homes located within single-family and two-family residential zoning districts, the site plan review process shall be required and reviewed in accordance with the procedures set forth in these LDRs prior to the issuance of any sign permit. For the purposes of this subsection, the term "site plan" is construed to include master site plan and technical site plan applications.

2. Sign permit. The sign permit process shall be required, and initiated only subsequent to the approval of a site plan application, except in those instances when site plan review is not required.

   a. The sign permit application shall be processed in accordance with the procedures set forth in these LDRs, unless the Building Official determines that compliance with the Florida Building Code is necessary. In these instances, the sign permit shall be processed in accordance with the procedures set forth in as set forth in the LDRs.

   b. Any sign, including the support structure, which is erected, altered, displayed, or changed without a sign permit is considered an illegal sign, and shall be subject to the penalties set forth herein.

c. Any sign proposed within a city right-of-way shall require approval from the Engineering Division.

d. The issuance of a sign permit shall not relieve any party from obtaining the necessary permits which may be required by the various federal, state, or local government agencies.

3. Sign permit review and approval; appeals.

a. Upon submission of an application, the director of community planning and development shall review and evaluate the application as follows:

b. No application shall be accepted until it is deemed complete by the director.

c. The director shall review all of the information submitted to determine conformity with this article, including without limitation the location of the proposed sign.

d. The submitted application will be reviewed within twenty business days and any corrections, revisions or deficiencies provided to the applicant within that twenty-day period.

e. Upon each re-submittal of corrected plans, the director shall have ten business days to review the application and provide any corrections, revisions or deficiencies to the applicant. This process shall continue until the applicant has submitted a complete application or demands that the application be reviewed as is, without further revisions.

f. If an applicant fails to provide additional information as requested by the director within ninety days of the request or respond to the Director or designee with a time when the information will be submitted, the application shall be deemed to be withdrawn by the applicant. The applicant shall be entitled to one ninety calendar-day extension upon request, providing the request for extension is granted prior to the expiration of the ninety-day period.

g. The director shall approve or deny the sign permit within twenty business days of receipt of the complete application or the applicant's demand for review as submitted, based on whether it complies with the requirements of this article. The director shall prepare a written notice of the decision, either in the form of an approved sign permit or written notice of denial, and provide such written notice to the applicant of its decision within the twenty-day period.

h. Appeals. In the event a sign permit is denied by the director, the decision may be appealed to the Zoning Appeals Board. Such appeal shall be submitted on a form approved by the city and accompanied with the established fee. Such appeal shall be filed with the city clerk within thirty days of the date of the decision being appealed. The Zoning Appeals Board shall hold a hearing within thirty days following receipt of the written appeal. The appeal shall not be a de novo review, using the quasi-judicial procedures of these LDRs. The Zoning Appeals Board shall render a written decision within twenty days following the hearing. The decision of the Zoning Appeals Board shall be the final action of the city. If the Zoning Appeals Board does

not grant the appeal, then the appellant may seek relief in the Circuit Court for Miami-Dade County, as provided by law.

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1345, § 1, 12-11-12)

DIVISION 16. - STANDARDS FOR SPECIFIC USES

Sec. 5-1601. - Boarding up/covering of buildings and windows.

Windows and other openings may only be covered or boarded up in accordance with a building permit and only for a period not exceeding six (6) months. Boarded up commercial buildings must have the boards painted the same color as the building.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1602. - Check cashing store.

A check cashing store shall not be located within ~~two~~ fifteen hundred (~~200~~1,500) feet of a residential use or zoning district.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1603. - Consignment shops.

There shall be a minimum distance requirement between consignment shops of ~~six~~ fifteen hundred (~~600~~1,500) feet. This distance shall be measured in a straight line, without regard for intervening structures or objects, from the nearest property line of the proposed use to the nearest property line of the premises of an existing consignment shop.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1604. - Conversion of second floor of commercial buildings to residential.

A. Intent and purpose. The intent and purpose of this section is to allow the owner of a business in an existing freestanding building of two (2) stories in the C-3 district to convert all or a portion of that building's second floor, as further elaborated in subsection C.1. below, for his/her own residence, provided strict compliance with the criteria outlined in [subsection] C. below is met and subsequently observed.

B. Development review committee. All applications for residential conversion as allowed for in this division shall be reviewed by the development review committee. Approval from this committee shall be obtained prior to the issuance of a building permit.

C. Criteria.

1. Conversion requirements. Retrofitting of space for dwelling purposes by the property owner shall be in compliance with the Florida Building Code, as would apply to new residential buildings.

2. Other miscellaneous requirements:

a. (Re)conversions: Once approval is received for conversion of commercial space to residential in accordance with these regulations, (re)conversion of said space back

to commercial shall not be permitted unless so approved by the development review committee.

b. Time limitation: Implementation of the conversion of commercial space to residential shall be completed no later than six (6) months following approval of said conversion. Requests for a time extension shall be processed through the development review committee. If the property owner fails to request such an extension, the conversion approval shall be null and void, and any subsequent request shall be treated as a new application.

c. Minimum housing standards: The provisions of the city's minimum housing standards shall apply for purposes of enforcement, except that where the requirements herein are more stringent, they shall control.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1605. - Nightclubs.

A. A nightclub shall be soundproofed, including such as but not limited to double doors, and its ~~their~~ windows, doors and other openings kept closed in order that the noises therefrom may not disturb the peace and quiet of the surrounding neighborhood;

B. Unless only one (1) musician or one (1) coin-operated machine are utilized and no dancing or other forms of entertainment are provided, a music and entertainment license shall be obtained as part of a special exception approvals;

C. In reviewing an application for the provision of music and entertainment, the ~~board of adjustment~~ city manager or designee shall determine whether the applicant meets the following standards:~~:~~

1. The granting of a music and entertainment license will not substantially injure or detract from the use of surrounding properties or from the character of the neighborhood;

2. There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion;

3. Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic;

4. Noise caused by the establishment shall be kept at such a level so as to conform with these regulations; and

5. Adequate security shall be provided by the establishment.

D. The nightclub shall comply with the city's alcoholic beverage provisions, distance separation, and adequate security.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1606. - Gun shops.

A. A gun shop shall not be located within two thousand (2,000) feet of another gun shop or other use which includes a gun shop.

B. No firearm sales will be made thereon between the hours of 9:00 p.m. and 7:00 a.m. of the next day. The term "firearm sales," as used herein, means any component portion of the sale transaction, including the agreement to purchase or the payment of whole or part of purchase price or the delivery of the firearm.

C. No person shall engage in the operation of a pawnshop or conduct a pawnshop business at the premises of a gun shop.

D. No such gun shop shall be located within two thousand (2,000) feet of any previously existing child care center, public park, place of public assemblage, school, ~~church~~ religious establishment or hospital.

E. No person shall install, maintain, keep, or utilize any sign advertising firearms or ammunition which sign is visible from the outside, for any multipurpose business dealing in firearms and dealing in other items, not directly related to firearms, to such an extent that the primary business at the premises is for such other items rather than firearms.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1607. - Pawnshops.

A. Pawnshops which existed on September 12, 1989, in the nonresidential districts may continue as a nonconforming use subject to the provisions of article 6 and this section.

B. Each pawnshop operator shall comply with the following:

1. Locate any signs posted in the windows so as to provide a clear and unobstructed view of the cash register and sales area from the street.

2. Locate the sales area so that the clerk and customer are fully visible from the street at the time of any sales transaction.

C. Limitation on hours of operation. No pawnshop shall be open for business between the hours of 5:00 p.m. of one (1) day and 7:00 a.m. of the next day and no component portion of a pawn transaction shall be conducted during such hours. This provision shall apply to all pawnshops, including those enjoying grandfathered status under subsection 2. above. In the event that section 21-29 of the Miami-Dade County Code is hereafter amended to allow greater hours of pawnshop operation, the hours of operation specified herein shall be deemed to be amended to coincide therewith.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1608. - Room additions to residential structures and conversions of garages or carports to living space.

A. Room additions to residential structures, or conversions of garages and carports attached to residential structures on the same parcel of property for the purpose of creating living space are permitted as follows:

1. The newly created living space shall be directly accessible through an interior doorway or doorways, to the existing residence and must be completely integrated within the existing residence so that it is a logical extension of the residence. New additions shall have the same roof line (level, peak, etc.) as the existing structure so as to harmoniously blend; provided however, that flat roofs may be permitted on additions that ~~which~~ do not exceed two hundred fifty (250) square feet to the rear of the property, if not visible from a street frontage.
2. Exterior doorways from the newly created living space shall not exit into the outdoor area lying to the front of the residential structure, unless the doorway is intended to and does replace an existing front entrance. Such exterior doorways shall not exit into the area adjacent to a secondary drive or parking area for the residential structure.
3. No cooking facilities, kitchen counter and sink combinations, kitchen cabinets, or electrical or plumbing connections for such facilities shall be permitted within the newly created living space unless the approved building plans for such space demonstrate clearly that such facilities are to be used as an expansion or replacement of an already lawfully existing kitchen.

B. Conversion of detached garages or other accessory structures for the purpose of creating living space shall be permitted only if the newly created living space qualifies as an allowable dwelling unit within the applicable zoning district, and all municipal code requirements for its use as a dwelling unit are satisfied.

C. Any required offstreet parking that is deleted or rendered unusable by a conversion or addition pursuant to the provisions of this section shall be replaced in a manner consistent with the provisions of article 5, division 14.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1609. - Self-service/coin laundries.

A. There shall be a minimum distance of fifteen hundred (1,500) feet between any new self-service/coin laundry use established and any other lawfully existing self-service/coin laundry;

B. Hours of operation shall be no earlier than 7 a.m. and no later than midnight;

C. No pay phones shall be permitted outside the premises of the self-service/coin laundry and any pay phones on the inside shall be counter-type and shall be used for outbound calls only;

D. There shall be an attendant on duty at all times during the hours of operation;

E. The facility must be entirely enclosed.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1610. - Short-term rentals in residential districts.

It shall be unlawful for the owner of single family dwelling units, including townhouses, located in a residential zoning district to rent or lease the dwelling to another person(s) for a

period of three (3) months or less, or to lease or rent the subject dwelling more than four (4) times in a twelve-month period. The lease or rental of a single family residential dwelling, including townhouses, more than four (4) times within a twelve-month period shall create a presumption that the owner is acting in violation of this section.

(Ord. No. 1283, § 1, 10-27-09)

DIVISION 17. - STORAGE FACILITIES

Sec. 5-1701. - General.

All storage of furniture, appliances or other items shall be within permanent buildings and completely obscured from public view. For each bedroom in a dwelling unit, there shall be a minimum of twenty (20) cubic feet of enclosed storage within the overall structure, independent of the dwelling unit. Required yards shall not be used for the storage of trailers, boats, self-propelled recreation vehicles, house trailers, or for the storage of any materials except as provided in section 5-1405.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1702. - Self-storage facilities.

A. The maximum size of any individual rental space shall be four hundred (400) square feet and the interior height shall not exceed twelve (12) feet.

B. Controlled access shall be provided to the complex and an adequate security/surveillance system shall be installed, whether electronic or otherwise, so that security personnel may keep vigilance over the facility and may be easily contacted in emergency or distress situations.

C. Access to all storage spaces shall be from the interior of the structure and each storage space shall have independent and exclusive access through a secured door or gate.

D. Self storage facilities shall be designed or remodeled so as to agree in character and scale with the prevalent character and scale of the surrounding area. Careful consideration shall be given to the treatment of blank walls generally associated with this use and to the way the ground floor addresses the street.

E. Loading and unloading areas shall be evaluated on an individual basis for compliance with the following criteria:

    1. Loading and unloading activities shall be limited to locations which are not visible from adjacent public rights-of-way.

    2. The area set aside for such activities shall be arranged in a manner that will not obstruct the flow of on-site traffic.

    3. The size and number of loading/unloading spaces shall be proportionate to the number and size of the storage spaces provided. To this effect, the applicant shall provide a

statement specifying the type and number of vehicles anticipated at peak hours and make all necessary provisions to ensure that only those vehicles access the site.

4. Recreational or seasonal vehicles, including boats, trailers, etc., stored in these facilities shall not exceed on overall length of twenty-five (25) feet and shall be stored within completely enclosed, adequately ventilated structures.

5. Hours of operation shall be established in response to the perceived demand for services but shall not exceed fifteen (15) continuous hours and shall not extend beyond 10:00 p.m. nor commence before 6:00 a.m.

F. Additional criteria applicable to storage facilities on properties within the C-2BE zoning district:

1. Property must have public streets abutting on at least three (3) sides.

2. No outside storage permitted.

3. Not permitted contiguous or adjacent to single-family residential zoned land.

4. Not permitted contiguous to a public park or waterway.

5. Not permitted contiguous or adjacent to Biscayne Boulevard.

6. Minimum lot size required – 0.50 acres (21,780 square feet).

7. Development must obtain site plan approval.

8. No vehicular access allowed on major corridors.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1703. - Outdoor storage areas. M-1 zoning district only.

A. Outdoor storage areas, including but not limited to, junkyards, automobile wrecking areas, contractor's yard, lumberyard, and storage of materials. Such uses shall only be located in M-1 district and shall not be located within five hundred (500) feet from the nearest property in a residential district and the operation shall be governed by the following provisions in this section and any other conditions as may be required by the board of adjustment, if permitted as a special exception, to protect the public health, safety, comfort, convenience and general welfare and especially with regard to abutting properties and the occupants. At the time a business tax receipt to operate an outdoor storage area in the M-1 district is applied for, or renewal of such is sought, the city engineer or director of community planning and development may request that the applicant provide a listing of all materials to be stored. Such request may be made if the director or city engineer has reason to believe that the applicant would be storing materials which would pose a threat to the community, as described more fully in subsection B. below.

B. Inflammable, explosive, toxic, and/or hazardous liquids/materials. Highly flammable or explosive liquids, solids, or gases, or those of a toxic or otherwise hazardous nature, shall not be stored in bulk aboveground without first receiving certification from the city engineer that they do not present any hazard to surrounding properties and/or persons. If, upon review, the city engineer determines that materials to be stored are of a flammable,

explosive, toxic, or hazardous nature, and would present a threat to the health, safety, or welfare of the community, then approval shall be obtained from the Dade County Fire Department and from the Dade County Department of Environmental Resource Management (DERM) for the use at the proposed site. Said approvals shall be recorded on a site plan and shall be submitted to the city before an occupational license is issued or renewed.

C. Deposit of wastes. No materials or wastes shall be deposited on any premises in such form or manner that they may be transferred off such premises by natural causes or forces, and approval from DERM for such deposit shall be required.

D. Other hazardous materials. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise attractive to rodents or insects shall be stored outdoors only in closed containers, and approval from DERM and the North Miami police and Miami-Dade fire departments, for such materials shall be required.

E. As to existing businesses with outdoor storage areas, the city engineer or director of community planning and development may require those businesses that conduct outdoor storage, either as the primary use or as a use incidental to the primary use, to submit a listing of all materials that are currently being stored, or are planned to be stored. Such request may be made if the city engineer or director has reason to believe that the nature of the business would involve the storage of materials that present a threat to the community, as described in subsection A. above. Upon determination that such a threat would be presented, then the city engineer may require those businesses to obtain the approval of Dade County Fire Department and DERM. In any case, all such businesses shall be required to comply with the applicable portions of this section. Failure to abide by the regulations established shall result in temporary revocation of the occupational license, which shall not be reissued until such time as compliance by the business owner is achieved.

F. Outdoor storage as an accessory use in nonresidential areas may be permitted provided that all setbacks are met and provided that no outdoor storage is visible from the public right-of-way, unless otherwise prohibited by these LDRs.

G. Permanent outdoor storage containers may be permitted through administrative site plan approval. At a minimum, the proposed permanent outdoor storage containers shall:

1. Meet the required setbacks;
2. Be painted the same color as the primary building;
3. May not be placed upon required parking spaces;
4. Shall not block any points of ingress or egress, or impede access to the site;
5. Other conditions may be required by the city.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~DIVISION 18. - TELECOMMUNICATIONS~~

~~Sec. 5-1801. - Purpose.~~

The regulations and requirements establish general guidelines for the siting of wireless telecommunications towers and antennas and are intended to accomplish the following purposes: (a) protect and promote the public health, safety and general welfare of the residents of the city; (b) minimize residential areas and land uses from potential adverse impacts of towers and antennas; (c) encourage the location of towers in nonresidential areas and to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (d) minimize the total number of towers throughout the community by strongly encouraging the colocation of antennas on new and pre-existing tower sites as a primary option rather than construction of additional single-use towers; (e) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (f) enhance the ability of the providers of telecommunications services to provide such services to the community through an efficient and timely application process. In furtherance of these goals, the city shall at all times give due consideration to the city's master plan, zoning map, existing land uses, and environmentally sensitive areas, including hurricane preparedness areas, in approving sites for the location of towers and antennas.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1802. - Applicability.

A. New towers and antennas. All new towers or antennas in the city shall be subject to these regulations and shall be reviewed and approved by the director of information technology, except as provided in subsections B. and C. inclusive.

B. Radio and television broadcasting towers. This division shall govern any tower or the installation of any antenna, that is for the use of a radio or television broadcasting facility or is owned or operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas. Radio and television towers shall only be permitted within the M-1 district and shall comply with all other provisions in this division. The height of a radio or television tower may be increased to one hundred sixty-five (165) feet if of a monopole design, regardless of the number of users. However, colocation requirements shall apply to subsequent applications.

C. Pre-existing towers or antennas. Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this division, other than the requirements of subsections J., K. and L.

D. AM array. For purposes of implementing this division, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1803. - General requirements/minimum standards.

A. The city shall grant or deny a properly completed application for a permit for the siting of a new wireless tower or antenna on property, buildings, or structures within the city's jurisdiction within forty-five (45) business days after the date the properly completed application is submitted in accordance with the city's application procedures, provided that such permit complies with applicable federal regulations and is consistent with state law and applicable local zoning or land development regulations, including any aesthetic requirements. Local building regulations shall apply.

B. The city shall notify the permit applicant within twenty (20) business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted. However, such determination shall not be deemed as an approval of the application. Any notification shall indicate with specificity any deficiencies which, if cured, shall make the application properly completed. If the city fails to grant or deny a properly completed application for a permit which has been properly submitted within the timeframes set forth in this section, the permit shall be deemed automatically approved and the provider may proceed with placement of such facilities without interference or penalty. The timeframes specified in this section shall be extended only to the extent that the permit has not been granted or denied because the city's procedures generally applicable to all permits require action by the city and such action has not taken place within the timeframes specified in this section. Under such circumstances, the city must act to either grant or deny the permit at its next regularly scheduled meeting or, otherwise, the permit shall be deemed to be automatically approved.

C. Applicants regulated by this division may request a preapplication conference with the city. Such requests shall be submitted with a nonrefundable fee of five hundred dollars ($500.00) to reimburse the city for the cost and fees incurred by the conference. Every new telecommunications tower and antenna shall be subject to the following minimum standards:

1. Lease required. Any construction, installation or placement of a telecommunications facility on any property owned, leased or otherwise controlled by the city shall require a lease agreement executed by the city and the owner of the facility, unless otherwise prohibited by applicable law. The city may require, as a condition of entering into a lease agreement with a telecommunications service provider, the dedication of space on the facility for public health and safety purposes, as well as property improvement on the leased space. Any dedications and improvements shall be negotiated prior to execution of the lease.

2. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

3. Lot size. For purposes of determining whether the installation of a tower or antenna complies with these regulations, in particular articles 4 and 5 of these LDRs, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antenna or tower may be located on leased parcels within such lot.

4. Inventory of existing sites.

a. Each applicant shall review the city's inventory of existing towers, antennas, and approved sites. All requests for sites shall include specific information about the proposed location, height, and design of the proposed tower. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the city that no existing tower, structure or state-of-the-art technology that does not require the use of new towers or new structures can accommodate, or be modified to accommodate, the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower, structure or state-of-the-art technology is suitable shall consist of any of the following:

i. An evaluation of the feasibility of sharing a tower, indicating that existing towers or structures located within the geographic search as determined by a radio frequency engineer do not have the capacity to provide reasonable technical service consistent with the applicant's technical system, including, but not limited to, applicable FCC requirements.

ii. Existing towers or structures are not of sufficient height to meet applicable FCC requirements.

iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

iv. The applicant's proposed antenna would cause electromagnetic/radio frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

vii. The applicant demonstrates that state-of-the-art technology, used in the wireless telecommunications business and within the scope of applicant's FCC license, is unsuitable. Costs of state-of-the-art technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

b. The city may share such information with other applicants applying for a permitted use on private property and special exception use under this article or other organizations seeking to locate antennas within the jurisdiction of the city provided, however, that the city is not, by sharing such information, in any way representing or warranting that such information is accurate or that such sites are available or suitable.

5. Engineering report.

a. All applicants for new towers and towers which are modified or reconstructed to accommodate additional antennas shall submit a written report certified by a

professional engineer licensed to practice in the State of Florida. The report shall include:

i. Site development plan of the entire subject property drawn to scale, including, without limitation:

(a) A tax parcel number, legal description of the parent tract and leased parcel, total acres, and section/township/range of the subject property;

(b) The lease parcel fully dimensioned, including property lines, setbacks, roads on or adjacent to the subject property and any easements;

(c) Outline of all existing buildings, including purpose (i.e. residential buildings, garages, accessory structures, etc.) on the subject property;

(d) All existing vegetation, by mass or individually by diameter, measured four (4) feet from the ground of each stand-alone tree on the subject property;

(e) All Any proposed/existing security barriers, indicating type and extent as well as point of controlled entry;

(f) Proposed/existing access easements, utility easements, and parking for the telecommunications tower;

(g) All proposed changes to the subject property, including grading, vegetation removal, temporary or permanent roads and driveways, stormwater management facilities and any other construction or development attendant to the telecommunications tower;

(h) Scaled elevation drawing of any proposed telecommunications tower, including the location of all mounts, antennas, equipment buildings, fencing and landscaping;

(i) If applicable, on-site and adjacent land uses, and master plan classification of the site;

(j) If applicable, a narrative of why the proposed tower cannot comply with the requirements as stated in this section;

(k) Type of tower and specifics of design.

b. Equipment brochures for the proposed tower, such as all manufacturer's specifications or trade journal reprints. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any;

c. Materials of the proposed tower specified by generic type and specific treatment (i.e., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any;

d. Colors of the proposed tower represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any;

e. Dimensions of the tower specified for all three (3) directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any;

f. A visual impact analysis, with a minimum of two (2) photo digitalization or photographic superimpositions of the tower within the subject property. The photo digitalization or photographic superimpositions shall be provided for all attachments, including: the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any for the total height, width and breadth, as well as at a distance of two hundred fifty (250) feet and five hundred (500) feet from all properties within that range, or at other points agreed upon in a preapplication conference.

g. Current wind-loading capacity and a projection of wind-loading capacity using different types of antennas as contemplated by the applicant. No tower shall be permitted to exceed its wind-loading capacity, as provided for by the Florida Building Code.

h. A statement that the proposed tower, including reception and transmission functions, will not interfere with the visual and customary transmission or reception of radio, television or similar services as well as other wireless services enjoyed by adjacent residential and nonresidential properties.

i. A statement of compliance with all applicable building codes, associated regulations and safety standards as provided in section 5-2003 herein. For all towers attached to existing structures, the statement shall include certification that the structure can support the load superimposed from the tower. Except where provided in Section 5-2005, all towers shall have the capacity to permit multiple users: at a minimum, monopole towers shall be able to accommodate two (2) users and, at a minimum, self-support/lattice or guyed towers shall be able to accommodate three (3) users.

j. Any additional information deemed by the city to be necessary to assess compliance with this division.

k. Special fee. The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for individual towers. The special fee shall be based upon the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate applications for towers. The special fee shall be applied to those applications requiring special review or evaluation. The special fee shall be reimbursed by the applicant to the city no later than the city issuing any denial or approval to the applicant.

6. Colocation. Pursuant to the intent of this division, colocation of telecommunications antennas by more than one (1) provider on existing telecommunications towers shall take precedence over the construction of new telecommunications towers. Accordingly, in addition to submitting the information required in subsection (d) of this section, each application shall include a written report certified by a professional engineer licensed to practice in the State of Florida, stating: 1) the geographical service area requirements; 2)

mechanical or electrical incompatibility; 3) any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower; and 4) any additional information required by the city. If the city does not accept the full evaluation as provided as accurate, or if the city disagrees with any part of the evaluation, the application shall be deemed incomplete, and the time in which an application is processed pursuant to this division shall be tolled pending further evaluation.

7. [Application.] The city shall grant or deny a properly completed application for a permit, as provided in this division, for the colocation of a wireless communications facility on property, buildings, or structures within the city's jurisdiction within forty-five (45) business days after the date the properly completed application is initially submitted in accordance with the city's application procedures, provided that such permit complies with all applicable federal regulations and applicable local zoning or land development regulations, including but not limited to any aesthetic requirements. Local building regulations shall apply.

8. Aesthetics. Towers and antennas shall meet the following requirements:

   a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

   b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings to minimize the visual impact.

   c. All tower sites must comply with any landscaping requirements of article 5, division 12 of these LDRs and all applicable requirements of the city;, and the city may require landscaping in excess of those requirements in order to enhance compatibility with adjacent residential and nonresidential land uses. All landscaping shall be properly maintained to ensure good health and viability at the owner's expense. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound consisting of the telecommunications tower and antennas, backhaul network and any structure or equipment cabinet, from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

   d. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

9. Lighting. No signals, artificial lights, or illumination shall be permitted on any antenna or tower unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

10. Setbacks. Towers must be set back from all property lines a minimum distance of one hundred ten (110) percent of the height of the tower.

11. Separation. Any tower shall be separated from any other tower by a distance of no less than one (1) mile as measured by a straight line between the bases of the towers.

12. Height. Towers shall not be constructed at any heights in excess of those provided below:

    a. For a single user, up to ninety (90) feet in height;

    b. For two (2) users, up to one hundred twenty (120) feet in height;

    c. For three (3) or more users, up to one hundred fifty (150) feet in height.

13. Local, state or federal requirements. The construction, operation and repair of telecommunications facilities are subject to the supervision of the city, and shall be performed in compliance with all laws, ordinances and practices affecting such system including, but not limited to, zoning codes, building codes, and safety codes, and as provided in this division. The construction, operation and repair shall be performed in a manner consistent with applicable industry standards, including the electronic industries association. All telecommunication towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, including emissions standards, and any other agency of the local, state or federal government with the authority to regulate towers and antennas prior to issuance of a building permit by the city. If such applicable standards and regulations require retroactive application, then the owners of the towers and antennas governed by this division shall bring such towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

14. Building codes; safety standards.

    a. To ensure the structural integrity of towers, the owner shall construct and maintain the tower in compliance with the Florida Building Code, and all other applicable codes and standards, as amended from time to time. A statement shall be submitted by a professional engineer certifying compliance with this subsection. Where a preexisting structure, including light and power poles, is requested as a stealth facility, the facility, and all modifications thereof, shall comply with all requirements as provided in this division. Following the issuance of a building permit, the city shall require an analysis of a soil sample from the base of the tower site to assure integrity of the foundation.

    b. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have no more than thirty (30) days to bring such tower into compliance with such standards. Failure to bring

such tower into compliance within thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

15. Warning signs. Notwithstanding any contrary provisions of the city's LDRs, the following shall be utilized in connection with any tower or antenna site, as applicable.

    a. If high voltage is necessary for the operation of the communication tower or any accessory structures, "HIGH VOLTAGE-DANGER" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart.

    b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and spaced no more than forty (40) feet apart.

    c. The height of the lettering of the warning signs shall be at least twelve (12) inches in height. The warning signs shall be installed at least five (5) feet above the finished grade.

    d. The warning signs may be attached to free standing poles if the content of the signs may be obstructed by landscaping.

16. Security fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the city may waive such requirements.

17. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the city irrespective of municipal and county jurisdictional boundaries.

18. Not essential services. Towers and antennas shall be regulated and permitted pursuant to this division and shall not be regulated or permitted as essential services, public utilities, or private utilities.

19. Franchises/licenses. Owners and/or operators of towers or antennas shall certify that all franchises/licenses required by law for the construction and/or operation of a wireless communication system in the city have been obtained and shall file a copy of all required franchises/licenses with the city.

20. Public notice. For purposes of this division and notwithstanding any other requirements with regard to public notice in the city's LDRs, any request for a special exception use on private property shall require a public hearing that shall be advertised at least seven (7) days before the public hearing in a newspaper of general circulation and readership in the municipality. Notice shall also be mailed to all affected property owners within five hundred (500) feet of the subject property prior to the public hearing. If approved, the owner of any tower approved for shared use shall provide notice of the location of the tower and the tower's load capacity to all other providers regulated by this division. All costs related to the public notice shall be paid by the applicant.

21. Signs. No signs, including commercial advertising, logo, political signs, flyers, flags, or banners, whether or not posted temporarily, shall be allowed on any part of an antenna or tower, unless required by law.

22. Buildings and support equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of section 5-1806 below.

23. Inspections; reports; fees.

a. Telecommunications tower owners shall submit a report to the city certifying structural and electrical integrity every two (2) years. The report shall be accompanied by a nonrefundable fee of two hundred dollars ($200.00) to reimburse the city for the cost of review, except as provided in subsection 5-1803 5.k., above (special fee).

b. The city may conduct periodic inspections of telecommunications towers, at the owner's expense, to ensure structural and electrical integrity and compliance with the provisions of this division. The owner of the telecommunications tower may be required by the city to have more frequent inspections should there be an emergency, extraordinary condition or other reason to believe that the structural and electrical integrity of the tower is jeopardized. There shall be a maximum of one (1) inspection per year unless emergency or extraordinary conditions warrant.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1804. - Permitted uses on public property.

A. General. The uses listed in this section apply specifically to all wireless telecommunications antennas and towers located on property owned, leased, or otherwise controlled as specified in section 5-1803 by the city, provided a lease agreement pursuant to section 5-1803 has been approved by the city. The city reserves the right to modify or waive the requirements for use on public property, but shall not be required to provide access to city property. A determination whether to grant or deny a waiver request shall be made in accordance with standards to be adopted by administrative regulation of the city.

B. Uses. The city manager is authorized to execute lease agreements and waive requirements as provided in section 5-1803 on behalf of the city. The uses permitted under this section are as follows:

1. Rooftop mounted communication towers and antennas.

a. The height, including support structures, shall not extend more than thirty (30) feet above the average height of the roofline;

b. Screening shall be required to minimize the visual impact upon adjacent or surrounding properties;

c. No more than one (1) tower shall be located on a single lot or single building site; and

d. Rooftop communication towers shall not adversely affect adjacent properties.

2. Towers and/or antennas constructed pursuant to this section shall be exempt from the minimum distances from residential zoning districts as provided in section 5-1806 below.

3. No lease granted under this section shall convey any exclusive right, privilege, permit or franchise to occupy or use the public lands of the city for delivery of telecommunications services or any other purpose.

4. No lease granted under this section shall convey any right, title or interest in the public lands other than a leasehold interest, but shall be deemed only to allow the use of the public lands for the limited purposes and term stated in the license. No lease shall be construed as a conveyance of a title interest in the property.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1805. - Permitted uses on private property.

A. General. The uses listed in this section apply to all wireless telecommunications antennas and towers located on private property. The following provisions shall govern the issuance of approval by the city pursuant to this section.

1. Each applicant shall apply to the city for a building and zoning permit providing the information as set forth in sections 5-1803 and 5-1806 of this division, and a nonrefundable fee of one thousand five hundred dollars ($1,500.00) to reimburse the city for the costs of reviewing the application.

2. The city shall review the application and determine if the proposed use complies with applicable sections of this division.

3. The city shall respond to each such application pursuant to section 5-1803 of this division, taking into consideration the time dictated by the nature and scope of the individual request, subject to the generally applicable time frames and pursuant to the intent of Section 704 of the Telecommunications Act of 1996, but in no event more than thirty (30) days for administrative zoning decisions. Building permit applications shall be processed within a reasonable period of time.

4. In connection with any such approval, the city may, to encourage the use of monopole towers, allow the reconstruction of an existing tower to monopole construction. The reconstruction shall, at all times, comply with the standards and requirements of this division.

5. If an application pursuant to this section is denied, the applicant shall file an application for a special exception use permit pursuant to section 5-1806 prior to filing an appeal before the city's board of adjustment.

B. Uses. The following uses may be approved by the city manager after conducting an administrative review:

1. Industrial. Placement of additional buildings or other supporting equipment used in connection with the tower or antenna, in any industrial or zoning district, designated by the city as the M-1 districts.

2. Antennas on existing structures.

a. Any additional wireless communications facilities, such as communication cables, adjacent accessory structures, or adjacent accessory equipment used in the

provision of cellular, enhanced specialized mobile radio, or personal communications services, required within the existing secured equipment compound within the existing site shall be deemed a permitted use or activity. Local building and land development regulations, including any aesthetic requirements, shall apply.

b. Any antenna which is not attached to a tower may be approved by the city as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight (8) or more dwelling units, provided:

i. The antenna does not extend more than thirty (30) feet above the highest point of the structure.

ii. The antenna complies with all applicable FCC and FAA regulations and all applicable building codes; and

iii. To minimize adverse visual impacts, antennas shall be selected based upon the following priority: (1) any stealthed antenna; (2) panel; (3) whip; and (4) dish. The applicant shall demonstrate, in a manner acceptable to the city, why each choice cannot be used for a particular application if that choice is not the top priority.

3. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the city provided such co-location is accomplished in a manner consistent with the following:

a. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the city allows reconstruction as a monopole pursuant to this section.

b. Height.

i. An existing tower may be modified or rebuilt to a taller height, to accommodate the co-location of an additional antenna(s), only if the modification or reconstruction is in full compliance with this division. This provision shall include utility and power poles.

ii. The additional height referred to in subsection b.i. above shall not require an additional distance separation as set forth in section 5-1806. The tower's remodification height shall be used to calculate such distance separations.

c. Onsite location.

i. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

ii. After the tower is rebuilt to accommodate co-location, only one (1) tower may remain on the site.

iii. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to section 5-1805. The relocation of a tower shall in no way be deemed to cause a violation of section 5-1803.

d. Microwave dish antennas located below sixty-five (65) feet above the ground may not exceed six (6) feet in diameter. Microwave dish antennas located sixty-five (65) feet and higher above the ground may not exceed eight (8) feet in diameter. Ground-mounted dish antennas must be located or screened so as not to be visible from abutting public streets.

4. Cable microcell network. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers. Any additional wireless communications facilities, such as communication cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communications services, required within the existing secured equipment compound within the existing site shall be deemed a permitted use or activity. Local building and land development regulations, including any aesthetic requirements, shall apply.

5. Additional wireless communications facilities. Any additional wireless communications facilities, such as communication cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communications services, required within the existing secured equipment compound within the existing site shall be deemed a permitted use or activity. Local building and land development regulations, including any aesthetic requirements, shall apply.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1806. - Special exception use.

A. General. The provisions listed in this section apply only where an application for the construction of a tower or the placement of an antenna in a zoning district does not meet the criteria for approval as provided in sections 5-1803—5-1805 of this division. An applicant for a special exception use permit shall submit information described in section 5-1803 and the city's regulations and any other reasonable information the city may require. The following provisions shall govern the issuance for special exception use permits:

1. Compliance with the procedures and requirements of special exception uses as stated in article 3, division 5.

2. In granting a permit, the city may impose conditions to the extent the city concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining or surrounding properties, including across a public right-of-way.

3. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

4. A nonrefundable fee of five hundred dollars ($500.00) to reimburse the city for the costs of reviewing the application, in addition to all other applicable fees required by the city.

B. Setbacks. Notwithstanding any contrary provision of the city's LDRs, the following setback requirements shall apply to all towers for which a permit under this section is required:

1. Towers must be set back from all property lines a minimum distance of one hundred ten (110) percent of the height of the tower.

2. The base of any guy wires and accessory buildings must satisfy the minimum zoning district setback requirements with reference to special exception use, but not to include reference to rights-of-way controlled by the city.

C. Separation. The following separation requirements shall apply to all towers and antennas for which a special exception use permit is required:

1. Separation from offsite uses/designated areas.

a. Tower separation shall be measured from the base of the tower to the lotline of the offsite uses and/or designated areas as specified in table 1, except as otherwise provided in table 1.

b. Separation requirements for towers shall comply with the minimum standards established in table 1.

2. The site plan submitted by the applicant shall identify any towers listed on the city's inventory of existing sites that are within one (1) mile of the proposed tower. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

| Offsite Use/Designated Area | Separation Distance |
|---|---|
| Single-family or duplex residential units [1] | 500 feet or 300% height of tower whichever is greater |
| Vacant single-family or duplex residentially zoned land | 500 feet or 300% height of tower [2] whichever is greater |
| Existing multifamily residential units greater than duplex units | 100 feet or 100% height of tower whichever is greater |
| Nonresidentially zoned lands or nonresidential uses | None, only setbacks apply |

[1] Includes modular homes and mobile homes used for living purposes.

[2] Separation measured from base of tower to closest building setback line.

3. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distance shall be a minimum of one (1) mile, regardless of type of towers.

D. Factors considered in granting special exception permits for towers. In addition to any standards for consideration of permit applications pursuant to these regulations, the city shall consider the following factors in determining whether to issue a permit:

1. Availability of suitable existing towers, other structures, or state of the art technologies not requiring the use of towers or structures, as discussed in section 5-1806 of this division;

2. Height of the proposed tower;

3. The setback and separation distances between the proposed tower and the nearest residential units or residentially zoned properties;

4. Proximity of the tower to residential structures and residential district boundaries;

5. Nature of uses on adjacent and nearby properties;

6. Surrounding topography;

7. Surrounding tree coverage and foliage;

8. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and

9. Proposed ingress and egress.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1807. - Buildings or other equipment facilities.

A. Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with all of the following:

1. The cabinet or structure shall not contain more than three hundred (300) square feet of gross floor area or be more than eighty (80) inches in height. In addition, for buildings and structures which are less than four (4) stories in height, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or three (3) feet in height, shall be located on the ground and shall not be located on the roof of the structure unless the building or structure is completely screened from site pursuant to the requirements of section 5-1803.

2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than five (5) percent of the roof area.

3. Equipment buildings or cabinets shall comply with all applicable building codes, including minimum setback requirements, as provided in section 5-1806.

4. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless repairs to the tower are being made.

5. All buildings and equipment cabinets shall be unoccupied at all times.

B. Antennas not located on telecommunications tower. Mounted on utility poles or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In the R-5 and R-6 residential districts, the equipment cabinet or structure may be located:

a. In a side yard setback provided the cabinet or structure is no greater than three (3) feet in height or sixteen (16) square feet of gross floor area and the cabinet/structure is located a minimum of five (5) feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two (42) to forty-eight (48) inches and a planted height of at least thirty-six (36) inches.

b. In a rear yard setback, provided the cabinet or structure is no greater than five (5) feet in height or sixteen (16) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of seventy-two (72) inches and a planted height of at least thirty-six (36) inches.

2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than five (5) feet in height or twenty-five (25) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of seventy-two (72) inches and a planted height of at least thirty-six (36) inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid masonry fence six (6) feet in height or an evergreen hedge with an ultimate height of six (6) feet and a planted height of at least thirty-six (36) inches.

C. Antennas located on towers. The related unmanned equipment structure shall not contain more than one thousand five hundred (1,500) square feet of gross floor area or be more than eight (8) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1808. - Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1809. - Nonconforming uses.

A. Not expansion of nonconforming use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this division shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this division.

C. Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding section 5-1807, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a permit and without having to meet the separation requirements specified in subsections 29A-8(b)(4) and 29A-8(b)(5)[5-1801C.]. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the tower or antenna shall be deemed abandoned as specified in section 5-1808.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1810. - Protection of the city and residents.

A. Indemnification.

1. The city shall not enter into any lease agreement until and unless the city obtains an adequate indemnity from such provider. The indemnity must at least:

   a. Release the city from and against any and all liability and responsibility in or arising out of the construction, operation or repair of the communications facility. Each communications facility operator must further agree not to sue or seek any money or damages from the city in connection with the above mentioned matters;

   b. Indemnify and hold harmless the city, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the city or any third party arising out of, or by reason of, or resulting from or of each communications facility operator, or its agents, employees, or servants negligent acts, errors, or omissions.

   c. Provide that the covenants and representations relating to the indemnification provision shall survive the term of any agreement and continue in full force and effect as to the party's responsibility to indemnify.

B. Insurance.

1. The city may not enter into any lease agreement until and unless the city obtains assurance that such operator (and those acting on its behalf) have adequate insurance. At a minimum, the following requirements must be satisfied:

a. A telecommunications facility operator shall not commence construction or operation of the facility without obtaining all insurance required under this section and approval of such insurance by the risk manager of the city, nor shall a communications facility operator allow any contractor or subcontractor to commence work on its contract or subcontract until all similar such insurance required of the same has been obtained and approved. The required insurance must be obtained and maintained for the entire period the communications facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the city may order such entities to stop operations until the insurance is obtained and approved.

b. Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the risk manager. For entities that are entering the market, the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse in coverage.

c. These certificates shall contain a provision that coverages afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the city. Policies shall be issued by companies authorized to do business under the laws of the State of Florida.

d. In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of the lease agreement with the city, then in that event, the communications facility operator shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period.

(c) Comprehensive general liability. A communications facility operator and its contractors or subcontractors engaged in work on the operator's behalf, shall maintain minimum insurance to cover liability bodily injury and property damage. Exposures to be covered are: premises, operations, and certain contracts. Coverage shall be written on an occurrence basis and shall be included, as applicable, in the lease agreement between the city and the telecommunications facility operator.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1811. - Security fund.

Every telecommunications service provider whether on public or private property shall establish a cash security fund, or provide the city with an irrevocable letter of credit in the same amount, to secure the payment of removing an antenna or tower that has been determined to be abandoned. Ithe event the owner is not in compliance with section 5-1808. The amount to be provided for each tower shall be twenty-five thousand dollars ($25,000.00); the amount for each antenna array shall be five thousand dollars ($5,000.00). In the alternative, at the city's

discretion, an operator may, in lieu of a cash security fund or letter of credit, file and maintain with the city a bond with an acceptable surety in the amount of twenty-five thousand dollars ($25,000.00). The operator and the surety shall be jointly and severally liable under the terms of the bond. In the alternative, at the city's discretion, an operator may, in lieu of the cash security fund, letter of credit or bond, file with the city a corporate guarantee in a form acceptable to the city to be used as a security fund.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1812. - Penalties.

Any person, firm or corporation who knowingly breaches any provision of this division, shall upon receipt of written notice from the city be given a time schedule to cure the violation. Failure to commence to cure within thirty (30) days and to complete cure to the city's satisfaction within sixty (60) days, or such longer time as the city may specify, shall result in revocation of any permit or license and the city shall seek any remedy or damages to the full extent of the law.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1813. - Severability.

The various parts, sections and clauses of this division are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the division shall not be affected thereby. In the event of a subsequent change in applicable law, so the provision which had been held invalid is no longer invalid the provision shall thereupon return to full force and effect without further action by the city and shall thereafter be binding under this division.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

## DIVISION 18. - TELECOMMUNICATIONS WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

### Sec. 5-1801. – Purpose and applicability.

A. Purpose.

The regulations and requirements establish general guidelines for the siting of wireless telecommunications towers and antennas and are intended to accomplish the following purposes: (a) protect and promote the public health, safety and general welfare of the residents of the city; (b) minimize residential areas and land uses from potential adverse impacts of towers and antennas; (c) encourage the location of towers in nonresidential areas and to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (d) minimize the total number of towers throughout the community by strongly encouraging the colocation of antennas on new and pre-existing tower sites as a primary option rather than construction of additional single-use towers; (e) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (f) enhance the ability of the providers of telecommunications services to provide such services to the community through an efficient and timely application process. In furtherance of these goals, the city shall at all times give due consideration to the city's master plan, zoning map, existing land uses, and environmentally sensitive areas, including hurricane preparedness areas, in approving sites for the location of towers and antennas.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

B. Applicability.

1. New towers and antennas. All new towers or antennas in the city shall be subject to these regulations and shall be reviewed and approved by the director of information technology, except as provided in this article.

2. Broadcasting facilities/amateur radio station operators/receive only antennas.Radio and television broadcasting towers. This division shall govern any tower or the installation of any antenna, that is for the use of a radio or television broadcasting facility or is owned or operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. Radio and television towers shall only be permitted within the M-1 district and shall comply with all other provisions in this division. The height of a radio or television tower may be increased to one hundred sixty-five (165) feet if of a monopole design, regardless of the number of users. However, colocation requirements shall apply to subsequent applications.

3. Pre-existing towers or antennas. Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this division, other than the requirements of Section 5-1803, subsections ~~J~~(10 – 12).~~, K. and L~~.

Sec. 5-1802 - AM array. For purposes of implementing this division, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1803. - General requirements/minimum standards.

A. The city shall grant or deny a properly completed application for a permit for the siting of a new wireless tower or antenna on property, buildings, or structures within the city's jurisdiction within forty-five (45) business days after the date the properly completed application is submitted in accordance with the city's application procedures, provided that such permit complies with applicable federal regulations and is consistent with state law and applicable local zoning or land development regulations, including any aesthetic requirements. Local building regulations shall apply.

B. The city shall notify the permit applicant within twenty (20) business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted. However, such determination shall not be deemed as an approval of the application. Any notification shall indicate with specificity any deficiencies which, if cured, shall make the application properly completed. If the city fails to grant or deny a properly completed application for a permit which has been properly submitted within the timeframes set forth in this section, the permit shall be deemed automatically approved and the provider may proceed with placement of such facilities without interference or penalty. The timeframes specified in this section shall be extended only to the extent that the permit has not been granted or denied because the city's procedures generally applicable to all permits require action by the city and such action has not taken place within the timeframes specified in this section. Under such circumstances, the city must act to either grant or deny the permit at its next regularly scheduled meeting or, otherwise, the permit shall be deemed to be automatically approved.

C. Applicants regulated by this division may request a preapplication conference with the city. Such requests shall be submitted with a nonrefundable fee of five hundred dollars ($500.00) to reimburse the city for the cost and fees incurred by the conference. Every

new telecommunications tower and antenna shall be subject to the following minimum standards:

1. Lease required. Any construction, installation or placement of a telecommunications facility on any property owned, leased or otherwise controlled by the city shall require a lease agreement executed by the city and the owner of the facility, unless otherwise prohibited by applicable law. The city may require, as a condition of entering into a lease agreement with a telecommunications service provider, the dedication of space on the facility for public health and safety purposes, as well as property improvement on the leased space. Any dedications and improvements shall be negotiated prior to execution of the lease.

2. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

3. Lot size. For purposes of determining whether the installation of a tower or antenna complies with these regulations, in particular articles 4 and 5 of these LDRs, including, but not limited to, setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antenna or tower may be located on leased parcels within such lot.

4. Inventory of existing sites.

a. Each applicant shall review the city's inventory of existing towers, antennas, and approved sites. All requests for sites shall include specific information about the proposed location, height, and design of the proposed tower. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the city that no existing tower, structure or state-of-the-art technology that does not require the use of new towers or new structures can accommodate, or be modified to accommodate, the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower, structure or state-of-the-art technology is suitable shall consist of any of the following:

i. An evaluation of the feasibility of sharing a tower, indicating that existing towers or structures located within the geographic search as determined by a radio frequency engineer do not have the capacity to provide reasonable technical service consistent with the applicant's technical system, including, but not limited to, applicable FCC requirements.

ii. Existing towers or structures are not of sufficient height to meet applicable FCC requirements.

iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

iv. The applicant's proposed antenna would cause electromagnetic/radio frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

vii. The applicant demonstrates that state-of-the-art technology, used in the wireless telecommunications business and within the scope of applicant's FCC license, is unsuitable. Costs of state-of-the-art technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

b. The city may share such information with other applicants applying for a permitted use on private property and special exception use under this article or other organizations seeking to locate antennas within the jurisdiction of the city provided, however, that the city is not, by sharing such information, in any way representing or warranting that such information is accurate or that such sites are available or suitable.

5. Engineering report.

a. All applicants for new towers and towers which are modified or reconstructed to accommodate additional antennas shall submit a written report certified by a professional engineer licensed to practice in the State of Florida. The report shall include:

i. Site development plan of the entire subject property drawn to scale, including, without limitation:

a) A tax parcel number, legal description of the parent tract and leased parcel, total acres, and section/township/range of the subject property;

b) The lease parcel fully dimensioned, including property lines, setbacks, roads on or adjacent to the subject property and any easements;

c) Outline of all existing buildings, including purpose (i.e. residential buildings, garages, accessory structures, etc.) on the subject property;

d) All existing vegetation, by mass or individually by diameter, measured four (4) feet from the ground of each stand-alone tree on the subject property;

e) Any proposed/existing security barrier, indicating type and extent as well as point of controlled entry;

f) Proposed/existing access easements, utility easements, and parking for the telecommunications tower;

g) All proposed changes to the subject property, including grading, vegetation removal, temporary or permanent roads and driveways, stormwater management facilities and any other construction or development attendant to the telecommunications tower;

h) Scaled elevation drawing of any proposed telecommunications tower, including the location of all mounts, antennas, equipment buildings, fencing and landscaping;

i) If applicable, on-site and adjacent land uses, and master plan classification of the site;

j) If applicable, a narrative of why the proposed tower cannot comply with the requirements as stated in this section;

k) Type of tower and specifics of design.

b. Equipment brochures for the proposed tower, such as all manufacturer's specifications or trade journal reprints. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any;

c. Materials of the proposed tower specified by generic type and specific treatment (i.e., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any;

d. Colors of the proposed tower represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any;

e. Dimensions of the tower specified for all three (3) directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any;

f. A visual impact analysis, with a minimum of two (2) photo digitalization or photographic superimpositions of the tower within the subject property. The photo digitalization or photographic superimpositions shall be provided for all attachments, including: the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any for the total height, width and breadth, as well as at a distance of two hundred fifty (250) feet and five hundred (500) feet from all properties within that range, or at other points agreed upon in a preapplication conference.

g. Current wind-loading capacity and a projection of wind-loading capacity using different types of antennas as contemplated by the applicant. No tower shall be permitted to exceed its wind-loading capacity, as provided for by the Florida Building Code.

h. A statement that the proposed tower, including reception and transmission functions, will not interfere with the visual and customary transmission or reception of radio, television or similar services as well as other wireless services enjoyed by adjacent residential and nonresidential properties.

i. A statement of compliance with all applicable building codes, associated regulations and safety standards as provided in section 5-2003 herein. For all towers attached to existing structures, the statement shall include certification that the structure can support the load superimposed from the tower. Except where provided in Section 5-2005, all towers shall have the capacity to permit multiple users: at a minimum, monopole towers shall be able to accommodate two (2) users and, at a minimum, self-support/lattice or guyed towers shall be able to accommodate three (3) users.

j. Any additional information deemed by the city to be necessary to assess compliance with this division.

k. Special fee. The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for individual towers. The special fee shall be based upon the hourly rate of the independent technical consultant or expert the city deems necessary to properly evaluate applications for tower. The special fee shall be applied to those applications requiring special review or evaluation. The special fee shall be

reimbursed by the applicant to the city no later than the city issuing any denial or approval to the applicant.

6. Colocation. Pursuant to the intent of this division, colocation of telecommunications antennas by more than one (1) provider on existing telecommunications towers shall take precedence over the construction of new telecommunications towers. Accordingly, in addition to submitting the information required in subsection (d) of this section, each application shall include a written report certified by a professional engineer licensed to practice in the State of Florida, stating: 1) the geographical service area requirements; 2) mechanical or electrical incompatibility; 3) any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower; and 4) any additional information required by the city. If the city does not accept the full evaluation as provided as accurate, or if the city disagrees with any part of the evaluation, the city may deny the application, or advise the applicant that there are deficiencies in the application that need to be addressed, following which time the application processed pursuant to this division shall be tolled pending further response by the applicant.

7. Application. The city shall grant or deny a properly completed application for a permit, as provided in this division, for the colocation of a wireless communications facility on property, buildings, or structures within the city's jurisdiction within forty-five (45) business days after the date the properly completed application is initially submitted in accordance with the city's application procedures, provided that such permit complies with all applicable federal regulations and applicable local zoning or land development regulations, including but not limited to any aesthetic requirements. Local building regulations shall apply.

8. Aesthetics. Towers and antennas shall meet the following requirements:

a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings to minimize the visual impact.

c. All tower sites must comply with any landscaping requirements of article 5, division 12 of these LDRs and all applicable requirements of the city, and the city may require landscaping in excess of those requirements in order to enhance compatibility with adjacent residential and nonresidential land uses. All landscaping shall be properly maintained to ensure good health and viability at the

owner's expense. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound consisting of the telecommunications tower and antennas, backhaul network and any structure or equipment cabinet, from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

d. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

9. Lighting. No signals, artificial lights, or illumination shall be permitted on any antenna or tower unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

10. Setbacks. Towers must be set back from all property lines a minimum distance of one hundred ten (110) percent of the height of the tower.

11. Separation. Any tower shall be separated from any other tower by a distance of no less than one (1) mile as measured by a straight line between the bases of the towers.

12. Height. Towers shall not be constructed at any heights in excess of those provided below:

a. For a single user, up to ninety (90) feet in height;
b. For two (2) users, up to one hundred twenty (120) feet in height;
c. For three (3) or more users, up to one hundred fifty (150) feet in height.

13. Local, state or federal requirements. The construction, operation and repair of telecommunications facilities are subject to the supervision of the city, and shall be performed in compliance with all laws, ordinances and practices affecting such system including, but not limited to, zoning codes, building codes, and safety codes, and as provided in this division. The construction, operation and repair shall be performed in a manner consistent with applicable industry standards, including the electronic industries association. All telecommunication towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, including emissions standards, and any other agency of the local, state or federal government with the authority to regulate

towers and antennas prior to issuance of a building permit by the city. If such applicable standards and regulations require retroactive application, then the owners of the towers and antennas governed by this division shall bring such towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

14. Building codes; safety standards.

a. To ensure the structural integrity of towers, the owner shall construct and maintain the tower in compliance with the Florida Building Code, and all other applicable codes and standards, as amended from time to time. A statement shall be submitted by a professional engineer certifying compliance with this subsection. Where a preexisting structure, including light and power poles, is requested as a stealth facility, the facility, and all modifications thereof, shall comply with all requirements as provided in this division. Following the issuance of a building permit, the city shall require an analysis of a soil sample from the base of the tower site to assure integrity of the foundation.

b. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have no more than thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

15. Warning signs. Notwithstanding any contrary provisions of the city's LDRs, the following shall be utilized in connection with any tower or antenna site, as applicable.

a. If high voltage is necessary for the operation of the communication tower or any accessory structures, "HIGH VOLTAGE-DANGER" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart.

b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and spaced no more than forty (40) feet apart.

c. The height of the lettering of the warning signs shall be at least twelve (12) inches in height. The warning signs shall be installed at least five (5) feet above the finished grade.

d. The warning signs may be attached to free standing poles if the content of the signs may be obstructed by landscaping.

16. Security fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the city may waive such requirements.

17. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the city irrespective of municipal and county jurisdictional boundaries.

18. Not essential services. Towers and antennas shall be regulated and permitted pursuant to this division and shall not be regulated or permitted as essential services, public utilities, or private utilities.

19. Franchises/licenses. Owners and/or operators of towers or antennas shall certify that all franchises/licenses required by law for the construction and/or operation of a wireless communication system in the city have been obtained and shall file a copy of all required franchises/licenses with the city.

20. Public notice. For purposes of this division and notwithstanding any other requirements with regard to public notice in the city's LDRs, any request for a special exception use on private property shall require a public hearing that shall be advertised at least seven (7) days before the public hearing in a newspaper of general circulation and readership in the municipality. Notice shall also be mailed to all affected property owners within five hundred (500) feet of the subject property prior to the public hearing. If approved, the owner of any tower approved for shared use shall provide notice of the location of the tower and the tower's load capacity to all other providers regulated by this division. All costs related to the public notice shall be paid by the applicant.

21. Signs. No signs, including commercial advertising, logo, political signs, flyers, flags, or banners, whether or not posted temporarily, shall be allowed on any part of an antenna or tower, unless required by law.

22. Buildings and support equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of section 5-1806 below.

23. Inspections; reports; fees.

a. Telecommunications tower owners shall submit a report to the city certifying structural and electrical integrity every two (2) years. The report shall be accompanied by a nonrefundable fee of two hundred dollars ($200.00) to reimburse the city for the cost of review, except as provided in subsection 5-1803 5.k., above (special fee).

b. The city may conduct periodic inspections of telecommunications towers, at the owner's expense, to ensure structural and electrical integrity and compliance with the provisions of this division. The owner of the telecommunications tower may be required by the city to have more frequent inspections should there be an emergency, extraordinary condition or other reason to believe that the structural and electrical integrity of the tower is jeopardized. There shall be a maximum of one (1) inspection per year unless emergency or extraordinary conditions warrant.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1804. - Permitted uses on public property.

A. General. The uses listed in this section apply specifically to all wireless telecommunications antennas and towers located on property owned, leased, or otherwise controlled as specified in section 5-1803 by the city, provided a lease agreement pursuant to section 5-1803 has been approved by the city. The city reserves the right to modify or waive the requirements for use on public property, but shall not be required to provide access to city property. A determination whether to grant or deny a waiver request shall be made in accordance with standards to be adopted by administrative regulation of the city.

B. Uses. The city manager is authorized to execute lease agreements and waive requirements as provided in section 5-1803 on behalf of the city. The uses permitted under this section are as follows:

1. Rooftop mounted communication towers and antennas.

2. The height, including support structures, shall not extend more than thirty (30) feet above the average height of the roofline;

3. Screening shall be required to minimize the visual impact upon adjacent properties;

4. No more than one (1) tower shall be located on a single lot or single building site; and

5. Rooftop communication towers shall not adversely affect adjacent properties.

C. Exemption. Towers and/or antennas constructed pursuant to this section shall be exempt from the minimum distances from residential zoning districts as provided in section 5-1806 below.

D. Lease.

1. No lease granted under this section shall convey any exclusive right, privilege, permit or franchise to occupy or use the public lands of the city for delivery of telecommunications services or any other purpose.

2. No lease granted under this section shall convey any right, title or interest in the public lands other than a leasehold interest, but shall be deemed only to allow the use of the public lands for the limited purposes and term stated in the license. No lease shall be construed as a conveyance of a title interest in the property.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1805. - Permitted uses on private property.

A. General. The uses listed in this section apply to all wireless telecommunications antennas and towers located on private property. The following provisions shall govern the issuance of approval by the city pursuant to this section.

1. Each applicant shall apply to the city for a building and zoning permit providing the information as set forth in sections 5-1803 and 5-1806 of this division, and a nonrefundable fee of one thousand five hundred dollars ($1,500.00) to reimburse the city for the costs of reviewing the application.

2. The city shall review the application and determine if the proposed use complies with applicable sections of this division.

3. The city shall respond to each such application pursuant to section 5-1803 of this division, taking into consideration the time dictated by the nature and scope of the individual request, subject to the generally applicable time frames and pursuant to the intent of Section 704 of the Telecommunications Act of 1996, but in no event more than thirty (30) days for administrative zoning decisions. Building permit applications shall be processed within a reasonable period of time.

4. In connection with any such approval, the city may, to encourage the use of monopole towers, allow the reconstruction of an existing tower to monopole construction. The reconstruction shall, at all times, comply with the standards and requirements of this division.

5. If an application pursuant to this section is denied, the applicant shall file an application for a special exception use permit pursuant to section 5-1806 prior to filing an appeal before the city's zoning board of appeals.

B. Uses. The following uses may be approved by the city manager after conducting an administrative review:

1. Industrial. Placement of additional buildings or other supporting equipment used in connection with the tower or antenna, in any industrial or zoning district, designated by the city as the M-1 districts.

2. Antennas on existing structures.

a. Any additional wireless communications facilities, such as communication cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communications services, required within the existing secured equipment compound within the existing site shall be deemed a permitted use or activity. Local building and land development regulations, including any aesthetic requirements, shall apply.

b. Any antenna which is not attached to a tower may be approved by the city as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight (8) or more dwelling units, provided:

i. The antenna does not extend more than thirty (30) feet above the highest point of the structure.

ii. The antenna complies with all applicable FCC and FAA regulations and all applicable building codes; and

iii. To minimize adverse visual impacts, antennas shall be selected based upon the following priority: (1) any stealthed antenna; (2) panel; (3) whip; and (4) dish. The applicant shall demonstrate, in a manner acceptable to the city, why each choice cannot be used for a particular application if that choice is not the top priority.

3. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the city provided such co-location is accomplished in a manner consistent with the following:

a. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the city allows reconstruction as a monopole pursuant to this section.

b. Height.

i. An existing tower may be modified or rebuilt to a taller height, to accommodate the co-location of an additional antenna(s), only if the

modification or reconstruction is in full compliance with this division. This provision shall include utility and power poles.

ii. The additional height referred to in subsection b.i. above shall not require an additional distance separation as set forth in section 5-1806. The tower's remodification height shall be used to calculate such distance separations.

c. Onsite location.

i. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

ii. After the tower is rebuilt to accommodate co-location, only one (1) tower may remain on the site.

iii. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to section 5-1805. The relocation of a tower shall in no way be deemed to cause a violation of section 5-1803.

d. Microwave dish antennas located below sixty-five (65) feet above the ground may not exceed six (6) feet in diameter. Microwave dish antennas located sixty-five (65) feet and higher above the ground may not exceed eight (8) feet in diameter. Ground-mounted dish antennas must be located or screened so as not to be visible from abutting public streets.

4. Cable microcell network. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers. Any additional wireless communications facilities, such as communication cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communications services, required within the existing secured equipment compound within the existing site shall be deemed a permitted use or activity. Local building and land development regulations, including any aesthetic requirements, shall apply.

5. Additional wireless communications facilities. Any additional wireless communications facilities, such as communication cables, adjacent accessory structures, or adjacent accessory equipment used in the provision of cellular, enhanced specialized mobile radio, or personal communications services, required within the existing secured equipment compound within the existing site shall be deemed a permitted use or activity.

Local building and land development regulations, including any aesthetic requirements, shall apply.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1806. - Special exception use.

A. General. The provisions listed in this section apply only where an application for the construction of a tower or the placement of an antenna in a zoning district does not meet the criteria for approval as provided in sections 5-1803—5-1805 of this division. An applicant for a special exception use permit shall submit information described in section 5-1803 and the city's regulations and any other reasonable information the city may require. The following provisions shall govern the issuance for special exception use permits:

1. Compliance with the procedures and requirements of special exception uses as stated in article 3, division 5.

2. In granting a permit, the city may impose conditions to the extent the city concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.

3. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

4. A nonrefundable fee of five hundred dollars ($500.00) to reimburse the city for the costs of reviewing the application, in addition to all other applicable fees required by the city.

B. Setbacks. Notwithstanding any contrary provision of the city's LDRs, the following setback requirements shall apply to all towers for which a permit under this section is required:

1. Towers must be set back from all property lines a minimum distance of one hundred ten (110) percent of the height of the tower.

2. The base of any guys and accessory buildings must satisfy the minimum zoning district setback requirements with reference to special exception use, but not to include reference to rights-of-way controlled by the city.

C. Separation. The following separation requirements shall apply to all towers and antennas for which a special exception use permit is required:

1. Separation from offsite uses/designated areas.

a. Tower separation shall be measured from the base of the tower to the lotline of the offsite uses and/or designated areas as specified in table 1, except as otherwise provided in table 1.

b. Separation requirements for towers shall comply with the minimum standards established in table 1.

2. The site plan submitted by the applicant shall identify any towers listed on the city's inventory of existing sites that are within one (1) mile of the proposed tower. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

3. TABLE 1: Offsite Use/Designated Area Separation Distance

| | |
|---|---|
| Single-family or duplex residential units [1] | 500 feet or 300% height of tower whichever is greater |
| Vacant single-family or duplex residentially zoned land | 500 feet or 300% height of tower [2] whichever is greater |
| Existing multifamily residential units greater than duplex units | 100 feet or 100% height of tower whichever is greater |
| Nonresidentially zoned lands or nonresidential uses | None, only setbacks apply |

[1] Includes modular homes and mobile homes used for living purposes.
[2] Separation measured from base of tower to closest building setback line.

4. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distance shall be a minimum of one (1) mile, regardless of type of towers.

D. Factors considered in granting special exception permits for towers. In addition to any standards for consideration of permit applications pursuant to these regulations, the city shall consider the following factors in determining whether to issue a permit:

1. Availability of suitable existing towers, other structures, or state of the art technologies not requiring the use of towers or structures, as discussed in section 5-1806 of this division;

2. Height of the proposed tower;

3. The setback and separation distances between the proposed tower and the nearest residential units or residentially zoned properties;

4. Proximity of the tower to residential structures and residential district boundaries;

5. Nature of uses on adjacent and nearby properties;

6. Surrounding topography;

7. Surrounding tree coverage and foliage;

8. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and

9. Proposed ingress and egress.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1807. - Buildings or other equipment facilities.

A. Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with all of the following:

1. The cabinet or structure shall not contain more than three hundred (300) square feet of gross floor area or be more than eighty (80) inches in height. In addition, for buildings and structures which are less than four (4) stories in height, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or three (3) feet in height, shall be located on the ground and shall not be located on the roof of the structure unless the building or structure is completely screened from site pursuant to the requirements of section 5-1803.

2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than five (5) percent of the roof area.

3. Equipment buildings or cabinets shall comply with all applicable building codes, including minimum setback requirements, as provided in section 5-1806.

4. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless repairs to the tower are being made.

5. All buildings and equipment cabinets shall be unoccupied at all times.

B. Antennas not located on telecommunications tower. Mounted on utility poles or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In the R-5 and R-6 residential districts, the equipment cabinet or structure may be located:

a. In a side yard setback provided the cabinet or structure is no greater than three (3) feet in height or sixteen (16) square feet of gross floor area and the cabinet/structure is located a minimum of five (5) feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two (42) to forty-eight (48) inches and a planted height of at least thirty-six (36) inches.

b. In a rear yard setback, provided the cabinet or structure is no greater than five (5) feet in height or sixteen (16) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of seventy-two (72) inches and a planted height of at least thirty-six (36) inches.

2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than five (5) feet in height or twenty-five (25) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of seventy-two (72) inches and a planted height of at least thirty-six (36) inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid masonry fence six (6) feet in height or an evergreen hedge with an ultimate height of six (6) feet and a planted height of at least thirty-six (36) inches.

C. Antennas located on towers. The related unmanned equipment structure shall not contain more than one thousand five hundred (1,500) square feet of gross floor area or be more than eight (8) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1808. - Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1809. - Nonconforming uses.

A. Not expansion of nonconforming use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this division shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this division.

C. Rebuilding damaged or destroyed nonconforming towers or antennas. Notwithstanding section 5-1807, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a permit and without having to meet the separation requirements specified in subsections 29A-8(b)(4) and 29A-8(b)(5)[5-1801C.]. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the tower or antenna shall be deemed abandoned as specified in section 5-1808.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1810. - Protection of the city and residents.

A. Indemnification.

1. The city shall not enter into any lease agreement until and unless the city obtains an adequate indemnity from such provider. The indemnity must at least:

a. Release the city from and against any and all liability and responsibility in or arising out of the construction, operation or repair of the communications facility. Each communications facility operator must further agree not to sue or seek any money or damages from the city in connection with the above mentioned matters;

b. Indemnify and hold harmless the city, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the city or any third party arising out of, or by reason of, or resulting from or of each communications facility operator, or its agents, employees, or servants negligent acts, errors, or omissions.

c. Provide that the covenants and representations relating to the indemnification provision shall survive the term of any agreement and continue in full force and effect as to the party's responsibility to indemnify.

B. Insurance.

1. The city may not enter into any lease agreement until and unless the city obtains assurance that such operator (and those acting on its behalf) have adequate insurance. At a minimum, the following requirements must be satisfied:

a. A telecommunications facility operator shall not commence construction or operation of the facility without obtaining all insurance required under this section and approval of such insurance by the risk manager of the city, nor shall a communications facility operator allow any contractor or subcontractor to commence work on its contract or subcontract until all similar such insurance required of the same has been obtained and approved. The required insurance must be obtained and maintained for the entire period the communications facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the city may order such entities to stop operations until the insurance is obtained and approved.

b. Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the risk manager. For entities that are entering the market, the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse in coverage.

c. These certificates shall contain a provision that coverages afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the city. Policies shall be issued by companies authorized to do business under the laws of the State of Florida.

d. In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of the lease agreement with the city, then in that event, the communications facility operator shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period.

C. Comprehensive general liability. A communications facility operator and its contractors or subcontractors engaged in work on the operator's behalf, shall maintain minimum insurance to cover liability bodily injury and property damage. Exposures to be covered are: premises, operations, and certain contracts. Coverage shall be written on an occurrence basis and shall be

included, as applicable, in the lease agreement between the city and the telecommunications facility operator.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1811. - Security fund.

Every telecommunications service provider whether on public or private property shall establish a cash security fund, or provide the city with an irrevocable letter of credit in the same amount, to secure the payment of removing an antenna or tower that has been determined to be abandoned. In the event the owner is not in compliance with section 5-1808. The amount to be provided for each tower shall be twenty-five thousand dollars ($25,000.00); the amount for each antenna array shall be five thousand dollars ($5,000.00). In the alternative, at the city's discretion, an operator may, in lieu of a cash security fund or letter of credit, file and maintain with the city a bond with an acceptable surety in the amount of twenty-five thousand dollars ($25,000.00). The operator and the surety shall be jointly and severally liable under the terms of the bond. In the alternative, at the city's discretion, an operator may, in lieu of the cash security fund, letter of credit or bond, file with the city a corporate guarantee in a form acceptable to the city to be used as a security fund.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1812. - Penalties.

Any person, firm or corporation who knowingly breaches any provision of this division, shall upon receipt of written notice from the city be given a time schedule to cure the violation. Failure to commence to cure within thirty (30) days and to complete cure to the city's satisfaction within sixty (60) days, or such longer time as the city may specify, shall result in revocation of any permit or license and the city shall seek any remedy or damages to the full extent of the law.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1813. - Severability.

The various parts, sections and clauses of this division are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the division shall not be affected thereby. In the event of a subsequent change in applicable law, so the provision which had been held invalid is no longer invalid the provision shall thereupon return to full force and effect without further action by the city and shall thereafter be binding under this division.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 19. - TEMPORARY USES

Sec. 5-1901. - General.

The temporary uses set out in this division are permitted subject to the approval of the city manager or ~~his/her~~ designee, and shall be subject to such conditions as may be imposed by the city manager or ~~his/her~~ designee.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1902. - Permitted temporary uses

A. Contractors offices.

B. Temporary recreational or entertainment related events or activities such as fairs, concerts, festivals.

C. Block and neighborhood parties.

D. Outdoor bazaars, special fund-raising sales and/or similar activities.

E. Farmer's markets.

F. Yard sales.

G. Temporary filming.

H. Tents for grand opening and special events.

I. Temporary parking for development purposes.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1903. - Permit and Standards.

No temporary use shall be established on private or public property without obtaining a temporary use permit from the City Manager or designee, establishing compliance with the following standards:

~~All temporary uses shall comply with the following standards:~~

A. The temporary use will not create hazardous vehicular or pedestrian traffic conditions.

B. The design and installation of all practicable temporary traffic control devices including signage to minimize traffic congestion.

C. Adequate sanitary facilities, utility, drainage, refuse management, emergency services and access, and similar necessary facilities and services will be available to serve employees, patrons or participants.

D. Where a tent or similar structure is to be used, such structure shall:

1. Comply with the requirements of the fire marshal.

2. Provide the city with a certificate of insurance to cover the liability of the applicant or sponsor.

3. Demonstrate that the tent is flame resistant by providing a certificate of flame resistance or other assurance that the structure has been properly treated with flame retarder and has been maintained as such.

E. Signage, pursuant to 5-1501, related to the temporary use, including signs attached to vehicles associated with the use, shall not exceed twenty-four (24) square feet of sign face area and no more than one (1) sign face per street frontage shall be permitted.

F. No temporary use shall be permitted which allows the sale of Christmas trees or fireworks.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1904. - Temporary construction trailer.

Subject to the approval of the community planning and development department ~~building and zoning department~~ and in accordance with applicable provisions of the Florida Building Code, a construction trailer may be parked and stored upon any construction site for such period as may be prescribed by the director but such approval shall not extend ~~not~~ longer than sixty (60) days after a certificate of occupancy has been issued for the project.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1905. - Yard sales.

A. Yard sale permit required. No yard sale shall be conducted unless a residential occupant obtains a yard sale permit from the community planning and development department~~building and zoning department~~. Only the owner or lessee of the property upon which the yard sale is being conducted may obtain such permit.

B. Requirements for yard sales.

1. Only the personal property owned by the seller and usual to a household may be sold or offered for sale by the owner or lessee of the residence.

2. No more than two (2) yard sales shall be held from the same property within any calendar year.

3. No more than two (2) consecutive days shall be permitted for any yard sale, not including legal holidays. Consecutive days shall count as one (1) sale.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 5-1906. - Temporary storage containers/pods—Residential districts.

A. Purpose and permitted use. The purpose of a temporary storage container in residential districts shall be to provide a temporary venue for the storage of furniture, clothing and other

personal belongings, as part of the process of household moving, repair or construction, and/or as part of a household's intent to store items off premises, at a designated storage location. A temporary storage container shall not be used for human shelter or habitation or for the habitation or sheltering of household pets or other animals. A zoning permit shall be required.

B. Standards.

1. No more than one (1) temporary storage container shall be allowed at one (1) time at any single-family, duplex, triplex or townhouse site, and no more than two (2) temporary storage containers shall be allowed at one (1) time at any multifamily site (four (4) or more units);
2. No part of the proposed container(s) shall encroach upon any portion of a public right-of-way;
3. A minimum setback of ten (10) feet from the front property line and the same side setback as exists for the main structure, but not less than five (5) feet shall be maintained;
4. The maximum height of the temporary storage container(s), as measured from the ground level to the highest point shall not exceed eight (8) feet;
5. The maximum amount of time each container may remain on site shall be thirty (30) consecutive calendar days, unless extended through an administrative variance by the community planning and development department ~~building and zoning department~~ upon payment of an additional thirty-day permit fee;
6. No more than one (1) application for temporary storage container(s) per applicant per site, per year, shall be approved by the city in connection with single-family, duplex, triplex townhouse uses, and multifamily uses (four (4) or more units).

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 20.– LIVE/WORK UNITS--GENERAL

Sec. 5-2001. - Purposes

The purposes of these provisions relating to live/work units are to:

A. Promote the conservation of energy;

B. Encourage mixed-use development and reuse of existing buildings; and

C. Promote affordable, diverse house choices.

Sec. 5-2002. – Live/Work Definition

For the purposes of this division, live/work units are defined as units that include a complete dwelling unit with kitchen and bathroom, as well as space suitable for running a business, provided that the business is a permitted or lawfully approved special exception use in the zoning district. To qualify as a live/work unit for the purposes of this part, the live/work unit must be occupied entirely by a single housekeeping unit where the resident owner or employee is responsible for the commercial activity performed and where the commercial activity conducted takes place subject to a valid business license associated with the premises.

Sec. 5-2003. – Location and Uses

A. Location. Live/work units shall be allowed by right in mixed-use, industrial and commercial areas where residential uses are allowed. Live/work units are not allowed in any zoning district that is exclusively residential, except such units shall be permitted in the Arts Overlay District.

B. Uses. Any non-residential use allowed in the zoning district within which a live/work unit is legally located may be conducted on the premises of that live/work unit.

Sec. 5-2004. Development Standards.

Live/work units shall comply with all of the following standards:

A. The residential portion of the unit shall not occupy over 50 percent of the gross floor area.

B. The nonresidential portion of the building shall be located on the ground floor and the residential unit on the second floor. An entry to the second floor residential unit may be located on the ground floor.

C. The use shall comply with the parking, landscaping, and other development standards set forth in the respective zoning district as provided for in these regulations.

D. All nonresidential off-street parking shall be located as far as practicable from existing adjacent residential dwellings.

E. Drive-through facilities are prohibited.

F. Employees shall be limited to occupants of the residential portion of the building plus up to three persons not residing in the residential portion.

~~- TOWNHOUSE DEVELOPMENT SETBACK REQUIREMENTS~~

~~Sec. 5-2001. - General.~~

~~A. Minimum lot frontage. No townhouse development shall be constructed on a site with a frontage of less than one hundred fifty (150) feet.~~

~~B. Minimum usable open space. Not less than twenty-five (25) percent of the total lot area shall be dedicated for usable open space, either for recreation or some other suitable use, public or private, as approved by the planning commission. For the purpose of this section, individual lots or portions thereof, roads, driveways, garages and parking areas shall not be construed as usable open space.~~

~~C. Distance between townhouse rows. No townhouse row shall be closer than twenty (20) feet to any other townhouse row.~~

~~D. Length of townhouse row. No townhouse row shall consist of more than six (6) dwelling units.~~

~~E. Parking. In addition to the requirements of article 5, division 16:~~

~~1. Design. All garages provided shall conform architecturally to, and be of similar materials as the principal buildings in the development.~~

~~2. Location. Garages may be built into townhouses, or may be constructed on individual lots or on common areas.~~

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

~~Sec. 5-2002. - Setback.~~

~~A. Front yard. No building or structure shall be constructed closer than twenty-five (25) feet to any line.~~

~~B. Side yards. No building or structure for end units shall be located closer than thirty (30) feet to any side lot line.~~

~~C. Unattached accessory structures in rear yards of townhouse lots.~~

~~1. Utility sheds and similar accessory structures. These structures may occupy up to one hundred (100) square feet. In interior townhouse lots, these structures shall maintain minimum side and rear setbacks of five (5) feet. In corner townhouse lots, these structures shall also maintain a minimum of thirty (30) feet from the exterior side property line, and the minimum rear setback shall be ten (10) feet.~~

~~2. Unattached flexible cover carport structures. These structures may be erected in the rear yard only, for the purpose of sheltering an operable vehicle, provided their size does not~~

~~exceed a width of twelve (12) feet, a length of twenty (20) feet, and a height of ten (10) feet. In interior townhouse lots, these structures may maintain a minimum side setback of zero feet and a minimum rear setback of five (5) feet. In corner townhouse lots, these structures shall also maintain a minimum of thirty (30) feet from the exterior side property line, and the minimum rear setback shall be ten (10) feet.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION 21. - ART IN PUBLIC AND PRIVATE PLACES

Sec. 5-2101. - General.

A. Intent. The City of North Miami hereby prescribes an art in public places program for the acquisition, management and maintenance of works of art in new public buildings, pursuant to Miami-Dade County regulations.

B. Definitions. For the purpose of this section, the following terms are hereby defined:

1. Construction cost is defined to include architectural and engineering fees, consulting fees, site work, and contingency allowances. It does not include land acquisition or subsequent changes to the construction contract through change orders. All construction costs shall be calculated as of the date the contract is executed.

2. New public building is defined as new construction of a public facility, or the substantial rehabilitation or improvement of an existing public facility if:

   a. The cost of the rehabilitation or improvement exceeds fifty (50) percent of the total value of the existing public facility; or

   b. The rehabilitation or improvement results in a fifty (50) percent or more increase in the existing public facility's square footage.

3. Works of art is defined as the application of skill and taste to production of tangible objects, according to aesthetic principles, including, but not limited to, paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, lighting designs and drawings.

C. Appropriation for construction to include amount for works of art. The city shall provide for the acquisition of works of art equivalent in value to not less than one and one-half (1.5) percent of the construction cost of new public buildings. Municipal, state, federal, private and other non-city funds for capital projects are subject to the 1.5% public art requirement. In addition to acquisition, the appropriation may be used for:

1. Program administrative costs, insurance costs, the repair and maintenance cost of any works of art acquired under this section; or

2. To supplement other appropriations for the acquisition of works of art under this section or to place works or art in, on, or near government facilities which have already been constructed.

D. Procurement process. Works of art shall be chosen by a selection committee through a transparent, competitive, quality based procurement process. Procurement decisions shall be

based on those responses received from artists to the city's request for proposals or city's request for qualifications, pursuant to the city's procurement code.

E. Waiver of requirements. The requirements of this section may be waived by resolution of the city council when and if it appears to said council that a construction project covered hereunder is not appropriate for the application of the above requirements.

F. Murals.

~~1.~~ Intent. It is the intent of the City that the display of art or graphics on buildings and walls be permitted within certain commercial and special art overlay districts of the City in order to aesthetically enhance otherwise blank walls and unoccupied buildings, and that the funds generated by permits issued with respect to such displays be utilized to ensure quality of life and prevention of visual clutter or blight. The City shall comply with state and federal requirements as specified in the agreements executed with the Federal Highway Administration ("FHWA") and the State of Florida Department of Transportation ("FDOT") and to keep FDOT informed of issues pertaining to oversight of the mural ordinance to ensure effective control of the mural program within the city municipal boundaries.

G. Permitting and review required:

1. Permit reviewed, recommendation made to the Art Selection Committee; permit issued by the City of North Miami ~~Museum of Contemporary Art~~; and review by the Art Selection Committee pursuant to 5-2102.

2. Standards. Murals shall only be permitted in the C-3 zoning district, in commercial corridors in the Arts Overlay District, and areas in the C-2BW zoning district along 123rd Street in accordance with the following design criteria:

a. Murals shall be applied utilizing weather resistant paint or materials; and

b. Murals shall not be designed as to constitute or create a traffic hazard.

(Ord. No. 1291, § 1, 1-12-10)

Sec. 5-2102. - Art selection committee.

A. ~~[~~Establishment.~~]~~ The city manager or city manager designee shall establish the art selection committee to administer the program and facilitate the program's intent.

B. Powers and duties. The art selection committee shall screen artists' submissions and will select the acquisitions of work of art for each qualified project. In addition to selection, the committee's responsibility shall include planning, inventory and the provision of maintenance services of all works of art acquired by the program.

C. Membership; qualifications. The committee shall be composed of five (5) members appointed by the city manager. Committee members must be knowledgeable in the field of art, architecture, art education, art history, or architectural history, and may not operate, own or be employed by any art dealer, art gallery or artists' representative. Committee members serve at the pleasure of the city manager.

D. Selection criteria. All selections of artists and acquisitions of works of art shall be in accordance with the City's procurement code, as may be amended from time to time. In the selection process, the following principles shall be observed:

1. Works of art shall be located in areas where residents and visitors live and congregate and shall be highly accessible and visible.
2. Committee members should consider the inherently intrusive nature of public art on the lives of those frequenting public places. Artworks reflecting enduring artistic concepts, not transitory ones, should be sought.
3. The committee's selections must reflect the cultural and ethnic diversity of the city without deviation from a standard of excellence.
4. Consideration will be given to previous artistic accomplishments as demonstrated in images of previously completed artwork, public art experience, and/or initial approach the project as demonstrated in the artist's proposal.
5. Final selection shall also take into account appropriateness to the site, permanence of the work in light of environmental conditions at the site, maintenance requirements, quality of the work, likelihood that the artist can successfully complete the work within the available funding, diversity of works already acquired by the city, diversity of the artists whose work has been acquired by the city.
6. Art in public places funds will be used solely for commissioning works of art with professional artists contracted with to create the works of art.
7. For building better communities general obligation bonds program-funded projects, art in public places funds must be expended within the facility that generates the public art monies.
8. Selections of artists and acquisitions of works of art pursuant to these guidelines shall be reflected on the city manager's report section of the city council agenda, but shall not require council approval.

(Ord. No. 1291, § 1, 1-12-10)

Sec. 5-2103. - Ownership and upkeep.

A. Ownership of all works of art acquired by the city under this division is vested in the City of North Miami. The city manager is charged with the custody, supervision, maintenance and preservation of such works of art. In each instance, the city shall acquire title to each work of art acquired.

(Ord. No. 1291, § 1, 1-12-10)

Sec. 5-2104. - Personnel.

A. The city manager shall provide adequate and competent clerical and administrative personnel as may be reasonably required by for the proper performance of the duties under this division, subject to budget limitations.

(Ord. No. 1291, § 1, 1-12-10)

DIVISION 22. - DISTANCE LIMITATIONS FOR CERTAIN USES

Sec. 5-2201. - Purpose, legislative intent.

The purpose of this division is to regulate the location of hair salons, barber shops, consignment shops, convenience stores, ~~and~~ tax preparation businesses and other businesses that present concerns of the effect of their location on the aesthetic and economic viability of certain neighborhoods, so as to prevent the saturation and proliferation of such uses within a specific and limited commercial area, in order to obtain a more balanced use of limited commercial zoning area within the central core of the city. This section is designed to eliminate or lessen such adverse effects by preventing or lessening the concentration of such businesses by maintaining minimum distances between such businesses and between certain other uses, and allowing hair salons, barber shops, ~~and~~ tax preparation businesses and other specified businesses to be located in appropriate areas only. The sole purpose of the legislative body of the city in enacting this section is the desire to preserve and protect the quality of life, public health, safety, and general welfare of the citizens of the city.

(Ord. No. 1368, § 1, 4-8-14)

Sec. 5-2202. - Definitions.

For the purposes of this division, the following words and terms have the meaning so specified:

Barber shop means any place of business wherein the practice of barbering is carried on, including, but not limited to, shaving, cutting trimming, coloring, shampooing, arranging, dressing, curling, or weaving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical device.

Consignment shop means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party. **[F.S. 538.03]**

Convenience store means a use consisting of the sale of goods, products, materials, or services directly to the consumer from within an enclosed building, including, but not limited to, bill paying services, phone card sales, money transfer services, immigration consulting, notary public, tax preparation services, dollar stores, and laundry or dry cleaning establishments.

Discount variety store means a retail store that sells a wide range of inexpensive household goods, including but not limited to a broad range of close-out, discontinued, liquidation, or overstock and general merchandise, primarily at a single discount price and/or in the low and very low price ranges.

Hair salon means any place of business wherein the practice of cosmetology is carried on for the treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent

waving, and hair relaxing. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.

Tax preparation business means accountants and tax professionals that prepare individual or business tax returns for submission to the IRS.

(Ord. No. 1368, § 1, 4-8-14)

Sec. 5-2203. - Location and distance restriction within the C-3 zoning district.

A. Hair salons, consignment ~~stores~~ shops, barber shops, convenience stores, ~~and~~ businesses devoted to tax preparation services, and discount variety stores shall be allowed within the C-3 commercial zoning district, subject to the distance requirement provided herein.

B. No hair salon, barber shop, convenience store, discount variety store or tax preparation business shall be located within one thousand five hundred (1,500) feet of an identical or similar use of:

   1. Any lawfully pre-existing hair salon, barber shop, convenience store, or tax preparation business that is located within the C-3 commercial zoning district; or

   2. Any pre-existing zoning district within the city that is zoned for residential use.

C. The distances provided for in this subsection shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line of the parcel upon which the hair salon business or tax preparation business is located to the nearest property line of a parcel:

   1. Upon which such a lawfully pre-existing hair salon, barber shop, convenience store, or tax preparation business, is located; or

   2. Within a district zoned for residential use.

Sec. 5-2204. – Location and distance restriction within the C-1 zoning district along N.W. 7th Avenue, known as the Chinatown Cultural Arts and Innovation District.

A. Subject to design guidelines, adopted by the City through a master plan.

B. No tire shops, or discount variety stores, shall be located within one thousand five hundred (1,500) feet of an identical or similar use.

(Ord. No. 1368, § 1, 4-8-14)

~~(Article 5) Division 23- ALCOHOLIC BEVERAGES~~

~~FOOTNOTE(S):~~

~~--- (1) ---~~

~~**Editor's note** — Ord. No. 1251, § 1, adopted February 26, 2008, repealed the former Ch. 3, §§ 3-1—3-15, and enacted a new Ch. 3, §§ 3-1—3-18, as set out herein. The former Ch. 3 pertained to similar subject matter. See also the Code Comparative Table.~~

~~**Cross reference** — City clerk, § 2-231; buildings and building regulations, Ch. 5; finance, Ch. 7; licenses and business regulations, Ch. 11; miscellaneous offenses, Ch. 13; nuisances, Ch. 12; parks and recreation, Ch. 14; public places, Ch. 16; streets and sidewalks, Ch. 17; zoning, App. A. (Back)~~

~~**State Law reference** — Authority to locate and regulate hours of sale, F.S. §§ 562.14(1) and 562.45(2). (Back)~~

DIVISION 23. - TREE PRESERVATION AND PROTECTION

Sec. 5-2301. ~~– Construction of chapter.~~ In general.

~~It is intended that the provisions of this chapter shall apply solely to those beverages constituting alcoholic beverages under the laws of the state. Every violation of the laws of the state relating to the sale of alcoholic beverages is hereby specifically made a violation of this chapter, with the same force and effect as if the provisions of such laws were fully set forth herein. Notwithstanding any provision of this chapter that may appear to be contrary, this chapter shall in each instance be construed within the lawful confines of the authority of the city and shall be effective to the fullest extent authorized by the beverage law.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

A. Applicability. The provisions contained in this division shall be considered minimum standards applicable to all public or private property within the city, unless otherwise exempted by law. The applicable North Miami Code of Ordinances, as amended, are adopted and incorporated by reference as if fully set forth herein, provided that, in the event of an express conflict between a county ordinance and a provision of this division, the latter shall prevail.

B. Intent and purpose. In recognizing that trees benefit the city by decreasing urban noise and air pollution, conserving energy and retaining soil, minimizing flooding, providing food and shelter to birds and wildlife, and preserving the community's character and quality of life, it is the intent of the city council to regulate the removal, relocation, replacement and abuse of trees and to protect, preserve and restore the city's tree canopy. The purpose of this division is to recognize the contribution of trees to the environment and the positive correlation of trees to the health, safety, and welfare of residents. This division strives to achieve the tree preservation and protection through;

a. The increase, renewal, and proliferation of trees and the tree canopy; and
b. The protection of existing trees, especially specimen trees, specimen palms and Florida's Protected Trees; and
c. The reduction of the adverse impacts of invasive or controlled plant species.

C. Tree removal permit required. It shall be unlawful for any person, directly or indirectly, to cut down, destroy, remove or move, or effectively remove through damaging, any tree within the city without first obtaining a tree removal permit, unless the tree is exempted herein. In addition to code compliance fines and penalties pursuant to section 21-76 of the city code, the city may require the tree to be replaced, or the equivalent monetary amount be paid to the tree mitigation fund, pursuant to the provisions of this division. A tree removal permit shall be required for the pruning of any tree roots, except for the pruning of roots when essential for any repairs or improvements performed by the city public works department

D. Authority to administer this division. The community planning & development department shall have the general management and supervision of all trees, shrubs and plants embraced by this division.

E. Review of permits for removal in rights-of-way, government properties. The city public works department shall review and make the determination for tree removal for trees in rights-of-way and on government properties.

F. Cutting or injuring trees and shrubs on public property prohibited. No person without a written permit from the community planning and development department shall cut, prune, break, incline, injure, remove or in any way deface any tree, shrub or vine in or on public property or cut, disturb or interfere in any way with the roots of any tree, shrub or vine in or on public property.

G. Injurious substances around trees. It shall be unlawful for any person to throw or allow to be thrown any salt water, oil or injurious substance upon any area where such material may enter the ground at the roots of any tree.

H. Joint and several liability of agent and owner of record. Any agent or representative, including without limitation a contractor or subcontractor, who applies for a tree removal permit on behalf of an owner of record or, who on behalf of said owner removes a tree without a permit or otherwise violates this division, is jointly and severally liable with the owner of the property for resulting costs, fees, or fines. The city may pursue, in its sole discretion, one or more liable parties to recover said costs, fees, or fines.

I. Liability for unpaid costs, fees or fines. Any person or entity who is liable for unpaid costs, fees, or fines under this division is subject to the placement of a "stop work" order on any project involving said person or entity until such time as the costs, fees, or fines are paid to the city. No person or entity liable for unpaid costs, fees, or fines under this chapter shall be entitled to obtain or perform work under any other permits until such time as the

costs, fees, or fines are paid to the city.

J. Building permits affecting trees. No building permit for any work that has the potential of affecting trees, including new construction, additions, demolition, installation of carports, pools, decks, fences, driveways, parking lots, tennis courts, or similar work, shall be issued, unless the building department has determined that a tree removal permit is not required or that a valid tree removal permit has been issued in accordance with this division.

K. Emergencies**.** If any tree is determined to be in hazardous or dangerous condition so as to endanger the public health, welfare, or safety, and requires immediate removal without delay, verbal authorization by phone may be given by the community planning and development department, the parks and recreation department, the public works department, or the city manager, and the tree removed without obtaining a written permit as required by this article. In the case of emergencies such as a hurricane or other disaster, the requirements of this article may be waived by the city manager during this period.

~~Sec. 5-2302. - Definitions.~~

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Adult entertainment business* shall mean any premises within the city where members of the public, or any person for consideration, are offered any live or recorded performance, or any visual image tangibly fixed in any medium, which performance, image, or recording has as its primary or dominant theme subject matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, and which performance, recording, or visual image requires the exclusion of minors from the premises pursuant to F.S. Ch. 847.~~

~~*Alcoholic beverages* shall mean distilled spirits and all beverages containing one-half of one (0.5) percent or more by volume pursuant to F.S. § 561.01.~~

~~*Bar, lounge* or *tavern* shall mean any place of business where alcoholic beverages are sold or offered for sale for consumption on the premises and where the sale of food is incidental to the sale of such beverages or where no food is sold, and includes any establishment in receipt of a valid alcoholic beverage license from the state which permits the sale for consumption on the premises of alcoholic beverages as a principal use. Establishments where alcoholic beverages are permitted for consumption on the premises as an incidental or accessory use are not considered a bar.~~

~~*Beer* or *malt beverage* shall mean all brewed alcoholic beverages containing malt.~~

~~*Beverages law* shall refer to F.S. Chs. 561, 562, 563, 564, 565, 567 and 568.~~

~~*Bottle club* shall mean a commercial establishment wherein patrons consume alcoholic beverages which are brought onto the licensed premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the licensed premises. A~~

~~bottle club can be a private club or a public business establishment in which the principal revenue would be derived from the sale of setups, mixers, ice and water, and charges for any entertainment provided. A bottle club does not include a civic, fraternal or veteran organization or association which only occasionally or intermittently provides facilities for on-premises consumption of alcoholic beverages by its members and their guests.~~

~~*Civic, fraternal* or *veterans organizations* or *associations* shall mean a vendor of alcoholic beverages whose character is that of a fraternal or social nature selling only to members and guests of the organization or association and which is not operated or maintained for profit.~~

~~*Consumption off the premises* or *package sales* permits only the sale of alcoholic beverages in their original sealed containers and consumption on the premises is not allowed.~~

~~*Consumption on the premises* or *COP* shall mean consumption of alcoholic beverages on the licensed premises where such beverages were purchased or the right to sell by the drink, bottle or can, alcoholic beverages for consumption only on the licensed premises.~~

~~*Convenience store* shall mean any retail business opened primarily for the sale of products other than alcoholic beverages and which may sell beer and wine in sealed containers only for consumption off the premises. Grocery stores and supermarkets are considered to be convenience stores for purposes of this chapter.~~

~~*Corporation* shall mean any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, professional association or any other public or private legal entity operated for profit or not for profit.~~

~~*Licensed premises* shall mean not only rooms where alcoholic beverages are stored, sold or dispensed by the licensee, but also all other rooms in the building which are so closely connected therewith as to admit free passage from one (1) room or area to another over which the licensee has dominion or control.~~

~~*Licensee* shall mean a corporation, person, or persons holding an alcoholic beverage license issued by the state.~~

~~*Liquor* shall include all spirituous beverages created by distillation and the blending of distilled beverages into a mixture.~~

~~*Nightclub* shall mean a restaurant, dining room or other establishment, which operates after 11:00 p.m., where food and/or alcoholic beverages are licensed to be sold and consumed on the premises, and where music, dance, floor shows or other forms of entertainment are provided for guests and patrons with or without an admission fee.~~

~~*Package store* shall mean a vendor selling alcoholic beverages in sealed containers only for consumption off the premises.~~

~~*Park* or *recreation area* shall mean any lot, tract or parcel of land primarily devoted for the enjoyment of the public.~~

~~*Public place* shall mean streets, sidewalks, parkways, parks, playgrounds, ball fields, school buildings, school yards, and public buildings, facilities and stadiums owned or in the possession of the city, county or state, or other governmental agencies.~~

*Restaurant* or *cafeteria* shall mean a business holding a current city business tax receipt with a restaurant license issued by the state and which is advertised and held out to the public to be a place where food is prepared for consumption. The primary operation of the restaurant shall be the serving of food and the sale of alcoholic beverages is entirely incidental to the principal use of selling food.

*Sale* and *sell* shall mean any transfer of an alcoholic beverage with or without a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage, or the serving or dispensing of an alcoholic beverage by a licensee under the beverage law.

*State alcoholic beverage retail licenses:*

| | |
|---|---|
| 1-COP | Beer only, consumption on the premises. |
| 2-COP | Beer and wine only, consumption on the premises. |
| 4-COP | Beer, wine and liquor, consumption on the premises. |
| 4-COP-SRX | Beer, wine and liquor, consumption on the premises, restaurant license. |
| 1-APS | Beer only, consumption off the premises. |
| 2-APS | Beer and wine only, consumption off the premises. |
| 3-PS | Beer, wine and liquor, consumption off the premises. |
| 11-C | Club license to sell to members and member's guests only. |

*Wine* shall mean all alcoholic beverages made from fruits, berries, or grapes, created either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States and further includes all vinous beverages such as sparkling wines, champagnes, vermouths and like products.

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1337, § 1, 6-26-12)

Sec. - Definitions. See Sec. 5-1201 (D).

Sec. 5-2303. - Licensing requirements.

(a) Required. Any person in the city desiring to engage in the business of manufacturing, selling, serving, bartering or exchanging or in any way dealing in alcoholic beverages shall, before engaging in such business and in addition to the requirements of state law, obtain a business tax receipt and a certificate of use from the city.

(b) Application filing and contents. Any person desiring a license required by this section shall file under oath, on forms provided by the city, a written or printed application to conduct such business at a specified location not prohibited by this chapter or any other ordinance or section of this chapter. The application shall state the following:

(1) The name, mailing address, the bona fide residence of the applicant as shown on their driver's license;

(2) The length of such residence;

(3) The character of the business to be engaged in;

(4) The kind of license the applicant desires;

(5) The address of the existing building sought to be licensed;

(6) The names and addresses of all persons interested directly or indirectly with the applicant in the business for which the license is being sought; plus

(7) Any other information in the application as requested by the licensing section;

(8)In addition, the city may require written sworn statements by the applicant acknowledging that the applicant has been made aware of and understands the city's guidelines and requirements for a license or to guarantee compliance with such regulations;

(9)Each application shall contain a certificate by the applicant or by the applicant's agent, that he has read this chapter, will comply with the provisions contained in this chapter, and that the applicant agrees that if the beverage license sought is issued, it shall always be subject to all terms and provisions of this chapter and any amendments hereto.

(c) Investigation. Upon an application being filed pursuant to this section, the city shall cause an investigation to be made of the location of the business to be licensed and its compliance with this chapter, as pertaining to zoning and other city ordinances including the following:

- Review as to compliance with building, sanitary and zoning ordinances shall be made by the department or departments responsible for administration of these sections and the results of this review subsequently passed on to the city clerk's office.
- Within thirty (30) days from filing the application as provided herein, the city clerk [???] shall recommend either approval or disapproval of the application and shall endorse such recommendation on the face of the application.
- Lack of cooperation on the part of the applicant as to the investigation of his qualifications and investigation of his application shall at be all times good and sufficient cause for disapproval thereof.

(d) Authority to sign for property zoning. Under this article, the planning and zoning manager [???} will be the only person authorized to sign for the city as to the proper zoning as requested in the application to be filed with the state division of alcoholic beverages and tobacco for the corresponding state license. A request for authorization under this provision shall be accompanied by the applicable review fee.

(e) Denial of license. A certificate of use may be denied by the zoning administrator to any person or entity, vendor or establishment offering the sale of alcoholic beverages, when the applicant, person in charge, president, principal or member of the firm or corporation has any one of the following:

(1) Had a previous license for any of such revoked by the city in the preceding 12 months.

(2) Made misrepresentations or false statements in the application.

(3) The establishment does not conform to the requirements of this article or any section of this chapter or city ordinance.

(4) A request for denial has been made by the police chief for good and sufficient reasons accepted as the basis for denial by the city council.

(f) Prerequisites to use of premises as exception. For the purpose of this chapter, the right to use premises for the sale of beer, wine or liquor for consumption on, or off, such premises shall be established when a building permit is issued. In cases where the use is to be established in an existing structure, such use will be considered as existing at such time as the occupancy permit for such use has been issued, provided the use has been established within the time prescribed in the permit.

(g) Expansion of nonconforming use. Legally existing alcoholic beverage uses made nonconforming by reason of the regulations establishing distance restrictions between such uses, or any of them, or between any such uses and religious facilities or schools, shall not be expanded unless and until such expansion shall have been approved by the city council as a non-use variance after a public hearing. "Expansion" as used herein, shall include the enlargement of space for such use and uses incidental thereto, and the extension of a beer and wine bar to include intoxicating liquor.

(h) State law. Nothing herein, however, shall be deemed an attempt to modify any prohibition or make less restrictive any requirement imposed by the laws of the state.

(i) Certificate void after 30 days if premises not established. All alcoholic beverage uses must be established on the premises within 30 days of the date of the issuance of a certificate of use and occupancy; otherwise said certificate of use and occupancy shall be invalid.

(j) Approval by fire department. No license shall be issued to an establishment providing entertainment unless the establishment has been approved for operation by the fire department.

Sec. 5-2304. - Licensing compliance.

(a) Prerequisite to issuance of license. Anything to the contrary notwithstanding, no alcoholic beverage license of any type may be used in a manner contrary to this chapter. The license as issued shall note thereon any special limitations or restrictions applicable due to the zoning on the property.

(b) Prerequisite of sketch indicating location. No certificate of use or occupancy, license, building or other permit shall be issued to any person, firm or corporation for the sale of alcoholic beverages to be consumed on or off the premises where the proposed place of business does not conform to the spacing requirements as set forth in section 5-2308. Applications for certificate of uses for those establishments not exempt from spacing requirements as set forth in section 5-2308, shall for establishing the distance between alcoholic beverage uses, and between such uses and religious facilities or schools, shall furnish a certified sketch of survey from a registered engineer or surveyor. Such sketch shall indicate the distance between the proposed place of business and any existing alcoholic beverage establishment within 1,500 feet, and any religious facility or school within 2,500 feet. Each sketch shall indicate all such distances and routes. In event of dispute, the measurement scaled by the city shall govern.

(c) Banquet halls/hall for hire/dancehall. A banquet/hall for hire or dancehall may offer packages that include food, beverages, flowers, photography, entertainment, printed invitations, and other items related to a particular event, provided that each one of those services is offered by a person or corporation who has a valid city business tax receipt and who complies with all other requirements of city, county and state law. Whenever a banquet hall operator seeks to provide the additional services directly, it will be necessary that the

banquet hall operator obtain the additional licenses necessary for those particular services. A banquet hall operator shall not seek to act as a host offering activities other than leasing or renting the space or providing party packages to those leasing the premises for those purposes. Banquet hall operators or persons renting or leasing banquet halls shall not be permitted to charge an admission price to patrons.

(d) Bars/lounges/taverns. A bar/lounge/tavern may be licensed as an accessory or incidental use to a restaurant, or outdoor cafe. Bars/lounges may be licensed as a principal use subject to compliance with this chapter. Bars/lounges may be licensed as an accessory use to the indoor and outdoor premises of a racetrack or casino gaming facility.

(e) Food stores/grocery stores/retail drug stores, gas stations. Food store/grocery stores/retail drug stores/gas stations shall be permitted to sell beer and wine providing compliance with the following:

(1) The licensee holds a valid city certificate of use and business tax receipt from the city as a food store/grocery store/retail drug store, gas stations.

(2) The licensee holds a valid state license for the sale of alcoholic beverages.

(3) The establishment does not derive more than 15 percent of its revenue from the sale of beer and wine. The required percentage must be maintained on a daily basis.

(4) The licensee shall not deflate the price of beer and wine or inflate the price of the served meal from what would be the regular price for the beer or wine sold by similar establishments in the city as a means or method of meeting the minimum required percentage of gross revenue required by this subpart.

(5) Records of all purchases and gross sales of food and nonalcoholic beverages must be maintained separately from records of all purchases and gross sales of beer and wine. Upon request of the city, the licensee shall provide an independent audit by a certified public accountant indicating revenues derived from the sale of alcoholic beverages. The burden is on the licensee to demonstrate compliance with the requirements for the license, the records required to be kept shall be legible, clear, and readable.

(6) Sale of beer and wine shall only be permitted during the normal operating hours of the establishment where all products and items are for sale. Sale of beer and wine must be made from within the enclosed premises; sales through windows, a pass-through, or drive-through shall be prohibited.

(f) Golf course clubhouses and refreshment stands located on said golf course. May serve alcoholic beverages, pProvided a bona fide regular, standard golf course is maintained and consists of at least nine holes, with clubhouse, locker rooms and related attendant facilities.

(g) Nightclubs, discotheques, clubs. Any licensee approved by the city to operate as a nightclub, discotheque, or club as herein defined shall apply for and obtain a special permit to operate. Such special permit shall be paid for on or before October 1 and shall expire the succeeding October 1; provided that any licensee beginning business after October 1 may obtain a special permit, and such permit shall expire on the succeeding October 1; provided further that any person beginning such business on or after April 1 of any year may procure a special permit expiring October 1 of the same year on the payment of one-half the fee herein required for the annual special permit. Such special permit shall be posted at a conspicuous place in the place where such nightclub operates.

(h) Package stores. Licensee and vendors shall only sell, offer, or expose for sale alcoholic beverages in compliance with its city certificate of use, business tax receipt and state license, and such places of business shall be devoted exclusively to such sales; provided, however,

that such vendors shall be permitted to sell bitters, grenadine, nonalcoholic mixer-type beverages fruit juices, home bar, and party supplies and equipment (including but not limited to glassware and party-type foods), miniatures of no alcoholic content, and tobacco products. Such places of business shall have no openings permitting direct access to any other building or room, except to a cigar display room, or private office or storage room of the place of business from which patrons are excluded.

(i) Private clubs. Shall conform to all the requirements of a private club as stated in the state beverage law and other applicable state laws, and shall not allow signs of any type that indicate alcoholic beverages are served to be exhibited or displayed or allow any other indications that can be seen by the general public from the exterior of the clubhouse, building or structure. Before a certificate of use and occupancy to serve alcoholic beverages will be issued, the applicant must submit necessary data to prove that it is eligible for the use and complies with the state beverage law or other applicable state laws; provided, anything to the contrary notwithstanding, these requirements must be complied with.

(j) Compliance for restaurants, coffee shop/sandwich shop/cafeteria/outdoor cafe. A restaurant, cafeteria, coffee shop/sandwich shop, cafeteria, or outdoor cafe, as defined herein, may only serve alcoholic beverages upon compliance with the following conditions:

(1) The sale of alcoholic beverages must be incidental to the sale and consumption of food. The establishment must derive at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages. The required percentage must be maintained on a daily basis.

(2) The licensee shall not deflate the price of alcoholic beverages or inflate the price of the served meal from what would be the regular price for the alcoholic beverages, or meal served by a similar establishment in the city as a means or method of meeting the minimum required percentage of gross revenue required by this subpart.

(3) Records of all purchases and gross sales of food and nonalcoholic beverages must be maintained separately from records of all purchases and gross sales of beer and wine. Upon request of the city, the licensee shall provide an independent audit by a certified public accountant indicating revenues derived from the sale of alcoholic beverages. The burden is on the licensee to demonstrate compliance with the requirements for the license, the records required to be kept shall be legible, clear, and readable.

(4) The licensee must serve full-course meals prepared, served and sold daily for immediate consumption on the premises at any time when open for business, from a kitchen or facility inspected and approved regularly and as required by all state departments for compliance with regulations. Full kitchen facilities shall mean facilities containing commercial grade burners, ovens, range hoods and refrigeration units of such size and capacity to accommodate the seating of the restaurant. Meals prepared off the premises, snacks, prepackaged foods or sandwiches will not be considered full-course meals for purposes of this section.

(5) The licensee must provide written menus readily available to patrons. A majority of the food listed in the menu shall be available for consumption while the business is open.

(k) Sport facilities, tennis clubs, racquetball clubs, and fitness clubs. There shall be no signs of any type exhibited or displayed or other indications that can be seen by the general public from the exterior of the clubhouse, building or structure that alcoholic beverages are served.

~~(l) Compliance for places providing music and entertainment. In reviewing an application for the provision of music and entertainment, the board of adjustment and city council shall determine whether the applicant meets the following standards:~~

~~(1) The granting of a music and entertainment license will not substantially injure or detract from the use of surrounding properties or from the character of the neighborhood;~~

~~(2) There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion;~~

~~(3) Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic; and~~

~~(4) Noise caused by the establishment shall be kept at such a level so as to conform to this Code.~~

~~(5)[indented] Whether or not there is adequate security provided by the establishment.~~

Sec. 5-2302 – Tree removal permit.

Prior to cutting down, destroying, removing or moving, or effectively removing through damaging any tree, or pruning any tree roots within the city, a tree removal permit shall first be submitted and approved by the community planning and development departments, except for the pruning of roots when essential for any repairs or improvements performed by the city public works department, or unless the tree is otherwise exempt herein.

A. Application for tree removal permit.

1. Application for removal not in conjunction with building permit. Any person wishing to remove any non-exempt tree, which is not exempted herein and is not in conjunction with building permit, shall file an application with the required fee to the community planning and development department on a form provided by the city, prior to the removal of the tree. The application shall include the reasons for removal and be accompanied by a site plan drawn to scale, and a current property survey with a valid reason or justification for removal and with pictures of the tree to be removed.

2. Application for removal in conjunction with building permit. Any person wishing to remove any non-exempt tree in conjunction with a development or improvement to property for which a building permit is required, shall file an application with the community planning and development on a form provided by the city, prior to the removal of the tree. The application shall include the common name of the tree to be removed, reasons for removal, and be accompanied by:

a. A certified site survey of the property showing:

i. Locations of streets, rights-of-way, easements, setback lines, walls, fences, and other improvements in order to clearly indicate how the proposed development relates to existing trees on the property.

ii. The location, size in estimated height and trunk diameter at four and one-half (4½) feet aboveground, the botanical name of all trees and

notes of potential conflicts.

b. A tree disposition plan drawn to scale no smaller than one (1) inch equals sixteen (16) feet indicating: Designation of those trees to be removed, retained, moved to another location on site, and proposed location of new trees; and Proposed grade changes due to flood criteria fill requirements, or grade changes resulting from the proposed site development, which might adversely affect or endanger any trees on the site.

c. No building permit shall be issued until the tree disposition plan required by this section has been reviewed and approved by the community planning and development department and all mitigation requirements are satisfied.

d. No certificate of occupancy shall be issued until tree replacement, relocation or monetary payment to the city's tree mitigation fund, if required, has been accomplished.

B. Issuance of tree removal permit.

1. On receipt of an application, the site shall be field checked by the community planning and development department, which shall review the application and issue a tree canopy calculation report indicating the canopy mitigation required for the permit, and evaluate the site to determine what effect it will have upon the drainage, topography, and the natural resources of the area and, if necessary, forward to the city public works department for review. Based upon a review of the above factors, and conditions set forth below, the tree removal permit shall either be granted or denied by the community planning and development department. The applicant shall comply with all requirements of the permit and ensure that the tree removal permit is displayed until the authorized work is completed.

2. No tree removal permit shall be issued for the removal of any tree unless one (1) or more of the following criteria is established:

a. The tree is located in the buildable area or yard area where a structure or improvement may be placed and the tree unreasonably restricts the permitted use of the property. Trees located within the zoning setback or public right of way, are not considered located within the buildable or yard area.

b. The location of the tree is in the portion of the site where a structure is proposed, and the relocation of the structure is not feasible or possible.

c. The tree is diseased, injured or in danger of falling; interferes with utility services; creates unsafe vision clearance; or is in danger of materially impairing the structural integrity of an existing structure.

d. The tree is an exotic tree species and will be replaced with a native tree species to promote good forestry practices; creates a health hazard; interferes

with native tree species; or creates a negative impact on natural land features such as rock outcroppings, sink holes or other geological, historical or archeological features.

e. It is in the interest of the general public welfare that the tree be removed for a reason other than set forth above.

3. Upon the determination that an application for a tree removal permit is to be denied, the community planning and development department shall state the basis for such denial specifically and shall notify the applicant in writing, of the criteria upon which such denial is predicated. An aggrieved party may appeal the decision of the community planning and development to the zoning appeals board, pursuant to the provisions of the applicable sections of these LDRs.

4. Each permit for tree removal shall remain in effect for six (6) months from the date of issuance of the tree removal permit If the tree is not removed within the permit's effective date, the existing permit is void and a new tree removal permit must be applied for and obtained, prior to the removal of any tree.

5. Final inspection shall be no later than three (3) months following the completion of the authorized work. The permit applicant shall schedule a final inspection with the city for verification and acceptance of the final authorized work.

C. Transfer of tree removal permit.

1. A tree removal permit including all conditions of removal, may be transferred from the original permit holder to any subsequent property owner to which the permit pertains subject to the conditions of this section.

2. Requests for transfer of a tree removal permit must be submitted to the department of building and zoning in writing, verifying that no conditions have changed on the property that would otherwise affect the continued approval of the permit.

3. The property owner holding the tree removal permit is responsible for the transferring of the permit to the new owner.

4. The new property owner is bound by all terms and conditions of the tree removal permit.

D. Posting of tree removal permit. Approved tree removal permits are to be posted on site in a water proof enclosure and where possible, visible from the public right of way prior to commencement of tree removal.

E. After-the-Fact (ATF) tree removal permit. An after-the-fact tree removal permit is required for trees that have been removed or effectively destroyed without a permit. The application and per-tree fees for an ATF tree removal permit is double the normal cost. Failure to adhere shall result in further enforcement action, including a civil penalty, the requirement to correct the violation and the replacement of tree canopy, pursuant to the provisions of this division and chapter 21 of the City of North Miami Code of Ordinances.

F. Application and permit fees. All tree removal permit applications shall be accompanied by the applicable permit fees established in the fee schedule adopted by resolution of the city council. Applications from government agencies for tree removals in areas dedicated to public use may, in the discretion of the city manager, be exempted from application and permit fees.

Sec. 5-2303. Relocation, replacement, payment to tree mitigation fund.

A. Except for an application to remove a tree pursuant to subsections 20-18(3), as a requirement for approval of a tree removal permit, the community planning and development department may allow an applicant to choose one (1) of the following conditions:

1. Relocate the tree on the same site or to another location within the city, and guarantee its survival for a period of one (1) year, at tree owner's expense;

2. Plant and maintain replacement tree(s) pursuant to section 20-29 on the same site or at another location within the city, and guarantee survival of tree(s) for a period of one (1) year, at tree owner's expense; or

3. Replace the tree with an equivalent value payment (pursuant to section 20-29) to cover the costs of transportation, delivery, installation and tree replacement. This payment shall be made to the city's tree mitigation fund at the community planning and development department before the permit is approved.

B. Except for the tree mitigation payment in subsection (3) above, all conditions required by the applicant in this section are to be completed within the time specified in the tree removal permit section.

C. Failure to meet the permit conditions imposed by this section within the time allowed shall constitute a violation subject to fines and penalties pursuant to section 21-76 of the city code. Unpaid fines and penalties shall cause the city to file a lien upon the property.

~~Sec. 5-2304. - Reserved.~~

~~**Editor's note—**~~

~~Ord. No. 1337, § 1, adopted June 26, 2012, repealed the former section 3-3 in its entirety, which pertained to alcoholic beverages in adult entertainment establishment business prohibited, and derived from Ord. No. 1251, § 1, adopted February 26, 2008.~~

~~Sec. 5-2306. - Bottle clubs prohibited.~~

~~No bottle clubs will be licensed or authorized to do business within the city and they are prohibited.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

Sec. 5-2304 - Replacement trees/tree mitigation.

All trees removed, abused or effectively destroyed must be replaced with an equal amount of the tree canopy, removed, abused or effectively destroyed. No fees shall be assessed for removal of verified prohibited tree species. Replacement trees are not required for the removal of any prohibited species except Ficus altissima (Lofty Fig), Ficus benghalensis (Banyan Tree), Ficus lyrata (Fiddle Leaf), and Ficus rubiginosa (Rusty Fig).

A. The tree replacement/mitigation chart below shall be used by the community planning and development department to determine the total number of trees to be mitigated for all trees removed, abused or effectively destroyed.

B. Minimum standards for replacement trees. All replacement trees shall have a minimum quality of a Florida No. 1 grade or better. The community planning and development department shall maintain a list of species for each category of replacement tree. This list may be amended from time to time, as necessary. Replacement tree heights shall be determined by overall height measured from where the tree meets the ground to the top-most branch, as set forth below..

1. All category 1 replacement shade trees or shade trees 1 shall be a minimum of twelve (12) feet in height at the time of planting and at maturity should have a canopy coverage of 500 square feet under normal growing conditions.
2. All category 2 replacement shade trees or shade trees 2 shall be a minimum of eight (8) feet in height at the time of planting and at maturity should have a canopy coverage of 300 square feet under normal growing conditions.
3. All category 1 replacement palm trees or palms 1 shall have a minimum height of ten (10) feet at the time of planting and at maturity should have canopy coverage of 300 square feet under normal growing conditions.
4. All category 2 replacement palm trees or palms 2 shall have a minimum height of three (3) feet at the time of planting and at maturity should have canopy coverage of 100 square feet under normal growing conditions.
5. All replacement small trees shall have a minimum height of six (6) feet at the time of planting and at maturity should have canopy coverage of 200 square feet under normal growing conditions.

| **Tree Replacement/Mitigation Chart** | | |
|---|---|---|
| **Replacement Canopy Type** | **Min. Size at Planting** | **Canopy Credit (Sq. Ft.)** |
| Shade Tree 1 | 12’ OAH* | 500 |
| Shade Tree 2 | 8’ OAH | 300 |
| Palm 1 | 10’ OAH | 200 |
| Palm 2 | 3’ OAH | 100 |
| Small Tree | 6’ OAH | 200 |

* OAH means overall height.

C. Survival warranty. All tree replacements require a one (1) year survival warranty. Subsequent replacement trees require the same warranty until such time the mitigation is deemed successfully accomplished as determined by the Sustainability Administrator.

D. Replacement of specimen trees. Trees over eighteen (18) inches in diameter (DBH) removed, abused or effectively destroyed shall require double the canopy size for replacement.

E. Percentage of replacement trees by type. The required replacement trees shall include

1. At least thirty (30) percent of native trees;

2. Fifty (50) percent of low maintenance and drought tolerant; and

3. No more than thirty (30) percent trees shall be palms.

F. Trees planted as replacement trees shall be planted at grade or ground level according to ISA best management practices manual, incorporated herein by reference.

G. Exemptions. In order to provide for development of exceptional or unique landscape designs, which cannot meet the express terms of this division, the community planning and development department may accept an alternative landscape enhancement plan whereby tree replacement credit may be granted for planting shrubs or ground covers, based upon the following table, provided, however, that a minimum of fifty (50) percent of the required canopy replacement is achieved by using shade trees and palm trees.

| *Category of Tree Alternative Shrub or Ground Cover:* | *Portion of Impact Area that Each Tree Alternative Shrub, or Ground Cover Compensates for in Square Feet:* |
|---|---|
| Shrub 1 (including small palms) | 60 |
| Shrub 2/Ground Cover | 30 |

1. All category 1 tree alternative shrubs shall be a minimum of two (2) feet in height at the time of planting and at maturity should have a canopy coverage of sixty (60) square feet under normal growing conditions.
2. All category 2 tree alternative shrubs or ground covers shall have a root system sufficient to sustain growth and at maturity should have a canopy coverage of ten (10) to twenty (20) square feet under normal growing conditions

Sec. 5-2305. Removal and replacement of trees located on canal banks.

Removal of any tree of eight (8) inches diameter (DBH) or greater shall be permitted only if a potential replacement tree is planted on the same property. Replacement trees must be a minimum of eight (8) feet in height with a trunk caliper of one and one-half (1½) inches. Should more than six (6) trees be removed, a tree removal and replacement plan shall be submitted to and approved by the community planning and development department.

~~Sec. 5-2307. - Location of premises.~~

~~(a) Distance from other establishments. Unless approved as a variance or waiver, no premises shall be used for the sale of any alcoholic beverages, as defined herein, to be consumed on or off the premises where the structure or place of business intended for such use is located less than 1,500 feet from a place of business having an existing, un-abandoned, legally established (and not one of the uses excepted from the spacing requirements hereinafter provided) alcoholic beverage use which permits consumption on or off the premises. The 1,500 feet distance requirements shall be measured by following a straight line from the nearest portion of the structure of the place of business.~~

~~(b) Distance from religious facility or school. Unless approved as a variance or waiver, no premises shall be used for the sale of alcoholic beverages to be consumed on or off the premises where the structure or place of business intended for such use is located less than 2,500 feet from a religious facility or school. The 2,500 foot distance requirement shall be measured and computed as follows: From a religious facility or school, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the religious facility grounds or school grounds.~~

~~(c) Distance from public parks and recreational areas and residential zoned property. Unless approved as a variance or waiver, no premises shall be used for the sale of alcoholic beverages to be consumed on or off the premises where the structure or place of business intended for such use that is located less than 500 feet from a public park or residentially zoned property. The 500-foot distance requirement shall be measured and computed as follows: From a public park or residentially zoned property, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the parks or residentially zoned property.~~

~~(d) Exceptions to spacing and distance requirements. The restrictions and spacing requirements set forth in subsections (a) through (c) of this section shall not apply to the following:~~

~~(1) Restaurants, bar/lounges accessory to restaurants.~~

~~(2) Caterers.~~

~~(3) Food stores/grocery stores/retail drug stores. With sale of beer and wine only as a grocery item for consumption off the premises.~~

~~(4) Golf course clubhouses and refreshment stands located on said golf course.~~

~~(5) Hotels and motels, which contain 100 or more guest rooms.~~

~~(6) Private clubs.~~

~~(7) Sport facilities, tennis clubs, racquetball clubs, and fitness clubs.~~

~~(8) Bars/lounges/nightclubs/discotheques/clubs approved as accessory to a racetrack or casino gaming facility.~~

~~(9) Wholesaler, distributors, manufacturers of alcoholic products.~~

Sec. 5-2306 - Tree mitigation fund.

Where an applicant chooses to pay an equivalent value, as determined by the community planning and development department for the replacement and installation of a removed, abused or effectively destroyed tree, that equivalent value shall be deposited into the tree mitigation fund to be dispersed for the acquisition of trees to be planted on public land or on a public right-of-way by the city public works department.

Funds collected by the city as recoveries for damage or loss of trees located on public or private properties shall be used for the purchase and replacement of trees, or for any other purpose that is in keeping with the purpose and intent of this division.

Sec. 5-2307. Pruning or trimming standards.

Tree pruning or trimming shall follow acceptable pruning/trimming practices as established by the ANSI A-300 Standards as may be amended, and shall be consistent with the following standards:

A. All cuts shall be clean, flush and at junctions, laterals or crotches. Tunneling, including tunneling or drop crotch trimming for overhead utility lines shall be followed. The utility company's arborist shall contact the city public department works prior to the commencement of trimming trees by the utility.

B. Removal of dead wood, crossings, weak or insignificant branches shall be accomplished simultaneously with any reduction in crown.

~~Sec. Sec. 5-2308. - Generalized table of sale of alcoholic beverage regulations.~~

| ~~Type of Establishment~~ | ~~Spacing From Other Uses (Feet)~~ | ~~Spacing From Church (Feet)~~ | ~~Spacing From Schools (Feet)~~ | ~~Spacing From Parks and Residential (Feet)~~ | ~~Required License~~ |
|---|---|---|---|---|---|
| ~~Banquet hall or dancehall for hire~~ | ~~N/A~~ | ~~N/A~~ | ~~N/A~~ | ~~N/A~~ | ~~2-COP or 4-COP~~ |
| ~~Bar, lounge, tavern~~ | ~~1,500~~ | ~~2,500~~ | ~~2,500~~ | ~~1,500~~ | ~~2-COP or 4-COP~~ |
| ~~Accessory bar/lounge to restaurant~~ | ~~N/A~~ | ~~N/A~~ | ~~N/A~~ | ~~N/A~~ | ~~2-COP or 4-COP-SRX~~ |
| ~~Bar/lounge/nightclub/discotheque/club accessory to racetrack or casino gaming facility~~ | ~~1,500~~ | ~~2,500~~ | ~~2,500~~ | ~~1,500~~ | ~~2-COP or 4-COP-SRX~~ |

| | | | | | |
|---|---|---|---|---|---|
| Caterer | 1,500 | 2,500 | 2,500 | 1,500 | 2-COP or 4-COP-SRX or 4-COP |
| Coffee shop/ sandwich shop Cafeteria Outdoor Café | N/A | N/A | N/A | N/A | 2-COP or 4-COP-SRX |
| Food stores/ grocery stores/retail drug stores | N/A | N/A | N/A | N/A | 1-APS or 2-APS |
| Nightclub, Discotheque, Club | 1,500 | 2,500 | 2,500 | 1,500 | 4-COP or 4-COP-SRX |
| Package store | 1,500 | 2,500 | 2,500 | 1,500 | 3-PS |
| Restaurant | N/A | N/A | N/A | N/A | 2-COP or 4-COP-SRX |
| Sport facilities, tennis clubs, racquetball clubs, fitness clubs, golf course clubhouses and refreshment stands | N/A | N/A | N/A | N/A | 2-COP or 11-C |

Sec. 5-2309. - Distance requirements.

(a) Unless a variance is obtained from the board of adjustment, no alcoholic beverage application or business tax receipt shall be approved when the place of business designated in the application does not satisfy the following distance separation requirements of alcoholic beverage establishments from schools, houses of worship, city parks and recreational areas, residential uses and similar uses:

(b) The distance limitations provided in this section for similar uses shall not apply to motels and hotels of not less than fifty (50) guestrooms which do not have any entrance from the street to the bar or room primarily devoted to the serving of alcoholic beverages and which do not exhibit any sign or display on the outside denoting that alcoholic beverages are sold or obtainable therein.

(c) The distance limitations provided in this section shall not apply to existing licensees and shall not be construed to prevent the renewal of a state alcoholic beverage license.

(d) The distance limitations provided in this section shall not apply to a licensee who had procured the beverage license prior to the establishment of a school, a house of worship, a city park or recreational area, or a residential use.

(e) The distances provided for in this section shall be measured in a straight line without regard to intervening structures or objects, from the nearest property line of the applicant's premises for which a state beverage license is sought to the nearest point of the lot, tract or parcel of land in use by an established house of worship, school, park or recreational area or other similarly licensed premises.

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1337, § 1, 6-26-12)

~~(See Licensing Requirements) (See Licensing Compliance) Sec. 5-2310 . - Nightclubs soundproofing required.~~

~~Nightclubs shall be soundproofed and their windows, doors and other openings kept closed in order that the noises therefrom may not disturb the peace and quiet of the surrounding neighborhood.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

~~Sec. 5-2311 . - License required for music and entertainment; special exception. [this needs further discussion]~~

~~(a) Any vendor licensed to sell alcoholic beverages for consumption on the premises may provide music and entertainment for patrons upon approval of the board of adjustment and final approval of the city council, and by paying the city clerk a special regulatory license fee. Any licensee who provides music and entertainment without first obtaining the approval and paying the regulatory license fee is committing a violation subject to a code enforcement ticket or citation pursuant to chapter 2 of this Code and is subject to denial of the issuance of a license for a minimum of six (6) months from the date of the violation.~~

~~(b) Any vendor providing only one (1) musician or one (1) coin-operated machine and where no dancing or other forms of entertainment are provided for, shall not be required to obtain a music and entertainment license.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

~~Sec. 5-2312 . - Standards for providing music and entertainment license.~~

~~(a) In reviewing an application for the provision of music and entertainment, the board of adjustment and city council shall determine whether the applicant meets the following standards:~~

~~(1) The granting of a music and entertainment license will not substantially injure or detract from the use of surrounding properties or from the character of the neighborhood;~~

~~(2) There is sufficient parking for patrons and appropriate access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion;~~

~~(3) Where the installation of outdoor floodlighting or spotlighting is intended, that such lighting will not have any detrimental effect on neighboring property or traffic; and~~

~~(4) Noise caused by the establishment shall be kept at such a level so as to conform with this Code.~~

~~(5) Whether or not there is adequate security provided by the establishment.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

~~Sec. 5-2313 . - Hours during which sales are allowed; consumption.~~

~~(a) It shall be unlawful for any person to purchase and for any licensee and any manager, agent or employee of any licensee to sell, serve or distribute in any form or by any method any~~

alcoholic beverage between the hours of 1:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; and between the hours of 2:00 a.m. and 7:00 a.m. on Saturday and Sunday. [are these hours the city wants?]

(b) It shall be unlawful for any person to consume and for any licensee and any manager, agent or employee of any licensee to permit a person to consume any alcoholic beverage, in any place of business between the hours of 1:30 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; and between the hours of 2:30 a.m. and 7:00 a.m. on Saturday and Sunday. [are these hours the city wants?]

(c) The provisions of subsections (a) and (b) of this section shall apply to any licensee under the state beverage law and to any premises licensed under such law. The city council may extend the above hours of sale for alcoholic beverages for consumption on or off the premises on special occasions by resolution.

(d) No alcoholic beverages shall be sold in restaurants or cafeterias after the hours of serving food.

(Ord. No. 1251, § 1, 2-26-08; Ord. No. 1374, § 1, 6-24-14)

Sec. 5-2314 . - Licensee moving to new location.

A licensee may move the licensed place of business and operate at a new location upon making application for such change of location to the city clerk and upon such application being approved as to zoning, distance and other city requirements. The transfer procedure will be the same as outlined in sections 3-5 and 3-6. Approval of the new location must be obtained prior to manufacturing, distributing or selling alcoholic beverages at the new business location.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-2315 . - Change of beverage license series.

When a current alcoholic beverage licensee in the city applies to the state for a change of series, the zoning administrator is authorized to sign the certificate of zoning if the location is properly zoned for the operation applied for and all other city requirements, including the distance requirement are met.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-2316 . - Variances.

Variances relating to the provisions of section [3-10] ??? (hours during which sales are allowed) and to section [3-11] ???(distance requirements) may be granted upon application to the board of adjustment, pursuant to section ??29-25 of this Code.

(Ord. No. 1251, § 1, 2-26-08)

Sec. 5-2317 . - Consumption restricted.

(a) Consuming alcoholic beverages in public places or in places solely licensed to sell alcoholic beverages for consumption off the premises is unlawful and prohibited. However, this prohibition shall not be construed to prohibit the sale of alcoholic beverages by a duly licensed concessionaire for individual events in public places, such as in public parks, at

~~public functions, or on the premises of a municipal sports stadium located in the city, in accordance with applicable regulations governing such activities.~~

~~(b) It shall be unlawful for any person to sell or serve any alcoholic beverage for consumption on the premises except within a building on such licensed premises or at tables on a patio on the licensed premises.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

~~Sec. 5-2318 . - Moonshine; ownership, possession, or control prohibited; penalties; seizure of apparatus.~~

~~(a) Any person who owns or has in their possession or under their control less than one (1) gallon of liquor which was not made or manufactured in accordance with the laws in effect at the time shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.~~

~~(b) Any person who owns or has in their possession or under their control one (1) gallon or more of liquor which was not made or manufactured in accordance with the laws in effect at the time shall be guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083 or 775.084.~~

~~(c) Any vehicle, vessel, or aircraft used in the transportation or removal of, or for the deposit or concealment of any illicit liquor still or stilling apparatus, or any mash, wort, wash, or other fermented liquids capable of being distilled or manufactured into an alcoholic beverage, commonly known and referred to as moonshine whiskey, where seized by a city police officer within the city, shall be forfeited, as provided for by the Florida Contraband Forfeiture Act.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

~~Sec. 5-2319 . - Enforcement.~~

~~Unless otherwise provided, the provisions of this chapter may be enforced by:~~

~~(1) Code enforcement violations pursuant to chapter 2 [???] of this Code; and/or~~

~~(2) A suit brought by the city in a court of competent jurisdiction for declaratory, injunctive or other appropriate relief.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

~~Sec. 5-2320 . - Regulations to be supplemental to county and state laws.~~

~~The regulations contained within this chapter shall be deemed supplemental and additional to all county and state laws or regulations dealing with alcoholic beverages. All county and state laws and regulations shall have full force and effect within the corporate limits of the city.~~

~~(Ord. No. 1251, § 1, 2-26-08)~~

5-2306. - Tree protection during construction or improvements to property.

A. It shall be unlawful for any person during the construction of any structure or other

improvement to place material, machinery, temporary soil deposits, or let any liquid that may cause disease or destruction on the ground under the tree within a distance as measured from the tree trunk which is equivalent to one-half (½) of the dripline of any tree covered by the provisions of this article. During construction or other improvements to property the owner, utility companies, and all contractors shall be responsible for erecting suitable, protective, rigid barriers around all trees to be preserved; and no attachments or wires other than protective guy wires shall be attached to any such trees.

B. The city may require a performance bond in addition to the protective barrier in order to guarantee the protection of tree(s) or to ensure the restoration of a replacement tree(s) or transplanted tree(s). The amount of bond shall equal the actual market value of the tree(s) specifically covered, including a one (1) year warranty of survival. The bond is to remain in effect until sixty (60) days six (6) months subsequent to the completion of the construction activities or the improvements to the property, unless otherwise determined by the community planning and development department.

C. Any owner, contractor, or agent thereof who fails to provide tree protection as provided herein shall be guilty of tree abuse and subject to fines and penalties established in section 2-110 21-76 of the City of North Miami Code of Ordinances.

D. The trees to be protected during construction or improvement activities by the use of protective barriers shall be selected by the building department or community planning and development department. Trees that are to remain in place shall be clearly identified with tags. A protected area with a radius of ten at least (10) feet shall be maintained around such trees, unless an arborist determines in writing that a smaller or larger protected area is acceptable for each tee, or an alternative tree protection method is approved.

E. During construction or development activities, including installation of irrigation or other water systems, protective barriers shall be placed around each tree and shall remain in order to prevent the destruction or damaging of roots, stems or crowns of such trees. The protective barriers shall remain in place until approved landscaping operations begin. Protective barriers may be removed temporarily with city approval to accommodate construction or development activities. The trees shall be properly irrigated throughout the protection period using any type of above ground irrigation system acceptable by the community planning and development department.

F. Trees damaged during construction shall be subject to replacement as set forth in the provisions within this ordinance.

Sec. 5-2307. Tree abuse—prohibited.

A. Tree abuse unlawful. It shall be unlawful for any person to abuse a tree. In addition to code compliance fines and penalties pursuant to section 21-76 of the City of North Miami Code of Ordinances, the city shall require abused trees to be replaced, pursuant to the provisions set forth in this division. Tree abuse shall include:

1. Damage inflicted upon any part of a tree, including the root system, by machinery, mechanical attachment, storage of materials, soil compaction, excavation, vehicle

accidents, chemical application or spillage or change to the natural grade;

2. Damage inflicted to or cutting upon a tree which permits infection or pest infestation;

3. Cutting upon any tree which destroys the natural shape, or causes it to go into shock;

4. Hatracking as defined in article 7;

5. Girdling, spiking or bark removal of the trunk more than one-third (1/3) of the tree diameter;

6. Tears and splitting of limb ends or peeling and stripping of bark;

7. Use of climbing spikes;

8. Removal of tree without a tree removal permit;

9. Excessive root cutting or excavation; and

10. Pruning or trimming a tree in a manner that does not follow acceptable pruning or trimming practices established by the ANSI A-300 Standards.

11. Spiking as defined in article 7.

B. Penalties for violation of tree regulations. In addition to all other applicable penalties set forth in the City of North Miami Code of Ordinances, the following penalties shall be assessed for violations of this division:

1. First offense with no prior knowledge. Amount of fine is per tree and double the amount of canopy replacement required by code:

| | |
|---|---|
| a. Less than 18-inch diameter at four-foot height | $ 500.00 |
| b. 18 inches to 36 inches | $2,000.00 |
| c. Greater than 36 inches | $3,000.00 |

2. Second offense or prior knowledge. Double the fines assessed for the first offense, or the fine that would have been required for the first offense in the case of prior knowledge. Double the amount of canopy replacement required by code if a permit had been issued.

3. Subsequent offenses. Triple the fine assessed for the first offense, or the fine that would have been assessed for the first offense in the case of prior knowledge. Double the amount of canopy replacement required by code if a permit had been issued.

Sec. 5-2308. - Complaint procedures.

A. Upon receipt of a complaint that a tree has been abused in one (1) or more of the ways described in division, a code compliance officer shall make a site visit and may request an opinion from the community planning and development department to assist in determining

the validity of the complaint. If the tree is found to have been abused, the owner of the property shall be subject to prosecution as outlined herein.

B. A code compliance officer may initiate enforcement action by issuing a civil violation ticket to a person or entity when the code compliance officer, upon personal investigation, has reasonable cause to believe that a person or entity has committed a violation of this chapter.

C. A tree abuse evaluation will be generated by the community planning and development department to determine the value of the loss and fines, based on the tree replacement/mitigation chart provided in this division. These fines shall be deposited into the city's tree mitigation fund account.

Sec. 5-2309. - Exemptions.

A. Licensed plant and/or tree nurseries shall be exempt from the terms of this division, only in relation to those trees planted and growing for sale in the ordinary course of licensee's business.

B. Utilities and their agents shall be exempt from the terms of this division provided that they comply with the following conditions:

1. They shall not prune or remove trees other than for the purpose of removing hazards to public safety or to the provision of uninterrupted services.

2. All pruning or trimming shall be according to the standards of the ANSI A-300 Standards for utility line clearing.

C. Trees that are confirmed by the city to be dead, damaged by fire, windstorm, lighting, or other acts of nature or by accident, which pose imminent danger to life or property.

D. In addition to the list of prohibited plant species published in the Miami-Dade County Landscaping Manual, as amended, the following species of trees are also exempted from the provisions of this chapter: *Ricinus communis* (castorbean); *Psidium guajava* (guava); *Schinus terbinthinfolius* (Brazilian pepper tree); *Aibezzia lebbek* (woman's tongue); *Metropium toxiferum* (poison wood); *Malaleuca leucadendra* (malaleuca); *Bischofia javanica* (bishop wood); *Casuarina equisetifolia* (Australian pine); *Brassia actino-phylla* (schefflera); *Ficus benjamina* (ficus); *Ficus elastica* (rubber tree plant or ficus); *Ficus aurea* (strangler fig~~ficus~~); *Araucaria heterophylla* (Norfolk Island pine); and *Euphorbia tirucalli* (pencil tree) provided that removal along canal banks of those species of trees as set forth in this subsection shall be governed by section 20-30 of this ~~article~~ chapter.

E. If a tree is removed without a permit, the property owner shall have the burden of proof to show that the removed tree was exempted pursuant to this section.

Sec. 5-2310. - Code compliance; appeals.

This division is subject to enforcement pursuant to the Local Code Enforcement Boards Act, Chapter 162, Florida Statutes, as amended, and chapter 21 of the City of North Miami Code of Ordinances. A code compliance officer may issue a civil violation ticket to any person or entity

when the code compliance officer has reasonable cause to believe that a person or entity violated a provision of this division. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction. Each tree removed, abused or effectively destroyed shall constitute a separate and distinct violation, each subject to code compliance fines and penalties. Any person aggrieved by a decision of the public works, parks and recreation, and community planning and development departments, as it relates to compliance with this division, shall have the right to appeal such a decision by filing an appeal in writing within thirty (30) days of the decision. Notice of the appeal shall be provided to the community planning and development department. Such appeal shall be heard and decided by the zoning appeal board, pursuant to the provisions of the applicable sections of these LDRs. Decisions of the special magistrate may be appealed by an aggrieved party, including the city, to the circuit court's division of appeals. Such appeal must be filed within thirty (30) days of the execution of the order to be appealed.

ARTICLE 6. - NONCONFORMITIES

~~DIVISION 1. - GENERAL~~

~~Sec. 6-101. - Purpose and applicability.~~

~~The purpose of this article is to provide for the continuation, modification or eventual elimination of nonconforming uses, and structures and signs in accordance with the standards and conditions in this article. While nonconformities may continue, the provisions of this article are designed to encourage the improvement or elimination of nonconformities in order to better achieve the purposes of these LDRs.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION ~~2~~1. - NONCONFORMING USES AND STRUCTURES

A. Purpose and intent. The purpose of this article is to regulate and limit the development and continued existence of uses, structures, and lawful lots established prior to the effective date of these regulations and subsequent amendments hereto, which do not conform to the requirements of these regulations. Many nonconformities may continue, but the provisions of this article are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement or elimination in order to preserve the integrity of these regulations and the character of the city.

B. Applicability. Any nonconforming use, structure, or lot which lawfully existed as of the effective date of the ordinance from which this chapter is derived and which remains nonconforming, and any use, structure, or lot which has become nonconforming as a result of the adoption of these regulations or any subsequent amendment to these regulations may be continued or maintained only in accordance with the terms of the following provisions regarding nonconformities.

C. Continuation of nonconforming use or structure. Except as may be provided elsewhere in this article, a lawful use or structure that is made no longer permissible as of the date of enactment of these LDRs shall be permitted to continue, so long as it remains otherwise lawful and subject to the standards and conditions contained herein.

D. Expansion of nonconforming use or structure. A nonconforming use or structure shall not be expanded or extended beyond the floor area, lot area or both that it occupied on the effective date of these LDRs or the effective date of any amendment to the ordinance

from which this chapter is derived rendering such use or structure nonconforming, except as follows:

1) Development determined to have vested rights pursuant to ~~Arteile~~ Article 3, Division 12 of these LDRs are not subject to the limitation on expansion in this subsection.
2) The nonconforming structure shall not be expanded, enlarged, or increased beyond 25 percent of the existing gross floor area of the building; providing that all other nonconformities either created as a result of the expansion or existing shall be brought into conformity to the best extent physically possible as set forth in this article.
3) The nonconforming use shall not be expanded, enlarged, so as to increase the degree of nonconformity of the use by adding related nonconforming principal uses or accessory uses.
4) Where such alteration or modifications are interior to the structure and do not create any additional gross floor area.

E. Discontinuation or abandonment of a nonconforming use; nuisances and hazards prohibited. If a nonconforming use is discontinued and abandoned, for a period of 180 consecutive days, including any period of discontinuation and abandonment before the effective date of these regulations, then that use or structure shall not be renewed or re-established and any subsequent use of the lot or structure shall conform to all applicable district regulations to the best extent physically possible as set forth in this article. A nonconforming use shall not be continued if it produces odors, noxious fumes, smoke, noise or other external impacts that become a nuisance or hazard to residents.

F. Change of use, general. A nonconforming use may be changed to a permitted use, related permitted use or special exception use for the zoning district in which the property is located as set forth subject to the review and approval requirements of the appropriate zoning district.

G. Change from one nonconforming use to another nonconforming use. When a nonconforming use is changed to a more restrictive nonconforming use, the new nonconforming use shall not be permitted to subsequently change back.

H. Ordinary repair and maintenance. Ordinary repairs and maintenance may be made to a nonconforming structure. The administrative official shall determine what constitutes "ordinary repairs and maintenance," in accordance with the criteria that such repairs and maintenance do not substantially alter the structure, result in a change of occupancy of the structure or contravene or circumvent other provisions herein.

I. Destruction of a lawful nonconforming structure. If a nonconforming structure is destroyed or damaged by a fire, flood, windstorm, or similar abnormal and identifiable event, then the structure may be restored or reconstructed to its original height and density upon a filing and approval of a vested rights determination application, pursuant to Article 3, Division 12 of these LDRs, and consistent with Policy 1.2.7 of the Comprehensive Plan.

~~Sec. 6-201. - Continuation of nonconforming uses.~~

~~Except as may be provided elsewhere in this article, a lawful use that is made no longer permissible as of the date of enactment of these LDRs shall be permitted to continue, so long as it remains otherwise lawful and subject to the standards and conditions contained herein.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 6-202. - Extensions and expansions of nonconforming uses.~~

~~A. A nonconforming use shall not be enlarged, increased or extended to occupy a greater area of land than was occupied as of the date of adoption of these LDRs;~~

~~B. A nonconforming use shall not be moved in whole or in part or extended to include any other portion of the lot or parceloccupied by such use as of the date of adoption of these LDRs;~~

~~C. Notwithstanding the foregoing, an increase in the level of activity of a nonconforming use in any portion of a building that was arranged or designed for such nonconforming use shall not be considered to be an expansion or extension of a nonconforming use.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 6-203. - Change from one nonconforming use to another nonconforming use.~~

~~A. A nonconforming use may be changed to either a more restrictive nonconforming use or a conforming use.~~

~~B. When a nonconforming use is changed to a more restrictive nonconforming use, the new nonconforming use shall not be permitted to subsequently change back.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 6-204. - Nuisances and hazards prohibited.~~

~~A nonconforming use shall not be continued if it produces odors, noxious fumes, smoke, noise or other external impacts that become a nuisance or hazard to residents.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 6-205. - Discontinuance of nonconforming use.~~

~~If a nonconforming use ceases operations for any reason for a period of more than one hundred eighty (180) consecutive days, such nonconforming use shall not thereafter be re-established and any subsequent use of the land shall conform to these LDRs for the district in which it is located.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~DIVISION 3. - NONCONFORMING STRUCTURES~~

~~Sec. 6-301. - Continuation of nonconforming structures.~~

~~Except as may be provided elsewhere in these LDRs, a nonconforming structure may be continued so long as it remains otherwise lawful, subject to the standards and conditions of this division 3.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 6-302. - Destruction of nonconforming structures.~~

~~A nonconforming structure that is destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of the damage or destruction shall not be reconstructed except in conformity with these LDRs; provided however that a nonconforming residential structure that is involuntarily destroyed either partially or totally may be restored to its original height and density upon a finding by the city council that the structure, as rebuilt, would be consistent with the intent of the comprehensive plan.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~Sec. 6-303. - Expansions and alterations to nonconforming structures.~~

~~Routine repairs and maintenance may be done on nonconforming structures but no nonconforming structure may be enlarged or altered in a way which increases the nonconformity. Should any nonconforming structure be moved, it shall thereafter conform to these LDRs.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

~~DIVISION 4. - NONCONFORMING SIGNS~~ **~~(Relocated to Article 5, Signs)~~**

~~Sec. 6-401. - Continuation of nonconforming signs.~~

A. All signs issued permits, or that were otherwise lawfully existing at the time of adoption of these LDRs, but which are not in conformance with the requirements of article 5 division 15, may continue as nonconforming signs, subject to the standards and conditions of this division 4.

B. Nonconforming signs shall be maintained in safe condition and may be repaired or otherwise maintained provided the copy or advertising illustration is not altered as to shape, size, design, style and/or content, and provided the sign structure is not moved, altered or replaced.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 6-402. - Alteration or relocation of nonconforming signs or buildings or structures upon which they are mounted.

A. Nonconforming signs shall not be enlarged, increased, relocated, or extended to occupy a greater area than was permitted on the date of adoption of these LDRs.

B. The noncommercial speech copy or illustrations of nonconforming signs may be changed at any time. The commercial copy or illustrations of nonconforming signs may be changed with regard to any sign to reflect changes in tenancy or ownership of the enterprise owning such sign provided the total face area and/or height of the sign is not increased.

C. All changes to nonconforming signs provided for above shall require approval from the building and zoning department.

D. If a nonconforming sign is removed from a wall or facade of a building in order to substantially renovate, enlarge, and/or structurally alter such wall or facade, the sign shall not be replaced unless it is made to comply with these LDRs; provided however that this shall not prevent routine maintenance or repair to either the sign or the wall or facade on which it is mounted.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 6-403. - Discontinuance of nonconforming signs.

Except as otherwise provided in this division 4, whenever a nonconforming sign is discontinued or the premises to which the sign relates vacated for a period of more than one hundred eighty (180) days, the property owner shall remove all nonconforming signs with their structures from the premises. After a nonconforming sign is removed, any subsequent sign shall conform to these LDRs.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 6-404. - Destruction of nonconforming signs.

Nonconforming signs that are damaged by any cause may be repaired if the cost of the repair does not exceed fifty (50) percent of the current replacement value of the sign. Such repairs shall be limited to routine painting, repair and replacement of components.

~~(Ord. No. 1278, § 1(exh. 1), 4-28-09)~~

~~Sec. 6-405. - Nuisances and hazards prohibited. [RELOCATED TO ARTICLE 5, SIGNS]~~

~~Any nonconforming sign that creates a nuisance or poses a hazard to the public shall be either repaired, removed or brought into compliance with these regulations within ten (10) days of notification of the nuisance or hazard.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION ~~5~~2. - NONCONFORMING LOTS

Sec. 6-~~501~~201. - ~~Existing~~ Nonconforming lots of record.

A. Nonconforming lots of record may be utilized for any permitted use within the applicable zoning district, provided that all such use and all development shall comply with all regulations of this chapter, other than those regulations applicable to lot size, ~~and~~ dimension, and/or ~~including but not limited to~~ setbacks, which are nonconforming.

B. When two or more contiguous, vacant, nonconforming lots of record are in a single ownership, if such lots are subdivided, they shall only be used or developed in such manner as will make them both conforming.

~~A single family structure may be constructed on any lot in any residential district if the lot is less than the minimum area required for building lots in the residential districts in which it is located, providing that the following conditions exist or are met:~~

~~A. Availability of adjacent vacant land. No structure shall be erected on any nonconforming lot if the owner of the lot owns any adjoining vacant land which would create a conforming lot if the vacant land were combined with the lot deficient in area.~~

~~B. Side setbacks. No structure, other than a permitted fence, wall, or other similar structure, shall be constructed on a nonconforming lot unless it has a minimum side setback of seven and one-half (7½) feet, or a minimum side yard of fifteen (15) feet where adjacent to any street.~~

C. ~~Front and rear setback. No structure other than a permitted fence, wall or other similar structure shall be constructed on a nonconforming lot unless it shall have front and rear setbacks conforming to the minimums required for the residential district in which the lot is located, or is in conformity with the front and rear yard setback lines on the same side of the street on which the lot is located.~~

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION ~~6~~3. - NONCONFORMING ACCESSORY USES AND ACCESSORY STRUCTURES

Sec. 6-~~601~~301. - Termination after principal use or structure is discontinued.

Nonconforming accessory uses or accessory structures shall not continue after the principal use or structure is terminated by abandonment, damage or destruction unless such accessory use or accessory structure conforms to the standards for the zoning district in which it is located.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 6-~~602~~302. - Substantial improvement to principal use or structure.

Any nonconforming accessory use or accessory structure shall be brought into conformity with these LDRs whenever a substantial improvement to, addition to, or change in the principal use or structure on the property is proposed and approved.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

DIVISION ~~7~~4. - TERMINATION OF STATUS AS A NONCONFORMITY

Sec. 6-~~701~~401. - General.

A nonconforming use or structure may be deemed to be in conformity with these LDRs, and may thereafter be allowed to continue and to expand as a lawfully existing use or structure, if such use or structure is granted special exception approval in accordance with the provisions of this division and the procedures in article 3.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

Sec. 6-~~702~~402. - Standards for terminating nonconforming status.

Special exception approval shall not be granted to terminate status as a nonconforming use or structure unless the nonconformity is improved in a way that will reduce the impact of the nonconformity on the neighborhood. The impact of the nonconformity can be reduced as follows:

A. Significant upgrading and improvement to the building facades; or

B. Addition of substantial landscaping to buffer the property; or

C. Upgrading or improving onsite parking to minimize overflow parking to the extent possible on the property.

(Ord. No. 1278, § 1(exh. 1), 4-28-09)

ARTICLE 7. - DEFINITIONS

Sec. 7-101. - ~~[~~Definitions.~~]~~

For the purposes of these land development regulations, the following words and terms have the meanings so specified:

Abandoned building means a building or structure that is intentionally and voluntarily deserted by the owner and left unsecured or that is not maintained. Evidence of desertion and lack of maintenance shall include, but shall not be limited to: unaddressed code violations; lack of required building permits or certificate of occupancy; lack of business tax receipt; and lack of active utilities.

Abut or abutting means parcels of land which share a property line or are separated by an alley.

Access means the right to enter an area and the means or facilities provided to accomplish entrance.

Accessory dwelling unit means an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.

Accessory use, building or structure means a use or structure subordinate to the principal use of a building or parcel of land, on the same or contiguous to that parcel of land and serving a purpose customarily incidental to the use of the principal building or parcel of land.

Accessory use, for the purpose of article 5, division 18, means a secondary use including a use that is not related to, incidental to, subordinate to and subservient to the main use of the property on which an antenna and/or telecommunications tower is sited.

Acre means an area containing forty-three thousand five hundred sixty (43,560) square feet.

Addition means an extension or increase in floor area or height of a building or structure.

Adjacent means properties that are across a local street or waterway from a parcel of land.

Adjacent multifamily or nonresidential means, for the purposes of the NRO District, property which is across the street or contiguous and which has existing multifamily or nonresidential development or has been allocated multifamily units pursuant to section 4-404 of these LDRs.

Adult day care center means any building or buildings, or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the twenty-four-hour day, basic services to three (3) or more adults, not related to the owner/operator by blood or marriage, who require such services.

Adult entertainment business means any premises within the city where members of the public, or any person for consideration, are offered any live or recorded performance, or any visual image tangibly fixed in any medium, which performance, image, or recording has as its primary or dominant theme subject matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, and which performance, recording, or visual image requires the exclusion of minors from the premises pursuant to F.S. ch. 847.

Adult family-care home means a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five (5) disabled adults or frail elders who are not relatives.

Adult living facility means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one (1) or more personal services for a period exceeding twenty-four (24) hours to one (1) or more adults who are not relatives of the owner or administrator, not including substance abuse facilities.

Adult living facility unit means that common space shared by no more than two (2) individuals for sleeping purposes in an adult living facility.

Affordable means that the annual cost of housing (not including utilities) does not exceed thirty (30) percent of the adjusted gross income of a workforce household.

Affordable/workforce household means a household comprised of one (1) or more persons at least one (1) of which is an essential services personnel comprised of teachers and educators; artist and creative professionals; school district, community college and university employees; law enforcement personnel; fire and rescue personnel; health care personnel; persons employed in local businesses essential to the county's economy; county and local government personnel; utility (water/sewer, electric, communication) personnel; information technology personnel; child care personnel; and skilled trades and others employed in positions that provide government and municipal services essential to maintaining a high quality of life in and for North Miami, Florida.

Affordable/workforce housing means housing which is affordable to an affordable/workforce household with an adjusted gross income which is not less than fifty (50) percent and does not exceed one hundred forty (140) percent of the median income in the city.

Aggregate area/aggregate width means the sum of two (2) or more designated areas or widths to be measured, limited, or determined under these regulations.

Aggrieved party means, for the purposes of appeal in article 3, division 7, a person who participated in the public hearing of the matter which is the subject of the appeal and who has a special interest in the matter not shared by the public at large.

Alcoholic beverage: As defined by F.S. § 561.01(4).

Alcoholic beverage establishment: As defined by F.S. § 561.01(4).

Alley means a roadway dedicated to public use which affords only secondary means of access to abutting property and which is not intended for general traffic circulation.

Allowable or allowed use. See "Permitted use."

Alterations as applied to a building or structure, means a change or rearrangement in the structural parts of the existing facilities, or an enlargement, whether by extending on a side, or by increasing the height, or the moving from one location or position to another. Change in rearrangement in the structural parts includes wiring, plumbing, heating and air conditioning.

Alternative tower structure means a design mounting structure that camouflages or conceals the presence of an antenna or tower. For example, manmade trees, clock towers, bell steeples, light poles, utility poles and similar alternative designs. Any construction or renovation to an existing tower or antenna structure other than repair or addition.

Ambient noise means the all-encompassing noise associated with a given environment, usually being a composite of sounds with many sources near and far.

American National Standards Institute A-300 Tree Care Standards Manual ("ANSI A-300 Standards") means a tree manual, which establishes industry-developed performance standards for the care and maintenance of trees, shrubs, and other plants.

Animal grooming establishments means all stores, shops or other business wherein animals are accepted for personal treatment not overnight such as, but not limited to, hair trimming, fur cutting, bathing, washing, pedicuring, combing or brushing, shampooing, or any and all other measures and treatments designed or performed for the purpose of improving the cleanliness or appearance of animals.

Animal overnight boarding facilities means any place of business where dogs and/or cats or other animals are maintained for overnight boarding for a fee. Animal boarding facility may include grooming but shall not include any animal control center or any veterinary hospital, or any animal facility operated by any subdivision of local, state or federal government. Animal boarding facility shall not include any research facility subject to inspections under any provision of any state and/or federal law.

Antenna means a transmitting and/or receiving device mounted on a tower, building or structure and used in telecommunications [personal wireless] services that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, directional antennas such as panel and microwave dish antennas, and omni-directional antennas such as whips, but excluding radar antennas, amateur radio antennas and satellite earth stations.

Antique store means an establishment which sells works of art, pieces of furniture, or decorative objects fabricated in and representative of earlier time periods according to then existing customs and trends, and having an intrinsic value as a result of their historical background or scarcity.

Appliance, furniture and electronic rental and repair means any place of business which provides for the repair and rental of small appliances, electronics and furniture.

Applicant means a person or entity with an application before the city for a permit or other approval.

Arborist mean an individual certified by the International Society of Arboriculture ("ISA") and who possesses the technical competence and experience to provide for or supervise the management of trees and other vegetation, tree surgery, tree removal, tree relocation, tree hazard assessment, and the prevention and cure of tree diseases, and the control of insects.

Arcade means an area contiguous to a street or plaza that is open and unobstructed to a height of not less than twelve (12) feet and is accessible to the public at all times, not including offstreet loading or parking areas, driveways, or open pedestrian walkways.

Arterial means a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. The primary purpose of arterials is to provide service to major traffic movements; access to abutting property is a subordinate purpose. An arterial street (or road) is also typically characterized by restricted parking, access control, signals at important intersections and stop signs on the side streets, and typically distributes traffic to and from collector streets or roadways.

Assembly uses for the purpose of the Florida Building Code means uses when a building or portion thereof are used for meetings or gatherings by the public including education activities, schools, special and technical facilities, indoor recreation and religious institutions.

Atrium means an opening connecting two (2) or more stories other than enclosed stairways, elevators, hoistways, escalators, plumbing, electrical, air-conditioning or other equipment which is closed at the top and not defined as a mall under the provisions of the Florida Building Code (FBC 404.1.1).

Attic means the space between the ceiling beams of the top story and the roof rafters.

Automatic irrigation system means an irrigation system with a programmable controller or timing mechanism.

Automobile means a self-propelled, free-moving vehicle, with four (4) wheels, usually used to transport not more than six (6) passengers and licensed by the department of motor vehicles as a passenger vehicle, not including trucks.

Automobile service station means any building, structure, or lot used for the following: dispensing, selling or offering for retail sale gasoline, kerosene, lubricating oil, or grease for the operation and maintenance of vehicles. This may include buildings or structures that are used for the retail sale and direct delivery to motor vehicles of candy, soft drinks and other related items for the convenience of the motoring public, and may include facilities for hand car washing, lubricating, minor repairs or vehicle service. Such establishments shall not include facilities for major vehicle service.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or DBA.

Awning means any rigid or moveable (retractable) roof-like structure, cantilevered or otherwise, entirely supported from a building.

Backhaul network means the lines that connect a provider's towers/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Bakery means a place of production and/or retail sale of baked goods, primarily on the premises.

Balcony means a platform that projects from the wall of a building and has a parapet or railing. The platform may service one (1) unit or it may be a continuous platform serving more than one (1) unit with a wall separating the platform between units.

Banquet hall means a facility or hall available for lease by private parties for the purpose of dining and social events.

Bar, lounge or tavern shall mean any place of business where alcoholic beverages are sold or offered for sale for consumption on the premises and where the sale of food is incidental to the sale of such beverages or where no food is sold, and includes any establishment in receipt of a valid alcoholic beverage license from the state which permits the sale for consumption on the premises of alcoholic beverages as a principal use. Establishments where alcoholic beverages are permitted for consumption on the premises as an incidental or accessory use are not considered a bar.

Barbed wire means a device characterized by wire segments twisted around a central wire strand or strands. 2. Concertina wire: A device characterized by metal barbs attached to a metal tape which is usually installed in a coiled fashion. 3. Razor tape: A device characterized by elongated metal barbs attached to a metal tape which is usually installed in a linear-string fashion. 4. Razor ribbon: A device similar to razor tape which is usually installed in a coiled fashion. 5. Linear-string installation: A method of installation whereby the device is attached to a fence, wall or between stanchions in a more or less taut line. 6. Coiled installation: A method of installation whereby the device forms a cylindrical or helix shape. 7. Security wire: A generic term encompassing all types of barbed wire, concertina wire, barbed razor tape and other similar barriers.

Basement means that portion of a building that is partly or completely below grade.

Basic services, in the context of adult day, care means providing a protective setting that is as noninstitutional as possible, therapeutic programs with social and health activities and services, leisure activities; self-care training; rest; nutritional seminars and respite care.

Block means the length of a street between two (2) intersections. A parcel of land surrounded by public streets (other than alleys) or any other major physical barriers.

Block frontage means that portion of a block that fronts on a single street.

Board means the duly appointed members of the North Miami Business Development Board, the North Miami Downtown Redevelopment Board or the board of adjustment, created by the city council and any successor to its functions, duties, rights and obligations.

Board of Adjustment means the board appointed by the city council pursuant to the provisions of these regulations. See article 2, division 3.

Boat shall include, but not be limited to, power, sail, floats and rafts plus the normal equipment to operate such.

Boat/auto trailer means a vehicle on which a boat or an auto may be transported and which is towable by a passenger car, station wagon, pickup truck or mobile recreational vehicle. When removed from the trailer, a boat is termed an unmounted boat and an auto a vehicle.

Boat repair shall include the painting, refinishing or repair of boat bodies or the repair or assembly of boat engines (subsection 29-9(16)(a)). See "Major vehicle service."

Boat repair "activities" includes the activities of boat repair, as well as any receiving, shipping, storage and parking incidental to the boat repair activity.

Boat yard and way means a commercial establishment which provides facilities for the construction or reconstruction, repair, maintenance or sale of boats, marine engines, marine equipment and marine services of all kinds; including but not limited to rental of covered or uncovered boat slips, dock space, enclosed dry storage space, marine railways or lifting or launching services. See "Major vehicle service" and "Major vehicle/sales."

Boathouse means noncommercial accessory building for the express purpose of providing space for housing boats and boating accessories.

Bonafide agricultural activities means any land used for the growing of food crops, nurseries for the growing of landscape material, the raising of livestock, horse farms, and other good faith agricultural uses, except any portion of the property not eligible for agricultural exemption.

Broadcasting facility means any tower built primarily for the purpose of broadcasting AM, FM or television signals.

Buffer means a combination of vegetation, fencing, berms and/or open spaces which is used to physically separate or screen land uses.

Buffer, perimeter landscape means an area of land, which is set aside along the perimeter of a parcel of land in which landscaping is required to provide an aesthetic transition between different land uses and to eliminate or reduce the adverse environmental impact, and incompatible land use impacts.

Building means a structure used or intended for supporting or sheltering any use or occupancy.

Building face means the vertical and horizontal dimensions of any one (1) side of a building elevation extending from the base of the building to the roofline and between the main exterior building walls, exclusive of any nonstructural architectural feature, extension, or projection.

Building frontage means any building elevation facing a public street, right-of-way, or any public parking area between such building and street or right-of-way.

Building line means that line adjoining the right-of-way or a fixed distance from said right-of-way (setback) or adjoining any natural barrier or a fixed distance from said natural barrier.

Building official means the individual appointed by the city manager to administer and enforce the Florida Building Code in the city.

~~Building permit means a permit issued by the designated building official, his designee or authorized agency or department of the city which allows a building or structure to be erected, constructed, demolished, altered, moved, converted, extended, enlarged, or used, for any purpose, in conformity with applicable codes and ordinances.~~

Building permit shall mean the permits issued by the city~~'s building and zoning department,~~ authorizing the construction of buildings according to standards set out in all applicable development regulations and the State of Florida Building Code. The term "building permit", as used herein, shall not be deemed to include permits required for demolition of an existing structure.

Building separation means the distance between principal and/or accessory buildings on a site, as the context requires.

Building site means that parcel of land designed to be occupied by one (1) or more buildings and the accessory buildings or uses customarily incidental to it, including such open spaces as arranged and designed to be used in connection with such buildings.

Building site/building parcel means any improved or unimproved lot, plot, or parcel of land. ~~where there may exist a main permitted structure and any accessory building or structure.~~

Bus means a large motor-driven passenger vehicle, licensed by the State of Florida, and by which one (1) or more person(s) or property may be transported.

Bus pool means subscription bus service between locations on a regular and prearranged basis responsive to commuter needs.

Business area means all of the commercially zoned properties located within the City of North Miami.

Business owners means tenants, merchants, and business people who operate a place of business open to the general public in North Miami or who own premises on which a business is located.

Business tax receipt means the document issued by the city indicating all fees, taxes and other associated costs associated with conducting the business at any and all appropriate locations within the city have been paid.

Cabana means an accessory building used as a bathhouse or a shelter in connection with a swimming pool or beach.

Café—Outdoor means a use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main structure for consumption on the premises. This definition does not include an accessory outdoor bar counter, which is considered to be a separate accessory use to an outdoor cafe or a hotel pool deck.

Café—Sidewalk means an outdoor cafe located on a public right-of-way which is associated with a restaurant where food or beverages are delivered for consumption on the premises but not having cooking or refrigeration equipment. It is characterized by tables and chairs and may be shaded by awnings, canopies or umbrellas.

Cafeteria means a place where food is obtained by self-service and primarily eaten with nondisposable utensils.

Caliper means the trunk diameter of a tree and is measured at a height of six (6) inches above natural grade for trees under four (4) inches in diameter, or at twelve (12) inches above natural grade for trees four (4) inches and greater in diameter.

Camper means a structure or unit of construction designed primarily to be mounted upon a motor vehicle and with sufficient facilities to render suitable for use as a temporary dwelling for camping, travel, recreational and vacation purposes.

Camping trailer and full-tent trailer means a type of trailer or trailer coach, the walls of which are so constructed as to be collapsible and made out of either canvas or similar cloth, or

some form of rigid material such as fiberglass or plastic or metal. The walls are collapsed while the vehicle becomes temporary living quarters and is not being moved.

Canopy means any fixed roof-like structure, not movable like an awning, and which is cantilevered in whole or in part self-supporting, but having no side walls or curtains other than valances not more than eighteen (18) inches (457 mm) deep. Structures having side walls or valances more than eighteen (18) inches (457 mm) deep shall be classified as a tent.

Canvas carport means an open sided structure to shelter automobiles, the cover of which structure is made of canvas.

Car pool means a vehicle carrying two (2) to five (5) persons to and from work on a regular schedule.

Carport/shelter means a canopy or roof-like structure, open on all sides, if detached from the main building, or open on all sides except for those sides attached to the house, for the purpose of providing shelter for one (1) or more motor vehicles.

Carwash bay means that space, confined within a carport structure, required to perform hand car washing operations.

Carwash, hand means a for-profit service involving the washing and/or waxing, and/or buffing of vehicles by hand labor. This definition shall not include self-service mechanical hose car washes, or car washing operations serving as an incidental use to businesses which are primarily involved in the selling, renting or leasing of vehicles.

Car washing means the operation performed on a vehicle in order to clean it; it may include both exterior and interior washing and cleaning functions.

Car washing, mechanical means a structure containing facilities for the automatic or semi-automatic washing, waxing and drying of automobiles.

Carrier means a company licensed by the Federal Communications Commission (FCC) that provides wireless services. A tower builder or owner is not a carrier unless licensed to provide personal wireless services.

Ceases operations means, for purposes of the discontinuance of a nonconforming use, a voluntary termination of the use by the property owner, where the property owner has not actively and diligently sought to continue the use or the necessary equipment for the use, if any, has not been continuously maintained on the property.

Centerline means a line running parallel with the two (2) edges of a right-of-way, located, in general, a distance halfway between the extreme edges of official and platted rights-of-way.

Centralized parking means offsite parking areas or garages which are shared by one (1) or more development which may be privately or publicly owned.

Certificate of occupancy means a document issued by the building official allowing the occupancy of a building and certifying that the structure has been constructed in compliance with all applicable codes, regulations and ordinances.

Certified survey. See "Survey, certified."

Change of occupancy/use means a discontinuance of an existing use and the substitution therefore of a use of a different kind of class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

Chassis mounts, motor homes, motorized homes and mini-motor homes means recreational structures constructed, integrally with a truck or motorvan chassis having single or double rear wheels and incapable of being separated there from.

Check cashing store means any person, except any financial institution created and regulated pursuant to F.S. chs. 655, 658, 660, 663, 665 and 667, or created and regulated pursuant to federal law, engaged in the primary and principal business of providing facilities for cashing checks, drafts, money orders and all other evidences of money for a fee, service charge or other consideration. This definition shall not apply to any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or non-negotiable documents, jewels or other property of great monetary value, nor to any person engaged in the business of selling tangible personal property at retail, nor to any person licensed to practice a profession or licensed to engage in any business in the city, who in the course of such business or profession, cashes checks, drafts, money orders or other evidences of money. Check cashing stores may offer additional services, such as deferred deposits, fax services, money wire services, prepaid phone cards or transit passes and may accept utility bill payments. Check cashing stores are also known as currency exchanges or community currency exchanges.

Child care means the care, protection, and supervision of a child, for a period of less than twenty-four (24) hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.

Child care center includes any child care arrangement which provides child care for more than five (5) children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included:

(a) Public schools and nonpublic schools and their integral programs, except as provided in F.S. § 402.3025;

(b) Summer camps having children in full-time residence;

(c) Summer day camps;

(d) Bible schools normally conducted during vacation periods; and

(e) Operators of transient establishments, as defined in F.S. ch. 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of F.S. ch. 435.

Cinema. See "Movie theaters."

City means the City of North Miami, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

~~City and North Miami means the City of North Miami, Florida.~~

~~City shall mean the City of North Miami, Florida.~~ **~~[moved from 3-1405]~~**

City council or "Council" means the North Miami City Council and any succeeding governing body of the city.

~~Council shall mean the city council of the City of North Miami, Florida.~~ **~~[moved from 3-1405]~~**

Civic, fraternal or veterans organizations or associations means an organization ~~vendor of alcoholic beverages~~ whose character is that of a fraternal or social nature, one of whose functions is providing services or selling, including but not limited to alcoholic beverages, only to members and guests of the organization or association and which is not operated or maintained for profit.

Clearance pruning means the type of pruning required to avoid damage or danger related to structures, power distribution and property, as defined in the current ANSI A300 Standards.

Collectibles store means an establishment which sells preowned and/or new collectible items such as, but not limited to, books, stamps, jewelry and other accessories, china, toys, furnishings, tools, etc., which by virtue of their nature and demand generally maintain their value over time, and for which price guides are generally available.

Collector means a route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Traffic movement is a priority but there is a higher degree of land access than with an arterial road, allowing such a route to collect and distribute traffic between local roads or arterial roads and serve as a linkage between land access and mobility needs. A collector street (or road) is also one which typically collects traffic from local streets and which generally connects with arterials.

College/university dormitory means a property owned or operated by the college or university that is used to accommodate the residential needs of college or university students only.

Collocation, colocation or co-location means the use of a common mount by two (2) or more wireless carriers.

Colonnade means the roof or building structure, extending over the sidewalk, open to the street and sidewalk, except for supporting columns or piers.

Commencement of development means visible, tangible evidence of proceeding with construction, including application for and receipt of a building permit, carrying out building activity, and requesting inspection of improvements constructed pursuant to a building permit.

Commercial area means any area designated for commercial uses under the city's land development regulations.

Commercial districts mean~~s~~ the C-1, C2BE, C2BW, and C-3 districts.

Commercial establishment means an establishment operated for profit or not for profit, ~~whether or not a profit is actually made~~.

Commercial message means any sign wording, logo, or other representation or image that directly or indirectly names, advertises, or calls attention to a product, service, sale or sales event or other commercial activity.

Commercial mobile radio services means pursuant to Section 704 of the Telecommunications Act of 1996, any of several technologies using radio signals at various frequencies to send and receive voice, data and video. According to the FCC, these services are "functionally equivalent services." Section 704 of the Telecommunications Act prohibits unreasonable discrimination among functionally equivalent services.

Commercial uses mean any activity where there is an exchange of goods or services for monetary gain. Such activities include, but are not limited to, retail sales, offices, eating and drinking establishments, theaters and similar uses.

Commercial vehicle means any vehicle including, but not limited to, trucks, trailers, semi-trailers, tractors and motor homes, utilized in connection with the operation of a commerce, trade or business, and not utilized as a dwelling.

Commercial watercraft means any vessel used or operated for commercial purposes on the navigable waters of the city, that is either carrying passengers, freight, towing, or for any other use, for which compensation is received, either directly or indirectly, or where provided as an accommodation, advantage or privilege, at any public or private place, or public accommodation, resort or amusement.

Commercially exploited tree species mean species of plant native to the state, which are subject to being removed in significant numbers from native habitats in the state and sold or transplanted for sale.

Commission means the Planning Commission of the City of North Miami, Florida.

Common open space means the area required as open space for various zoning districts, as set forth in the generalized table of development standards of these LDRs.

Community facility means a building or facility owned and operated by a governmental, civic, fraternal or veterans organization or association or nonprofit entity which is open to the public or a designated part of the public for recreational, social and educational activities, which primarily serve the immediate community in which the facility is located.

Community residential home means a dwelling unit licensed to serve residents, who are clients of the department of elderly affairs, the agency for persons with disabilities, the department of juvenile justice, or the department of children and family services or a dwelling unit licensed by the agency for health care administration which provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. (Please address sober homes)

Commuter van service means a transportation service provided in a multioccupant vehicle, which offers commuter service from ~~form~~ a place of residence or its immediate vicinity to a place of employment or its immediate vicinity on an on-going basis. For the purposes of this definition, immediate vicinity shall mean a distance of less than one thousand (1,000) feet.

~~Comprehensive plan means the document adopted by the city council in accordance with the local government comprehensive planning and Land Development Regulation Act of 1986, as amended, meeting the requirements of F.S. §§ 163.3177 and 163.3178; principles, guidelines,~~

~~and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the city.~~

~~Comprehensive plan shall mean the city's plan for future development adopted by city ordinance, and as may be amended and updated from time to time, and any successor comprehensive plan.~~

"Comprehensive plan" means a plan that meets the requirements of F.S. §§ 163.3177 and 163.3178.

Compressed workweek means a limitation by an employer on the number of days worked during the week by increasing the hours worked each day. An example would be a forty-hour workweek of four (4) ten-hour workdays.

Concurrency means that adequate public facilities meeting the level of service standards established in the city's comprehensive plan are or will be available no later than the impacts of a development are imposed.

Concurrency determination means a document issued by the director of the community planning and development department, stating that there appears to be sufficient public facility capacity so that designated levels of service shall be adequate for the project for which the concurrency determination is issued. A concurrency determination reserves no public facility capacity and is in no way binding on the city.

Concurrency management system means the procedure and process that the city utilizes to ensure that development orders and permits issued by the city shall not result in an unacceptable degradation of the adopted level of service in the City of North Miami Comprehensive Plan.

Conditional use permit means a permit issued subject to specified conditions. See article 3, division 4.

Condominium means ownership of real property comprised of units having an undivided share of appurtenant common elements.

Consignment shop means an establishment wherein goods limited to clothing, shoes and/or accessories for adults and/or children are sold by the operator of the shop, acting as the agent for the owner of such goods, in return for a percentage of the profits, or other consideration. Such goods may be comprised of a combination of used goods and new goods, or of used goods only.

Construction means any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition.

Construction office means a mobile home, travel trailer or truck trailer, when used as a construction office or enclosed storage area in conjunction with a construction project.

Contiguous means parcels of land which share a property line or are separated by an alley.

Controlled plant or tree species mean those tree species listed in the Miami-Dade County Landscape Manual listing, as amended from time to time, which tend to become nuisances because of their ability to invade proximal native plant communities or native habitats, but which, if located and cultivated properly may be useful or functional as elements of landscape design and are otherwise protected from removal without a permit.

Convention center means a building or group of buildings that may be used for single or multipurpose activities, such as trade shows, exhibitions, performances and other like activities.

Converted and chopped van means recreational structures which are created by altering or changing an existing auto or van to make it into a recreational vehicle.

Cooperative means ownership of improved real property evidenced by an ownership interest in an association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

Country club means a public or private facility including eating and recreational facilities which may include a standard size golf course having nine (9), eighteen (18) or more holes installed on tracts having an area greater than forty (40) acres.

Critical government facilities means fire stations, police stations, storage of critical records, and similar facilities.

Crown or canopy means the upper portion of a tree measured from the lowest branch, including all internal structural and lateral branches and foliage.

Customer service area means floor area normally open to the public where no special permission from the owner or operator is required to enter.

Day care means an enterprise involving the care of no more than five (5) preschool and elementary school children from more than one (1) unrelated family including preschool children living in the home and preschool children received for day care who are related to the resident care giver.

Day spa means an establishment that provides at least three (3) services for personal wellness or grooming (including massage and body care treatments, facials, and other aesthetic treatments) and no more than one (1) chair for makeup or hair treatments.

Dead tree means a tree with no evidence of vital functions.

Decibel (Db) means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

Deck means a generally floored, flat and uncovered area used primarily for outdoor passive recreation areas.

Demolition means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

Density means a ratio determined by maximum number and type of dwelling units per acre measured to the property line.

Density bonus means a density increase over the otherwise maximum allowable residential density which may be granted under specific provisions as further outlined in the city's comprehensive plan and article 4 of these LDRs.

Department means the community planning and development department ~~or the building and zoning department~~, or other city department, as the context may determine.

Depth of lot means ~~the depth of a lot is~~ the depth between a lot's ~~its~~ mean front property line and its mean rear property line.

Design excellence means architectural designs which rise above the ordinary because of design, treatments and materials which provide character and diversity and contribute to establishing an "address" and a sense of place. See division 8, article 5 for specific criteria. ~~In judging the design excellence of a particular design, the city shall consider the extent to which the use of at least five (5) of the following elements creates the character and diversity of excellence:~~

~~1. Cornice lines on buildings facades fronting on public streets at a height between eighteen (18) and forty-two (42) feet to define the vertical element of the streetscape.~~

~~2. Facade articulations to animate buildings and to mitigate the mass of the building.~~

~~3. Decorative building tops to give the building a visible identity and signature quality and character.~~

~~4. Arcades fronting on sidewalks along major streets.~~

~~5. Architectural windows and doors.~~

~~6. Street level grand entrance.~~

~~7. Natural materials and high quality finishes.~~

~~8. Sidewalks, plazas, lobbies of stone or pavers.~~

~~9. Balconies and loggias to break up the mass of building walls.~~

~~10. Decorative ground level lighting, including street lights.~~

~~11. Disguised parking structures with an integrated architectural scheme.~~

~~12. Integrated public art program.~~

~~13. Comprehensive sign program with integrated architectural scheme.~~

Developable property means property which is suitable for development in accordance with the provisions of these LDRs.

Development means:

(1) The subdivision of a parcel of land;

(2) The construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of a structure, but not including repair of an existing structure or addition;

(3) The mining, excavation, landfill, drilling, grading, deposition of refuse, solid or liquid waste, or fill on a parcel of land;

(4) The alteration of the shore or bank of a pond, lake, river, or other waterway; or

(5) Any change in the intensity of use of any structure or use of land, including redevelopment.

(6) Development shall also have the meaning given it in F.S. § 380.04, subject to the exclusions contained herein, unless a more restrictive definition or standard is provided herein.

Development agreement means an agreement between the City of North Miami and one (1) or more persons entered into pursuant to F.S. § 163.3220 et seq.

Development approval means any approval, permit or other official action of the city granting, denying, or granting with conditions an application for development.

Diameter at breast height (DBH) means the standard measurement of a tree trunk as measured at a height four and one-half (4.5) feet above natural grade. In the case of multiple-trunk trees, the DBH shall mean the sum of each trunk's diameter measured at a height of four and one-half (4.5) feet above natural grade.

Differential operation schedule means a method of scheduling an irrigation system to apply different quantities of water, and/or apply water at different frequencies as appropriate, for different hydrozones.

Dish antenna means a dish antenna intended for the purpose of receiving communication from orbiting satellites and other extraterrestrial sources, a low-noise amplifier (LNA) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals with or without a coaxial cable for the purpose of carrying signals to the interior of a building, or a combination of any of these elements. Dish antenna height means the distance measured vertically from the bottom of the base which supports the dish antenna to its highest point when positioned for operation.

Dissimilar land uses mean proximate or directly associated land uses which are contradictory, incongruous, or discordant such as higher intensity residential, commercial or industrial uses located adjacent to lower intensity uses.

Distance means as measured in a straight line, without regard to intervening structure from property line to property line.

District or zoning district means an area or areas of the city designated on the zoning map as being subject to the uniform regulations and requirements of a particular zoning category established in these land development regulations.

District wide open space shall mean open space usable by the general public in the form of parks, plazas, pocket parks and other urban open space areas, including water areas if part of the parks and plazas, but not including landscaped areas not part of a park or a plaza.

Dock means any fixed or floating structure projecting into or abutting a waterway, created for the purpose of securing vessels, and for the loading and unloading of people and/or property.

Downtown and downtown area means the area established by the C-3 central business zoning district.

Dripline means an imaginary vertical line extending from the outermost horizontal circumference of a tree's branches to the ground. It shall also mean the largest outside perimeter of the canopy of a tree. For excurrent species, leaning trees, trees with suppressed canopies, irregular rooting areas (due to infrastructure or geological factors), trees with asymmetrical canopies or canopies altered through pruning, the trunk diameter method shall be used.

Drive-through means a driveway or roadway that is designed and intended to provide access for vehicles whereby occupants of vehicles receive and/or obtain a product or service.

Driveway means a private road giving access from a public way to offstreet parking and/or loading spaces (section 29-2).

~~Drop-in child care means child care provided occasionally in a child care facility accessory to an office, indoor recreation or mixed use building where a child is in care for no more than a four-hour period and the parent remains on the premises of the principal use at all times. Drop-in childcare arrangements shall meet all requirements for a childcare facility unless specifically exempted.~~

Dry cleaning drop and pick up station means any establishment whose function is to operate as a drop-off and a pick-up place where customers may bring clothes and other items but where no dry cleaning will take place.

Dry cleaning establishment means any fully equipped steam laundry or dry cleaning and dyeing establishment wherein the actual processing of garments is done. A dry cleaning establishment shall also engage in collecting clothes from customers, over the counter, processing them, and returning them to the customers.

Dry cleaning plant means a facility in business to provide dry cleaning services, on a large scale, for offsite customers. A dry cleaning plant is an industrial operation, is not open to serve the general public, and is regulated by environmental laws that require the safe disposal of contaminated solvents and wash water used in the cleaning process.

Dumpster enclosures means an area enclosed by use of fences, or walls combined with landscaping of sufficient height to screen all trash and garbage from public view.

Duplex dwelling means a residence building designed for, or used as the separate homes or residences of two (2) separate and distinct families, but having the appearance of a single family dwelling house. Each individual unit in the duplex shall comply with the definition for a one-family dwelling.

~~Duplex means a building with two (2) self-contained dwelling units each with a separate entrance.~~

Dwelling means a building or portion thereof, designed or used exclusively for residential occupancy, but not including trailers, mobile homes, hotels, boardinghouses and lodging houses, tourist courts, or tourist homes.

Dwelling, multifamily means a dwelling unit that shares common walls with at least one (1) other dwelling unit, including such dwellings known as duplexes, triplexes, and apartments.

Dwelling, single-family means a dwelling detached from any other principal building and containing only one (1) dwelling unit.

Dwelling unit means a building or portion of a building providing independent living facilities for one (1) family including provision for living, sleeping and complete kitchen facilities.

Easement means any strip of land created for public or private utilities, drainage, sanitation or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of use designated in the reservation of the servitude. "Public utility" includes any public or private utility, such as, but not limited to, storm drainage, sanitary

sewers, electric power, water service, gas service, telephone line, whether underground or overhead.

Educational facility means a building or group of buildings used primarily as an institution of higher learning established and operated for profit or not-for-profit, or recognized by the State of Florida as an institution offering post high school curriculum, including college/university dormitories.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Emitters mean devices, which are used to control the discharge of irrigation water from lateral pipes.

Encroachment means any protrusion of a vehicle outside of a park-space, display area or accessway into a landscaped area.

Endangered trees mean species of plant native to the state that are in imminent danger of extinction within the state, the survival of which is unlikely if the causes of a decline in the number of plants continues, and includes all species determined to be endangered or threatened pursuant to the Federal Endangered Species Act.

Energy conservation zone means a zone located no more than twenty-two (22) feet from a structure in a one hundred eighty (180) degree band from due east of the northeast point of the structure, to due south, to due west of the northwest point of the structure.

Environmentally endangered lands mean lands that contain natural forest, wetland or native plant communities, rare and endangered plants and animals, endemic species, endangered species habitat, a diversity of species, outstanding geologic or other natural features, or land which functions as an integral and sustaining component of an existing ecosystem.

Equivalent value means an amount of money which reflects the replacement cost of a tree based on size, condition, location and market value, or as determined by use of the tree canopy replacement chart.

Escrow means a deposit of cash with the city in lieu of an amount required and still enforced on a performance or maintenance bond.

Essential service means those services provided by the city and other governmental entities that directly relate to the health and safety of its residents, including fire, police and rescue.

Exempt trees mean prohibited plant species that do not require a permit for removal and are not to be used as replacement trees, pursuant to section 24-49.9, Miami-Dade County Code of Ordinances, as amended from time to time.

Existing development means a site with structures that were legally approved through the issuance of a certificate of use and occupancy or a certificate of completion as of the effective date of these LDRs.

Existing structure means a structure erected prior to the date of adoption of these LDRs, or one for which a legal building permit has been issued.

Exotic tree species mean plant species that have been introduced from other regions, and are not native to the local region to which it is introduced. These species may or may not be prohibited.

Extraordinary conditions means subsequent to a hurricane, flood, or other natural hazard or subsequent to a defective finding on a previous inspection.

FAA means the Federal Aviation Administration.

Facade means the exterior face of a building which is the architectural front, sometimes distinguished from the other faces by elaboration of architectural details.

Facultative plants mean plants with a similar likelihood of occurring in both wetlands and uplands, which are not recognized indicators of either wetland or upland conditions.

Fair market value for the purposes of article 5, division 18, means the price at which a willing seller, or tower owner, and willing buyer, or service provider seeking to rent space on owner's tower, will trade.

Family means one (1) or more persons, but not more than three (3) unrelated persons occupying a dwelling unit and living as a single housekeeping unit.

Fatally diseased tree means a tree which has a condition that impairs its normal functioning, as manifested by distinguishing signs and symptoms that will eventually cause the death of the tree, and for which there is no known effective cure or treatment.

FCC means the Federal Communications Commission.

Fence means a barrier intended to mark a boundary, provide security and/or provide a decorative function.

Film studios means a facility for the making of a motion picture.

Final plat means a map, plan or record of a subdivision and any accompanying material, as provided in article 3, division 8.

Financial feasibility means that sufficient revenues are currently available or will be available from committed funding sources for the first three (3) years, or will be available from committed or planned funding sources for years four (4) and five (5), of a five-year capital improvement schedule for financing capital improvements.

Financial institution means any premises where the principal use is concerned with such activities as banking, and/or savings and loans, and/or loan companies, and/or investment companies.

Firearm sales means any component portion of the sale transaction, including the agreement to purchase or the payment of whole or part of purchase price or the delivery of the firearm.

Fishery means a commercial operation where fish are caught, processed and/or sold.

Fitness center means an enclosed building or structure containing facilities used in conducting, including but not limited to, the following recreational activities: aerobic exercises, weight lifting, running and swimming, racquetball, handball and squash. A fitness center may also include the following customarily accessory activities as long as they are primarily intended

for the use of members of the center and not for the general public: day spa, food service, and the serving of alcoholic beverages consumed on the premises.

Fixed mechanical equipment means mechanical equipment, such as an air conditioning unit, water cooling tower, swimming pool pump, irrigation pump, well water pump, fan, power generator or other similar power source equipment, permanently affixed to real property, as distinguished from temporary, portable, nonfixed mechanical equipment.

Flag means any fabric or bunting containing distinctive colors, patterns or symbols, including flags used as a symbol of government or an institution, and not including a commercial message.

Flex time means work schedules whereby employees choose their regular arrival and departure times within reasonable limits imposed by the employer.

Floating vessel platforms (FVPs) means a floating platform or floating boat lift (hydro-hoist) that floats at all times in the water and is utilized for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use. Floating vessel platforms (FVPs) and hydro-hoists require administrative site plan approval and registration.

Florida Building Code means the state-adopted building code.

Florida-friendly landscaping means standards practices, materials or actions developed by the Florida Yards and Neighborhood Program, which help to preserve Florida's natural resources and protect the environment.

Florida Yards and Neighborhood Program means a partnership of the University of Florida/Institute of Food and Agricultural Sciences, Florida's water management districts, the Florida Department of Environmental Protection, the National Estuary Program, the Florida Sea Grant College Program and other agencies, managed locally by the Miami-Dade Cooperative Extension Division of the Consumer Services Department.

Forbs mean herbaceous plants other than grasses.

Front street/frontage means at street corners, or in other situations where a lot abuts more than one (1) street, the front street shall be the street upon which the front of the building faces and where the primary or main entrance is located. The front property line shall be that property line parallel to said street. In cases when the front of the building faces neither street directly, the front shall be the street upon which the address is based.

Frontage means the distance measured along a highway, street or waterfront right-of-way.

Funeral home means an establishment with facilities for the preparation of the dead for burial, for viewing of the deceased and for funerals.

Garage, private means any building used for the storage of noncommercial automobiles, boats or other personal property owned and used by the owner or tenant of the structure for a purpose accessory to the use of the structure not including vehicle service(s).

Garage, public means a building other than a private garage used primarily for repair of trucks, trailers or automobiles, whether or not accessory or incidental to another use.

Geologic feature mean a natural rock or mineral formation.

Girdling means the removal of a strip of bark around a tree trunk or a branch of a tree or circling roots around the trunk so as to block or dramatically reduce the flow of water and nutrients.

~~Government use means a building, use or structure owned or occupied by a federal, state, or local government agency and serving as an agency office, police station, fire station, library, post office, or similar facility, but not including a vehicle storage yard, jail, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, hazardous waste treatment or storage facility, food irradiation facility, educational or health institution, university, military facility, residential care home, housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws, or other type of public facility.~~

Government uses shall mean buildings or facilities owned or ~~and~~ operated by the United States of America or any agency thereof, a sovereign state or nation, the state or any agency thereof, a county, a special district, a school district, a municipal corporation, or a charter school organized and approved as a public school under F.S. § 228.056. **[moved from 3-1405]**

Grade means a datum or reference level to be the average level of the finished ground surface immediately adjacent to the exterior walls of the building.

Graywater means that portion of domestic sewage emanating from residential showers, residential baths, residential bathroom washbasins, or residential clothes washing machines.

Green building principles means principles consistent with those established by the United States Green Building Council (USGBC) or the Florida Green Building Coalition from time to time.

Green roof means a roof of a building that is partially or completely covered with vegetation and soil, or a growing medium. The term may include roofs that utilize some form of green technology such as solar panels or rooftop ponds which are used to treat greywater.

Gross floor area means the total interior floor area of a building measured at the inside face of the exterior walls, but excluding parking garages, carports, stairwells and elevator shafts.

Gross receipts means all cash, credits or property of any kind or nature, with deductions for bad debt expense, reported as revenue items to the registrant's audited income statements arising from, or attributable to recurring local service revenues of registrant within the city. The city reserves the right to amend the definition contained herein as permitted by applicable law. The definition herein shall not be applicable as of October 1, 2001, or such other date as provided by law, provided that F.S. § 337.401, is amended effective October 1, 2001, as set forth in Chapter 00-260, Laws of Florida, 2000.

Ground cover means a dense, extensive growth of low-growing plants, other than turfgrass, normally reaching an average maximum height of not more than twenty-four (24) inches at maturity.

Gun shop means an establishment engaged in the business of selling firearms, regardless of whether said business is solely engaged in the sale of firearms or sells firearms and additional merchandise.

Guyed tower means a telecommunications tower that is supported, in whole or in part, by guy wires and ground anchors.

Hardware store means a commercial establishment which sells at retail to the general public goods and supplies which are generally employed in maintaining or improving dwellings and yards, but not including heavy construction supplies, such as raw lumber and cement supplies.

Hatrack or Hatracking means to uniformly remove the major part of the tree's crown reducing it in height and leaving a number of large bare limbs, characterized by a number of stubbed off branches; or pruning a tree by removing any branch three (3) inches or greater in diameter at any point other than the point where the lateral branches meet the main trunk.

Hazard pruning means the removal of dead, diseased, decayed, or obviously weak branches two (2) inches in diameter or greater.

Hazardous tree means a tree with the potential to fail or fall in an environment that may contribute to that failure, and such that a person could be injured and/or property damaged by that failure. A tree removal permit shall be issued for a hazardous tree, provided the hazard cannot be abated by any other means, such as pruning, trimming, fruit removal, and removal of hazardous limbs.

Heat island means an unnaturally high temperature microclimate resulting from radiation from unshaded impervious surfaces.

Hedge means a landscape barrier consisting of a continuous, dense planting of shrubs, not necessarily of the same species.

Height bonus means an additional number of dwelling units or floor area above what would otherwise be permissible within a particular zoning classification or future land use classification.

Height, building means the vertical number of feet above the finished elevation at the center of the front of the building, including parking, excluding chimneys, solar arrays, cooling towers, elevators, fire towers, flag poles, steeples, or necessary mechanical appurtenances; provided however, no chimneys, solar arrays, cooling towers, elevators, fire towers, flag poles, or necessary mechanical appurtenances shall exceed the height limitations in the zoning district in which they are located by more than twenty (20) percent. Unless otherwise expressly provided in these LDRs, ~~Building~~ building heights shall be measured from the minimum base flood~~r~~ elevation of any structure to the mid-eve of the roof; ~~Flat~~ flat roofs shall be measured from the minimum base flood elevation to the top of the roof.

Height, telecommunication tower means the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Herbaceous plant means a plant having little or no woody tissue.

Historic property means any prehistoric or historic site, building, structure, or other real or personal property of historic, architectural, or archaeological value, and designated as such by the city council. Historic properties may include, but are not limited to, Indian habitations, ceremonial sites, artifacts, and other properties, or any part thereof, having intrinsic historical, architectural, or archaeological value relating to the history, government and culture of the city.

Home occupation means an occupation, craft or profession conducted entirely within a dwelling unit such that the use is incidental to the residential use of the dwelling unit and does not change the residential character of the dwelling unit.

Hospital means a building or group of buildings having room facilities for overnight patients, used for providing services for the inpatient medical or surgical care of sick or injured humans, and which may include related facilities, central service facilities, and staff offices.

Hotel or motel means a building in which lodging or boarding and lodging are provided and offered to the transient public, emphasizing tourist and business travelers for compensation in which ingress and egress to and from all rooms is made through an inside lobby or office which is supervised normally by a person at all hours. As such it is open to the transient public in contradistinction to a condo hotel, boarding, lodging house or an apartment building.

Hotel unit means a room, or group of rooms, with ingress and egress which is through a common lobby, intended for rental to transients on a day-to-day, week-to-week, or month-to-month basis, not intended for use or used as a permanent dwelling and with limited kitchen facilities.

Houseboat means a watercraft used or designed for use as a dwelling, office or business enterprise.

Hydro-hoist means a floating boat lift that floats at all times in the water and is utilized for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use. Hydro-hoists require administrative site plan approval and registration.

Hydromulch means a sprayed application of seed, mulch and water.

Hydrozone means a zone in which plant material with similar water needs are grouped together.

Impervious means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including surfaces such as compacted sand, lime rock, shell or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.

Included bark means bark that is embedded in a crotch between a branch and trunk or between co-dominant stems, causing a weakened structure.

Including means merely introducing illustrative examples and not as limiting in any way the generality of the inclusive term.

Industrial means manufacturing, assembly and processing of materials, including outdoor storage of materials, transmission of TV and radio, including tire vulcanizing, retreading or sale of used tires and the sale of building materials.

Industrial, light means a use involving limited showrooms, accessory offices, fabrication, or processing of materials that are already in processed form, warehousing, wholesaling, distribution, communication, scientific and research facilities but not including outdoor storage.

Inoperative means not in working condition as designed, or not capable of being operated lawfully.

Institutional use means a use that serves the educational or cultural needs of the community, including museums and other similar uses.

Intensity means the measure of permitted development expressed as floor area ratio or density, or both.

Invasive exotic plant means a plant reproducing outside its native range and outside cultivation that disrupts naturally occurring native plant communities by altering structure, composition, natural processes or habitat quality. Invasive exotic plants are those plants recognized on the State of Florida's Noxious Weed and Invasive Plants List (F.A.C. r. 5B-57.007).

Irrigation detail means a graphic representation depicting the materials to be used and dimensions to be met in the installation of the irrigation system.

Irrigation plan means a plan drawn at the same scale as the landscape plan, indicating location and specification of irrigation system components and other relevant information as required by these LDRs.

Irrigation system means a system of pipes or other conduits designed to transport and distribute water to keep plants in a healthy and vigorous condition.

Joint access (shared access) means a driveway connecting two (2) or more contiguous sites to the public street system.

Junk means inoperative, dilapidated, abandoned, or wrecked materials, including but not limited to automobiles, trucks, tractors, wagons, boats and other kinds of vehicles and parts thereof, scrap materials, scrap building material, scrap contractors' equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, hair, household appliances or furniture, tree clippings other than for immediate pickup or any other kind of scrap or waste material which is stored, kept, processed or displayed within the city limits.

Kiosk means a small pavilion used as a bus stand upon which a place is provided for the placement of a sign.

Kitchen means a portion of a building which contains a cooking unit such as a range, stove, oven, microwave oven or similar device, a refrigeration unit either together as a unit or as separate component parts.

Land development regulations (LDRs) means ordinances enacted by the city council of the city for the regulation of any aspect of development, which includes these land development regulations and any other regulations governing subdivision, building construction, or any other regulations controlling the development of land.

Landscape encroachment means any protrusion of a vehicle outside of a park-space, display area or accessway into a landscaped area.

Landscape feature means include trellis, arbor, fountain, pond, garden sculpture, garden lighting, decking, patio, decorative paving, gazebo, and other similar elements.

Landscape manual means the Miami-Dade County Landscape Manual, latest edition, which is the official landscape manual issued by Miami-Dade County, Florida, and incorporated herein

by reference, as amended from time to time. If a conflict arises between the landscape manual and this division, the latter shall prevail.

Landscape material means plants such as grass, ground cover, forbs, shrubs, vines, hedges, trees and non-living material such as rocks, pebbles, sand, mulch, or pervious decorative paving materials.

Landscape plan means a plan indicating all landscape areas, stormwater retention/detention areas, areas which qualify to be excluded from maximum permitted lawn area, existing vegetation to be retained, proposed plant material, landscape legend, landscape features, planting specifications, and details, and all other relevant information in compliance with these LDRs.

Landscaping means the following or combination thereof: material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees and similar living material commonly used in landscaping. See article 5, division 12.

Lattice tower means a communication tower that is constructed to be self-supporting by lattice type supports and without the use of guy wires or other supports.

Law for the purposes of article 5, division 18, means any local, state or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff, guideline or other requirements, as amended, now in effect or subsequently enacted or issued including, but not limited to, the Communications Act of 1934, 47 U.S.C. § 151 et seq. as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104 § 101(a), 110 Stat. 70 codified at 47 U.S.C., and all orders, rules, tariffs, guidelines and regulations issued by the federal communications commission or the governing state authority pursuant thereto.

Lawn area means an area planted with lawn grasses.

LEED (leadership in energy and environmental design) certification means the rating system established by the United States Green Building Council (USGBC) or in the case of bonuses described in article 4 of this Code, the Florida Green Building Coalition.

Level of service means an indicator of the extent or degree of service provided by, or proposed to be provided by a public facility on and related to the operational characteristics of the public facility. Level of service shall indicate the capacity per unit of demand for each public facility as established by the city in the adopted comprehensive plan.

Licensing entity or licensing entities means the department of elderly affairs, the agency for persons with disabilities, the department of juvenile justice, the department of children and family services, or the agency for health care administration, all of which are authorized to license a community residential home to serve residents.

Limited kitchen facilities means a microwave, sink and refrigerator and similar facilities but not including a stove.

Liquor package store means a state licensed vendor selling alcoholic beverages in sealed containers only for consumption off the premises ~~subject to the limitations provided in chapter 3 (alcoholic beverages) of the City's Code of Ordinances~~.

Loading and unloading space means a space, clearly marked, reserved for pickup and delivery of goods and merchandise scaled to the size of the vehicle expected to be used, and

designed so as to be accessible to such vehicle when adjoining spaces, building sites and other open or reserved space is used.

Local street means a vehicular right-of-way designed to provide vehicular access primarily to abutting property, not exceeding thirty (30) feet of pavement.

Lot means a parcel of land occupied, or designed to be occupied by one (1) or more building(s) and the accessory buildings or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such buildings.

Lot, corner means any lot situated at the junction of and abutting on two (2) or more intersecting streets or public highways. If the angle of intersection of the direction lines of two (2) highways is more than one hundred thirty-five (135) degrees, the lot fronting on said intersection is not a corner lot.

Lot coverage means the portion of the lot which is covered by structures, both accessory and principal.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot frontage means the distance for which the front lot line and the street line are coincident.

Lot, interior means a lot, other than a corner lot.

Lot line means any property line.

Lot line, front means in the case of a lot abutting upon only one (1) street, the front lot line is the line separating such lot from such street. In the case of a corner lot, that part of the lot having the narrowest frontage on any street shall be considered the front lot line. In the case of any through lot abutting two (2) streets, one (1) such line shall be elected to be the front lot line for the purpose of these regulations, provided it is so designated by the building plans which meet the approval of the director of the department of community planning and development, and provided such front line corresponds with the designated front lines of other existing structures upon the same street.

Lot line, rear means that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear or any odd-shaped lot, the rear lot line shall be determined by the director of community planning and development.

Lot line, side means any boundary lot line, not a front lot line nor a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

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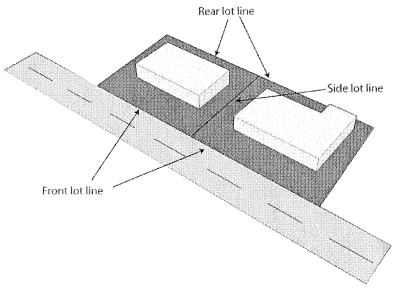



Lot of record means a parcel of land shown as a lot on a legally recorded plat, or any parcel of land described as a lot by a legally recorded deed.

Lot, through (double frontage) means any lot having frontages on two (2) parallel or approximately parallel streets.

Lot, width means the distance between side lot lines, as measured along the minimum front building setback as required for the district in which it is located.

Major redevelopment and/or expansion means a project wherein the cost of the redevelopment or expansion constitutes twenty-five (25) percent or more of the latest available appraised value of the building, as determined from the records of the Miami-Dade County Property Appraiser.

Majority without clarification means a majority of the entire membership.

Manual irrigation system means an irrigation system in which control valves and switches are manually operated rather than operated by automatic controls.

Manufacturing means the transformation of materials or substances into new products, including the assembly of component parts, and the production or refining of goods, materials, or substances into new products, including the assembly of component parts, a bottling plant or food product processing, packaging and storage, but not including research and technology production uses.

Marina means a recreational boating establishment located on a waterway, which may provide covered or uncovered boat slips, or dock space, dry boat storage, marine fuel and lubricants, marine supplies, restaurants or refreshment facilities, boat and boat motor sales or rentals. Repairs which are incidental to the principal marine use are permitted as an accessory use; however, no dredge, barge or other work dockage or service is permitted, and no boat construction or reconstruction is permitted.

Median Income (MI) means the estimate of median income in the city that is determined periodically by the US Department of Housing and Urban Development (HUD), adjusted for household size.

Medical means an office, health care facility, or clinic, licensed by the State of Florida or operated by two (2) or more physicians or medical practitioners licensed by the State of Florida, that is not part of a hospital and that provides elective care for patients on-site who remain less than twenty-four (24) hours. Medical clinics shall not include sanitariums, convalescent homes, or nursing homes but may include, but is not limited to, outpatient surgical clinics and sleep disorder centers.

Mezzanine means an intermediate floor in any story or room. When the total floor area of any such mezzanine floor exceeds one-third (1/3) the total floor area in that room or story in which the mezzanine occurs, it shall be considered as constituting an additional story. The clear height above or below the mezzanine floor construction shall be not less than seven (7) feet.

Microwave dish antenna means a dish-like antenna used to link communication (personal wireless service) sites together by wireless transmission of voice or data.

Minor means any person under the age of eighteen (18) years.

Mixed-use development means a development that encompasses two (2) or more uses (example: multi-family residential and office; multifamily residential and commercial/retail; office/retail; or any other combination of two (2) or more uses).

Mobile home means a residential living unit, ten (10) feet or more in width, movable and equipped with a chassis, designed to be transported to and affixed to a site in accordance with Florida Statutes, where it is to be occupied as a dwelling, containing any of the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration.

Mobile home park means any property or properties under the same ownership or under individual, separate ownership where ten (10) or more mobile homes are parked within five hundred (500) feet from one another, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee, paid or to be paid, for the rental or use of facilities or to offer space in connection with securing the trade or patronage of such person. A mobile home park shall have all electrical and sanitation facilities as are required for residential development.

Model home means a residential structure used for demonstration purposes or sales promotion, not occupied as a dwelling unit, and open to the public for inspection.

Modular structure means a structure prefabricated offsite at a factory manufactured or constructed to be used for uses permitted in the M-1 zoning district.

Moisture and rain sensor switches mean devices which have the ability to switch off an automatic irrigation controller after receiving a predetermined amount of rainfall or moisture content in the soil.

Monopole tower means a communication tower consisting of a single pole or spire self-supported on a permanent foundation, constructed without guy wires, ground anchors, or other supports.

Mooring means any appliance, equipment or device including but not limited to mooring pilings, used to secure a vessel to a dock or pier, which may not be carried aboard such vessel as

regular equipment when the vessel is under way, or the attaching of a vessel to a permanent or floating structure or other vessel.

Motor vehicle means a self-propelled device, licensed by the State of Florida, by which any person or property may be propelled, moved or drawn upon a street or highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

Movie theater means any enclosed premises in which motion pictures, slides, or similar photographic reproductions are shown as the principal use of the premises or are shown as an adjunct to some other business activity which is conducted on the premises and constitutes an attraction, and wherein such movies and photographic reproductions are shown on a regular basis; not to include school or public auditoriums used for generally noncommercial purposes.

Mulch means materials customarily used in landscape design to retard erosion, weed infestation, and retain moisture and for use in planting areas.

Multifamily residential development means any residential development other than attached or detached single-family or duplex.

Multiple single-family developments means attached and detached single-family developments, such as townhouses, which are planned as a total project and not as a single family unit on a single lot.

Museum means a facility devoted to the procurement, care, study, and display of objects of lasting interest or value, and open to the general public for viewing.

Native habitat means an area enhanced or landscaped with an appropriate mix of native tree, shrub and groundcover species that resembles a native plant community or natural forest community in structure and composition or is naturally occurring.

~~Native plant means those species of plants occurring within the city boundaries prior to European contact, according to best scientific and historical documentation. More specifically, it includes those species understood as indigenous, occurring in natural associations in habitats that existed prior to significant human impacts and alterations of the landscape.~~

Native plant community means a natural association of plants dominated by one (1) or more prominent native plant species, or a characteristic physical attribute.

Native plant species mean plant species with a geographic distribution indigenous to all or part of Miami-Dade County. Plants which are described as being native to Miami-Dade County in botanical manuals such as, but not limited to, "A Flora of Tropical Florida" by Long and Lakela, are native plant species within the meaning of this definition. Plant species which have been introduced into Miami-Dade County by man are not native plant species.

Native tree species mean plant species with geographic distribution indigenous to all or part of Miami-Dade County. Plants which are described as being native to Miami-Dade County in botanical manuals, such as the landscape manual are considered native plant species within the meaning of this definition.

Natural forest community means all assemblages of vegetation designated as Natural Forest Communities on the Miami-Dade County Natural Forest Community Maps and approved by the Board of County Commissioners, pursuant to Resolution No. R-1764-84 and further defined in Section 24-5 of the Miami-Dade County Code.

Net lot area means the area within lot boundaries of all lands comprising the site. Net lot area shall not include any portion of the abutting dedicated streets, alleys, waterways, canals, lakes or any other such dedications.

Nightclub means a restaurant, dining room or other establishment, which operates after 11:00 p.m., where food and/or alcoholic beverages are licensed to be sold and consumed on the premises, and where music, dance, floor shows or other forms of entertainment are provided for guests and patrons with or without an admission fee.

Noise, for a commercial purpose means the making of noise for the purpose of advertising any business, or any goods, or any services, or for the purpose of attracting the attention of the public to or advertising for, or soliciting patronage of customers to or for any performance, show, entertainment, exhibition, or event, or for the purpose of demonstrating any sound producing equipment, or for the purpose of conducting a business.

Noise, for a noncommercial purpose means the making of noise for other than a commercial purpose. Noncommercial purpose shall mean and include, but shall not be limited to, philanthropic, political, patriotic, and charitable purposes.

Noise disturbance means any sound that endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

Nonconforming lot means a lot of record which does not meet the lot area or lot width requirements of these land development regulations for the zoning district in which it is located.

Nonconforming sign. See "Sign, nonconforming."

Nonconforming structure means a building or structure lawfully established which does not conform to the requirements of these land development regulations for location or other dimensional requirement for such building or structure in the zoning district assigned to the property, i.e., the minimum setback, maximum height, maximum building coverage, parking or landscaping.

Nonconforming use means a use which exists lawfully prior to the effective date of these land development regulations and is maintained at the time of and after the effective date of these land development regulations, although it does not conform to the use restrictions of these land development regulations.

Nuisance means as defined in F.S. § 823.05 and (1) any continuing condition or use of premises or of building exteriors or of land that causes substantial diminution of the value of property in the vicinity of such condition or use; (2) any continuing condition or use of premises, building exteriors or land which unreasonably annoys, injures or endangers the comfort, health, repose, privacy or safety of the public through: offensive odors; noises; substances; smoke; ashes; soot; flooding; disturbance and vibrations of earth, air or structures; emanations; light; sights; entry on adjoining property by persons or vehicles; or (3) other unreasonable intrusions upon the free use and comfortable enjoyment of the property of the citizens of the city.

Nursing or convalescent home means a home, institution, building or residence, public or private, whether operated for profit or not which provides maintenance, personal care or nursing for a period exceeding twenty-four (24) hours to three (3) or more ill, physically ~~inform~~ infirm or aged persons, who are not related by blood or marriage or adoption to the operator.

Occupational license/business tax receipt means the required license to conduct business within the city. See "Business tax receipt" definition.

Office means a use involving a business, profession, service, including banks and financial institutions, or government activity which does not involve retail activities on site and not including veterinary offices and problematic uses.

Office complex means any office development containing two (2) or more tenant spaces that are under common land ownership or that share common property frontage.

One-family or single-family dwelling means a private residence building used or intended to be used as a home or residence in which all living rooms are accessible to each other from within the building and in which the use and management of all sleeping quarters, all appliances for sanitation, cooking, ventilating, heating or lighting are designated for the use of one (1) family only.

Opaque means any nontranslucent, nontransparent material which provides a visual barrier from one (1) side to the other.

Open space means ground level areas on a lot which are landscaped or designed for pedestrian or recreational use, including covered arcades and plazas under buildings which are accessible to the public.

Outdoor ovens and coolers means a use that is accessory to a restaurant, catering facility, or similar use, and is subject to administrative site plan review and the following conditions:

(1) Is located in the rear of the primary use;

(2) Is adjacent to the primary structure;

(3) Is enclosed with an opaque fence or wall painted in the same color as the primary structure; and

(4) Meets all the requirements of the Florida Building Code for installation and use and is approved for outdoor use.

Outdoor storage means any use of property which involves the sale, leasing, display or storage of commodities, goods, materials or equipment in a location other than in an enclosed building, excluding vehicle sales.

Overhead irrigation system means a high pressure, high volume irrigation system.

Overlay district constitutes a set of regulations which are superimposed upon and supplement, but do not replace, the underlying zoning district and regulations otherwise applicable to the designated areas.

~~Owner of record with respect to real property means the person, corporation, partnership, or other legal entity, singular or plural, which is a record owner as recorded on the current tax rolls of the county. For condominium property, the term "owner" means the condominium association and not the individual unit owners.~~

Owner of record or owner means any person, entity, corporation, partnership, trust, holding company, limited liability company or any other legally recognized entity that is the legal, beneficial or equitable owner of any interest in the property. Owner shall include any purchaser,

assignee, successor, or transferee of any interest in the property regarding any penalty imposed pursuant to these LDRs.

Parcel means a portion of land with frontage on a public street right-of-way or an officially approved private street easement. For zoning purposes, a parcel may consist of: (a) single lot of record; (b) combination of complete lots of record; (c) combination of complete lots of record and portions of lots of record; (d) portions of lots of record, provided that such lots or combination of lots are sufficient size to meet the requirements of the districts in which located; (e) land defined by metes and bounds description where such parcels are in conformity with these regulations.

Parking aisle means the area to the rear of offstreet parking spaces utilized for maneuvering motor vehicles in a parking lot or parking garage.

Parking garage means a substantially enclosed structure used for the parking of motor vehicles.

Parking lot means an at-grade, level area used for the parking of motor vehicles.

Parking lots, public means offstreet parking as a principal use of a parcel of land.

Parking, off-street means an enclosed or unenclosed parking area located on private property and not within a street right-of-way.

Parking space means an area for the temporary storage and parking of a motor vehicle together with adequate provision for maneuvering and for passage to and from streets or alleys either directly or over a private driveway.

Parking space (handicapped) means an area for the temporary storage and parking of a motor vehicle which has a minimum of twelve (12) feet in width, twenty (20) feet in length, and seven (7) feet of clear height.

Parkway means, for the purpose of obtaining a bonus under the provisions of article 4, division 4, a four-foot area between the back of curb or edge of pavement (if no curb) which is landscaped with trees.

Pawnshop means an establishment used for the business of lending money secured by taking possession of personal property, with the right to sell such property if it is not redeemed, regardless of whether the pawn transaction is in the form of a loan by the pawnbroker secured by the property, or a sale to the pawnbroker with the right to repurchase within a stated period of time.

Pedestrian amenities mean characteristics of a development which increase the desirability of the use of an area by pedestrians, such as pedestrian connections, street furniture, public art or other feature.

Pedestrian connection means a clearly defined pedestrian walkway between the public sidewalk and a building entrance.

Permitted use means the specific purpose for which land or a building is designed, arranged, intended or for which it may be occupied or maintained in accordance with the district regulations in article 4 and the development standards in article 5 of these regulations.

~~Person means any individual, association, partnership, or corporation.~~

Person means any individual, corporation, partnership, association, joint venture, organization or legal entity of any kind, and any lawful trustee, successor, assignee, transferee or personal representative, but shall not mean the city.

Personal instruction means a practice or profession that teaches, lectures, counsels or conducts classes or meetings for five (5) or fewer persons at one (1) time.

Personal services means a commercial establishment which provides personal services directly to the consumer, such as a barbershop, beauty shop or dry cleaners or masseuse and which does not have as its primary function the sale of retail goods, but not including astrologists, palm readers, tarot card readings and other similar uses.

Personal services in the context of assisted living means direct physical assistance with or supervision of the activities of daily living and the self-administration of medication and other similar services which the department may define by rule. "Personal services" shall not be construed to mean the provision of medical, nursing, dental, or mental health services.

Personal watercraft means a vessel of less than sixteen (16) feet in length that is propelled by machinery, commonly a jet pump, and which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated by a person sitting or standing inside the vessel.

Personal wireless services means ~~as~~ commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. This definition includes analog and digital (800 MHz) cellular, broadband PCS (1850—1990 MHz) services and enhanced specialized mobile radio and paging services.

Pet shops means all stores, shops or business establishments wherein animals, mammals or fowls are kept and offered for sale or trade.

Place of business means any building, structure, yard, area, lot, premises or part thereof, or any other place in or on which one (1) or more persons engage in a profit-seeking business.

Planned development means a residential, commercial, industrial or mixed use project of a minimum two (2) acres or greater, which is developed to promote greater innovation and creativity in the development of the land; is a development which is appropriate and compatible with adjacent land uses; and is approved as a rezoning and issuance of a conditional use permit.

Planned shopping center means a development comprising four (4) or more retail establishments, or combination of retail, offices, and restaurants, designed in such a manner as to establish a dominant and primary theme which promotes the design and land use goals of the district.

Planting detail means a graphic representation of the plant installation depicting the materials to be used and dimensions to be met in the placement of plants and other landscape materials.

Plaza means an area that is open to the public for passive recreational purposes, limited public assembly and social interaction which is designed and intended for common use and employment of the public.

Pleasure craft or pleasure boat means a vessel not within the classification of a commercial vessel, house barge or houseboat and which is designed primarily for the purpose of movement

over a body of water and which is equipped with a means of propulsion, in operating condition, which is appropriate to the size and type of vessel.

Pool deck means an impervious area of various materials that surrounds a swimming pool that may extend from the swimming pool to the building for which the pool is accessory.

Porch-patio means an open projection from the outside wall, either roofed or nonroofed, without window sash or any form of permanent enclosure.

Porte-cochere means a structure attached to a building and erected over a driveway to a building entrance, not exceeding one (1) story in height, and open on three (3) sides.

Pre-existing towers and pre-existing antennas means any tower or antenna for which a building permit has been properly issued prior to the effective date of former chapter 29A of the city's code, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Premises means land and all buildings and structures thereon.

Principal building means a building which houses the main use or activity occurring on a lot or parcel of ground.

Private club means a property owned or leased and operated by an individual, group, or an association of persons and maintained and operated solely by and for the members of such a group or association and their guests and which is not available for unrestricted public access or use.

Private dish antennas means an accessory dish-shaped antenna intended for the purpose of receiving communications from satellites or other extraterrestrial sources and which is erected solely for the use of its owners, and is not used for commercial purposes or commercial gain. The antenna may not be used for the purpose of obtaining revenue, nor may the owners thereof charge for its use in any manner, notwithstanding its location on commercial or multifamily-zoned districts.

Private school or nonpublic educational facility means an institution which provides child care and/or instruction from the infant level through the college level and which does not come under the direct operation and administration of the Miami-Dade County School Board or the State of Florida.

Problematic uses mean commercial retail and service uses including, but not limited to, day labor, tattoo parlors, body piercing, pawn shops, check cashing centers and blood plasma centers which are typically characterized by poorly maintained facilities, loitering and other ~~indicates~~ indication of neighborhood deterioration or urban blight.

Program certification means certification from the USGBC, FGBC, Green Building Initiative's Green Globes Rating System or any nationally recognized high performance green building rating system.

Prohibited plant species mean those plant species specifically listed in the Miami-Dade Landscape Manual, as amended from time to time, and in this division, which are demonstrably detrimental to native plants, native wildlife, ecosystems, or human health, safety, and welfare. that are detrimental to native plants, native wildlife, ecosystems, and/or human health, safety or welfare.

Project open space means amenities of a development which are open to the sky and which enhance the project, including a recreational amenity deck, landscaped and/or recreational areas for the use of residents, or a green roof.

Property owner means the fee owner of any land on which development is located.

Protected trees mean species of plant that is identified in the Miami-Dade Landscape Manual in accordance with the Florida Protection Status Section 581.185 that provides recognition to plant species native to the state that are endangered, threatened, or commercially exploited.

Protective barriers mean physical barriers that are placed around existing trees to provide protection during demolition or construction on a subject property.

Pruning or trimming means to cut away, remove, cut off or cut back parts of the tree which will alter the natural shape.

PSC means the Florida Public Service Commission.

Public art means the creative application of skill and taste by artists to the production of permanent tangible objects according to aesthetic principles, including but not limited to: paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, and bas-reliefs. The following shall not be considered public art:

a) Art objects which are mass produced;

b) Works that are decorative, ornamental or functional elements of the architecture or landscape design, except when commissioned from an artist as an integral aspect of a structure or site;

c) Architectural rehabilitation or historical preservation;

d) Signs or business logos.

Public facilities or purpose means facilities relating to comprehensive plan elements required by F.S. § 163.3177 ~~and~~ for which level of service standards must be adopted ~~under F.A.C. ch. 9J-5~~. The public facilities and services mean roads, sanitary sewer, solid waste, drainage, potable water, recreation and mass transit.

Public notice means a notice given in accordance with state and city laws.

Public park means a park, playground, swimming pool, community center, reservoir, golf course, or athletic field, within the city, which is under the control, operation, or management of the city or any other governmental agency.

Public purpose uses means those uses devoted to the general welfare and accessible to or shared by all members of the general public.

Public rights-of-way means the surface, the airspace above the surface and the area below the surface of any public street, highway, road, boulevard, concourse, driveway, freeway, thoroughfare, parkway, sidewalk, bridge, tunnel, park, waterway, dock, bulkhead, wharf, pier, court, lane, path, alley, way, drive, circle, public easement, public place, or any other property in which the city holds any kind of property interest or over which the city exercises any type of lawful control and may lawfully grant access to pursuant to applicable law, but shall not include private property. "Public rights-of-way" shall not include any real or personal city property

except as described above and shall not include city buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the public rights-of-way.

Public transit means publicly provided and regularly scheduled transportation, typically by bus or rail, or a combination of both.

Public utility means any state-regulated facility for rendering electrical, gas, communications, transportation, water supply, sewage disposal, drainage, garbage or refuse disposal or fire protection service or the like, to the general public.

Real property boundary means a line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person, but not including intrabuilding real property divisions.

Recording and TV/radio means a station for the production of radio or television broadcasts and/or the recording of film or sound.

Recovery residence means a residential dwelling unit, or other form of group housing, that is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. A "certified recovery residence" means a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.

Recreation/entertainment, indoor means a business which is open to the public where customers pay the proprietor for the use or enjoyment of recreational facilities or equipment within an enclosed building. This category of use includes: auditoria, bowling alleys, movie theaters, racquetball facilities, skating, fitness centers, gymnastic facilities, and billiard facilities.

Recreation/entertainment, outdoor means a business which is open to the public where customers pay for the use of recreational facilities or equipment on site but not within an enclosed building.

Recreational vehicle, as distinguished from a mobile home, truck, or the like, is considered a transportation structure, self-propelled or capable of being towed by a passenger car, station wagon or small pickup truck of such size and weight as not to require any special highway movement permits, and primarily designed or constructed to provide temporary, movable living quarters for recreational, camping or travel use, or to carry such equipment, but not for profit nor commercial use. Included as recreational vehicles, but not to the exclusion of any other types not mentioned herein are: trailers, trailer coaches; camping trailers; motor homes; pickup (slide-in) campers; chassis mounts; converted vans; chopped vans; mini-motor homes; fifth-wheel trailers or recreational vehicle construction; design and intent (as opposed to commercial fifth-wheel trailers); boat trailers (mounted or unmounted) and truck caps.

Recurring local service revenues means revenues from the monthly recurring charges for local telecommunications service including, but not limited to:

(1) Recurring basic area revenues derived from the provision of flat-rated basic area services;

(2) Recurring optional extended area revenues derived from the provision of optional extended area services;

(3) Local private line revenues derived from local services which provide communication between specific locations, either through dedicated circuits, private switching arrangements, predefined transmission paths, whether virtual or physical, or any other method of providing such services;

(4) Revenues from the sale of local services for resale; and

(5) Other local service revenues from the provision of secondary features that are integrated with the telecommunications network, including, without limitation, services such as call forwarding, call waiting, and touchtone line service. Except as provided herein, revenues from all recurring local services provided by a registrant over a telecommunications facility or system in the public rights-of-way shall constitute recurring local service revenues subject to this article. Recurring local service revenues do not include revenues from:

a. Toll charges for the transmission of voice, data, video, or other information;

b. Access charges paid by carriers for origination and/or termination of toll telephone service as defined in F.S. § 203.012(7), or other charges required by the federal communications commission which are directly passed through to end users;

c. Interstate service;

d. Ancillary services such as directory advertising, directory assistance, detailed billing services, inside wire maintenance plans, bad check charges, and nonrecurring charges for installation, move, changes or termination services;

e. Cellular mobile telephone or telecommunications services; or specialized mobile telephone or telecommunications service; or specialized mobile radio, or pagers or paging service, or related ancillary services;

f. Public telephone charges collected onsite;

g. Teletypewriter or computer exchange services as defined in F.S. § 203.012(6); or

h. Local message rated (message, unit or time basis) and minutes of use charges in excess of the minimum flat-rated charges for similar services. This definition shall not be applicable as of October 1, 2001, or such other date as provided by law, provided that F.S. § 337.401, is amended effective October 1, 2001, as set forth in Chapter 00-260, Laws of Florida, 2000.

Redevelopment area means that portion of the city designated by the city council pursuant to F.S. § 163.330 et seq., and amendments thereto.

Redevelopment plan means the city council adopted plan prepared pursuant to F.S. § 163.330 constituting the redevelopment plan for the redevelopment area as well as the redevelopment element of the city's comprehensive plan.

Registrant or facility owner means a telecommunications company that has registered with the city in accordance with the provisions of ~~the~~ the LDRs ~~this article~~.

Registration and register means the process described in article 5, division 18, whereby a telecommunications service provider provides certain information to the city.

Regulation means a rule or order issued by a government or government agency.

Religious institution means a church, synagogue, temple, mosque or other place of religious worship, which may include administrative facilities, schools, day care center or dwelling physically associated with the institution.

Renovation means the act or process of applying measures designed to sustain and protect the existing form and integrity of a property, or re-establishing the stability of an unsafe or deteriorated property while maintaining the essential form of the property as it presently exists.

Replacement tree or tree mitigation means any number of trees required planted, or the equivalent value in monetary payment to the tree mitigation fund, as a condition of approval of a tree removal permit or as may be required to meet the conditions of division 12, article 5, and due to its condition, type, size and location, as determined by the Sustainability Administrator, to be equivalent to the tree removed.

Research and technology use means a use such as medical, optical and scientific research facilities, laboratories, pharmaceutical compounding and photographic processing facilities and facilities for the assembly of electronic components, optical equipment and precision instruments or laboratories or buildings the primary use of which is the research, testing and development of goods, materials, foodstuffs or products.

Resident, in the context of a community residential home, means any of the following: a frail elder as defined in F.S. § 429.65; a physically disabled or handicapped person as defined in F.S. § 760.22(7)(a); a developmentally disabled person as defined in F.S. § 393.063; a nondangerous mentally ill person as defined in F.S. § 394.455(18); or a child who is found to be dependent or a child in need of services as defined in F.S. §§ 39.01(14), 984.03(9) or (12), or F.S. § 985.03.

Residential means or is characterized by having a single-family, duplex, townhouse~~me~~ or multifamily dwelling unit which contains a sleeping area, bathroom, kitchen and eating area.

Residential area means an area designated and used for any residential use under these land use regulations or an area within which are situated conforming, or nonconforming residential uses.

Residential complex means a land area of three (3) or more acres under unity of title which is designed to accommodate multiple family residential projects of greater than ten (10) units.

Restaurant means a facility with the following characteristics: a varied, nonstandardized menu; preparation of food by cooks or chefs; primary orientation to eat-in service; utilization of nondisposable eating utensils, plates, glasses, and cups; waiter or waitress service at tables.

Restaurant, fast-food means a restaurant facility with the following characteristics: standardized limited menu; fast food preparation; orientation to take-out or eat-in service; utilization of disposable eating utensils and packaging; no waiter or waitress service at the tables.

Restaurant, open-air means a use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main structure for consumption on the premises. This definition does not include an accessory outdoor bar counter, which is considered to be a separate accessory use to an outdoor cafe or a hotel pool deck.

Retail, sales, and service mean a use, the principle use or purpose of which is the sale of primarily new goods, products, materials, or services directly to the consumer from within an

enclosed building, including grocery stores, bakeries, hardware stores, antique and collectible stores, dry cleaning drop-off and pick-up station, dry cleaning establishments, pet shops, personal services, indoor recreation, personal instruction, art galleries, and including the sale of alcoholic beverages for off-premises consumption provided that the sale of alcoholic beverages is subordinate to the principal use and the display of alcoholic beverages occupies less than twenty-five (25) percent of the floor area of the use, sale of principally new automobiles involving the outdoor display of a maximum of twenty (20) automobiles of which no more than thirty (30) percent shall be pre-owned, not including street vendors, farmer's markets, consignment shops, automobile services stations, thrift stores, self-service laundries, the on-premise consumption of alcoholic beverages or problematic uses.

Retail showroom, automobile means a use, the principal use or purpose of which shall be the marketing and display of new automobiles, whether by sale, lease, or other commercial or financial means to the consumer from within an enclosed building and attendant parking structures; said use, which shall be operated on a site of at least one (1) acre, may include, among other secondary supporting uses, an inventory of vehicles for sale or lease, and on-site facilities for minor servicing of vehicles previously sold, or leased of the same brand or manufacturer licensed to the retail showroom owner, provided that the sale of pre-owned/preleased automobiles by the retail owner, shall be subordinate to the principal use, and that no more than forty-nine (49) percent of the total stock should be pre-owned/preleased. Furthermore, no more than fifteen (15) percent of the gross building area (GBA) assigned to the retail automobile showroom business shall be devoted to minor vehicle service.

Ride matching means the process of identifying interested drivers and interested riders with other drivers and riders of similar interests, employment origins and destinations for purposes of sharing rides by car pooling, van pooling or other.

Ride sharing means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of the driver. The term shall include ride-sharing arrangements known as car pools, vanpools, and bus pools.

Right-of-way means that portion of land, duly defined, either public or private, designed for the express purpose of transporting persons or vehicles, utilities and transmission lines or canals.

Right-of-way line means the outside boundary of a right-of-way, whether such right-of-way be established by usage, dedication or by official right-of-way map.

Roots or root system means the tree part containing the organs, generally found underground, created for structural support and used for extracting water, gases and nutrients from the soil and atmosphere.

School means an educational institution, public or private, within the city, offering a curriculum acceptable by local and state educational officials to fulfill legal requirements of education for nursery, elementary through high school levels, or any part thereof.

School, nursery means a school designed to provide educational instruction for two (2) or more children from two (2) to five (5) years of age inclusive and operated on a regular basis.

School, special or technical means any institution, private or public for specialized education, sometimes associated with a university offering practical knowledge of a vocational, technical, scientific or other special nature such as art or dance.

Screening (concealing) means a structure or landscape planting or other suitable opaque material, for the purpose of concealing from view those areas so screened.

Search area means the geographic area, in which a telecommunications facility must be located in order to provide FCC required coverage, as certified through an affidavit by a radio frequency engineer as to radio frequency waves or other such appropriate technical expert.

Self-service laundry means a business establishment equipped with customer operated automatic washing machines having a capacity per unit not exceeding twenty-five (25) pounds of dry clothing.

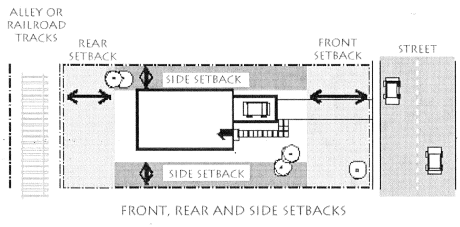
Self-storage means a building or group of buildings consisting of individual, self-contained units leased to individuals or organizations or businesses for self-service storage of personal property.

Setback means the horizontal distance from a lot line to the part of the building or of the story, which is nearest to such lot line, which shall be deemed to be the distance that such building or story is "set back" or that it "sets back" from such lot line. Such lot line may be a property line, bulkhead line or shoreline. Submerged lands cannot be used in the calculation of a setback.

Setback, front means the setback between the front property line and a structure.

Setback, rear means the setback between the rear property line and a structure.

Setback, side means a yard extending from the front yard to the rear yard, between the side plot line and the required set back line. Every required side yard shall be measured at the closest point between the lot or parcel line and the structure.

FRONT, REAR AND SIDE SETBACKS

Shared shuttle means a vehicle that is owned by a group of businesses and used to transport employees from transit stop locations to places of employment.

Shopping center means a group of commercial establishments planned, developed or managed as a unit with offstreet parking provided on the property.

Shoreline means a straight or smoothly curving line which, on tidal waters, follows the general configuration of the mean high water line; and which, on nontidal waters, is determined by the annual average water level. Boat slips and other manmade or minor indentations shall be construed as lying landward of the shoreline and are considered upland when computing the lot area of waterfront property.

Shrub means a self-supporting woody perennial plant normally growing to a height of twenty-four (24) inches or greater, characterized by multiple stems and branches continuous from the base.~~Shrubs means a woody plant that usually remains low and produces shoots or trunks from the base; it is not usually tree-like or single stemmed.~~

Shuttle means a privately or publicly owned vehicle used to transport employees from transit stop locations to places of employment.

Sidewalk means that portion of the right-of-way, which is located between the curb line or the lateral line of a street and the adjacent property line, which is intended for use by pedestrians.

Sidewalk cafe means the placing, locating or permitting of the placement of chairs, umbrella, benches and or tables within the sidewalk area adjacent to a business licensed to operate as a restaurant.

Sign means any visual device, that is visible and capable of comprehension from a public right-of-way, and which is used for identification, instruction, attraction, guidance, the expression of a belief, idea, or opinion or advertisement and can be seen.

Sign, abandoned means a sign which relates to a use that ceases for a period of more than twelve (12) months or is destroyed such that the cost of repair exceeds fifty (50) percent of the current replacement value of the sign.

Sign, area means the total surface area of a sign, not including structural supports and not including the face of the building except that portion which forms the field and any permitted decorative area, within a single-continuous perimeter containing the words, letters, signatures or symbols; together with any frame, materials or color forming an integral part of the display. The words, letters, figures or symbols are free from any encompassing structure for integral background space. The sign area will be construed as that percentage of the building face that is permitted for sign purposes. In case of cutout letters and displays, the sign area should include the sign area measured within the periphery of the cutout letters or displays.

Sign, awning or canopy means a sign incorporated into, attached, affixed to, stamped, perforated, stitched or otherwise applied or painted on a structure made of cloth, canvas, metal or similar material that is affixed to a building and projects. Such signs may or may not be fixed or equipped with a mechanism for raising and holding an awning in a retracted position against the building, an awning or canopy. The sign shall only be permitted on the valence of the awning (see illustration).

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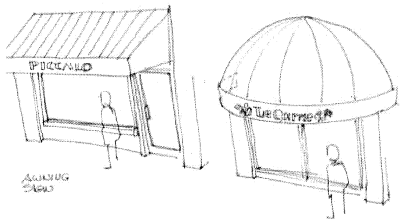

Sign, barbershop means an on-site sign which is in a cylindrical shape with red and white or red, white and blue stripes which may move.

Sign, blade means an on-site sign which projects from and is supported by a wall or parapet of a building with the sign face perpendicular or approximately perpendicular to the wall.

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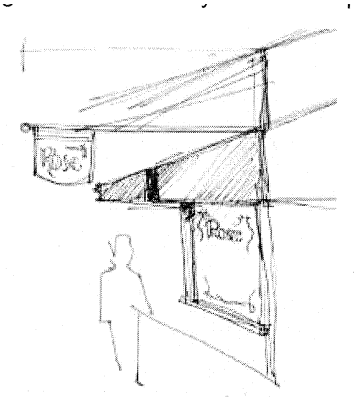


Sign, changeable copy means any on-site sign designed for changeable copy.

Sign, detached means an on-site sign not attached to or painted on a building but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of the building, shall be considered a detached sign.

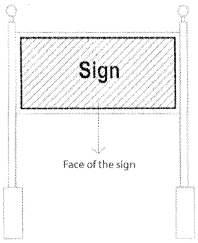
Sign, development banner means an on-site sign composed of durable or vinyl material affixed to a building.

Sign, directional means any on-site sign containing words or symbols indicating an entrance to, exit from, location of, or distance to structures or sites upon the premises the sign serves. Such sign may include a name and/or logo for the person, group, or business conducting activities at the location.



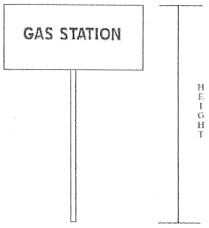
Sign, double-faced means a sign with two (2) parallel, or nearly parallel, faces, back to back and located not more than twenty-four (24) inches from each other.

Sign, face means the part of the sign that is or can be used to identify, display, advertise, communicate information, or for visual representation which attracts or intends to attract the attention of the public for any purpose.


Sign, flashing, animated or rotating sign means any sign that rotates, moves, flashes, reflects, or blinks or appears to do any of the foregoing.

Sign, height means a height limitation applied to any sign composed of any material, which height shall be measured from the average surface grade immediately surrounding the base of the sign to the top of its highest element including any structural element.


Sign, identification, means any on-site sign that indicates only the name and/or address of the development, firm, and/or the major enterprise or a maximum of three (3) principal products offered on the premises at which the sign is located. ** Important Note ** Businesses that are located on properties that abut the right-of-way of either N.W. 6th Court or I-95 may, in addition to copy allowed, add the telephone number as a component of the primary identification sign for that business.

Sign, illuminated means any sign that uses an artificial source of light, or reflective or glowing material, to make the contents visible, regardless of whether such light source is internal or external.

Signs, incidental means signs for secondary uses which are located outside of the building, i.e., automated bank teller machines (ATMs), book depositories, etc.

Sign, information means any on-site sign containing information such as hours of operation, telephone numbers, affiliation, etc.

Sign, location means the location where a sign may be placed or maintained.

Sign, marquee means any on-site sign which is attached to, or hung from, a permanent roof-like structure which is supported by a building wall and which projects out from the line usually, but not necessarily, over a public right-of-way, such as a sidewalk.

Sign, menu means an on-site sign containing only a listing of products, with prices, offered for sale by a restaurant.

Sign, monument means an on-site freestanding sign permanently affixed to a monument or other similar detached architectural feature without the need of posts and/or poles. A monument sign may be a double-faced sign or part of a wall.

Sign, nameplate means a small on-site sign located at an entrance to a building or structure indicating only the name and/or address and/or professional qualifications and/or major enterprise residing or conducting activities at such building or structure.

Sign, neon or decoration means any sign or decoration composed of lamps in which the primary element is that colorless, odorless, and inert gas found in air, and known as neon.

Sign, noncommercial speech means any sign expressing only noncommercial speech.

Sign, nonconforming means any sign which legally exists on the date these land development regulations are adopted but which is not in compliance with the provisions contained in these regulations.

Sign, on-site means any sign containing commercial or noncommercial speech relating to any activity conducted, service rendered, belief or opinion espoused, or good sold or displayed at the place where such sign is located.

Sign, pedestrian means any on-site sign that may indicate name and/or address, and/or telephone number of the firm, and/or the major enterprise, products or services offered on the premises to which the sign is incidental.

Sign, pole and/or freestanding sign means any on-site sign having its face above ground level, attached to a pole permanently affixed to the ground, which pole is wholly or partially independent of any building or structure for support.

Sign, portable means any sign which is not permanently affixed to a building, structure or the ground, or which is attached to a vehicle, or on its own trailer, wheels, or otherwise is designed or intended to be transported from one another. It is characteristic of a portable sign that the space provided for advertising messages may be changed at will by the replacement of lettering or symbols. A portable sign shall not include a sandwich sign or a sign which conveys warnings of traffic situations, special events or other messages even though the sign may be portable.

Sign, prohibited means any sign located within the city:

(1) Not authorized under article 5, division 15; or

(2) Although authorized, requires a permit, but for which no permit has been issued by the city.

Sign, projecting means a sign which is attached to and projects more than twelve (12) inches from the face of a wall of a building. The term projecting sign includes a marquee sign. A projecting sign which extends more than thirty-six (36) inches above a roofline or parapet wall shall be considered as a roof sign.

Sign, real estate means any on-site sign displayed for the purpose of offering real property for sale, lease, rental, or development.

Sign, roof means any on-site sign erected upon or above the roof or parapet of a building or structure, exclusive of any sign attached to an architectural feature such as a mansard roof, and/or any other feature simulating a roof. Note: roofline of a mansard roof and/or any other architectural feature simulating a roof shall be defined as the uppermost line of that architectural feature, which uppermost line shall never extend beyond the top of the existing parapet.

Sign, sandwich means any single or double faced A-FRAME sign which is portable and may readily be moved from place to place. This sign is generally freestanding and not affixed to the ground in any way, although some temporary type of attachment to the ground is occasionally used.

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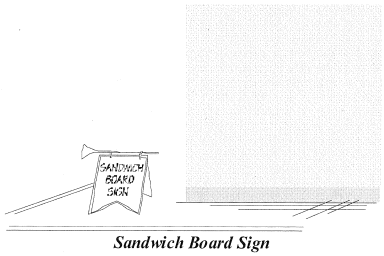


*Sandwich Board Sign*

Sign, shopping center means an on-site sign for a neighborhood, community, or regional shopping facility composed of various commercial sales, services and the like containing a group of businesses (three (3) or more) that function as an integral unit utilizing common offstreet parking and access.

Sign, snipe means an off-premises sign which is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.

Sign, vehicle or portable trailer means any sign erected upon a vehicle where the principal purpose of the vehicle is not general transportation, but the support of the sign itself. Signs mounted upon taxis, buses, or other modes of general public transportation when in the course of their normal service are excluded from this definition.

Sign, wall means any on-site sign attached to or erected against the wall of a building with the face of the sign in a plane approximately parallel to the plane of the wall on which it is attached or erected. This definition includes signs painted on the surface of a wall.

Sign, window means any display of lettering, text, words, graphics, symbols, pictorial presentation, numerals, trademarks, numbers, logos, crests, emblems, or any part or combination or other devices used to attract attention, or to identify, or as an announcement that is posted, painted, placed, or attached to or projected upon a window exposed to public view or is visible to persons outside the building. This shall include signs visible or located within ten (10) feet of the interior of a glass area with the intent of being visible from the exterior portions of the building. This does not include merchandise displays or similar fixtures (see illustration).

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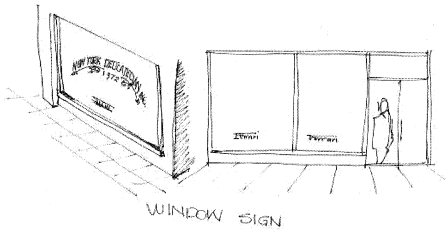


~~Site means the spatial location of an actual or planned structure, set of structures or use(s). See also "Building site".~~

Site plan means a comprehensive plan drawn to scale indicating site elements, roadways and location of all relevant site improvements including structures, parking, paved areas, ingress and egress access, landscaped areas, open spaces and signage.~~Site plan means a drawing illustrating a proposed development in accordance with the city's requirements for applications for development approval.~~

Site plan approval means an approval of the site plan by the properly designated city agency, department or official.

Sound level meter means an instrument or apparatus including a microphone, an amplifier, an output meter, and weighting networks for the measurement of sound pressure. The output meter accurately reads sound pressure level when properly calibrated, and the instrument is of type 2 or better, as specified in the American National Standards Institute Publication S1.4-1971.

Sound nursery practices mean the procedures of landscape nursery work that comply with the standards set by the Florida Department of Agriculture and Consumer Services.

Sound truck means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon, or attached thereto, any sound-amplifying equipment.

Sound-amplifying equipment means any machine or device for the amplification of the human voice, music, or any other sound. The term sound-amplifying equipment shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. Sound-amplifying equipment, as used in this chapter, shall not include warning devices of authorized emergency vehicles or horns or other warning devices or any vehicle used only for traffic safety purposes or security alarm systems of any vehicle.

Spa or hot tub means a pool used exclusively in conjunction with high velocity air or high velocity water recirculation systems, utilizing hot, cold or ambient temperature water. A spa or

hot tub shall have a maximum capacity of three thousand two hundred fifty (3,250) gallons and shall have a maximum depth of four (4) feet.

Specified anatomical areas means:

(1) Less than completely and opaquely covered:

a. Human genitals or pubic region;

b. Buttocks;

c. Female breast below a point immediately above the top of the areola.

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of cunnilingus, fellatio, masturbation, sexual intercourse, or sodomy, whether such acts are actual or simulated;

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

Specimen tree means almost any tree with a trunk diameter (or the sum of multiple tree trunk-diameters) at breast height of eighteen (18) inches and greater when measured at a point four and one-half feet (4 ½') from the ground at natural grade, and not listed on the prohibited species list. It may also be a tree having a significant purpose or designation, or of a rare species as determined by the community planning and development department.

Spiking means the insertion, whether vertically or horizontally, of foreign objects into the base of the tree or its root system.

Sponsoring agency means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.

Spray head means an irrigation device which applies water to the soil or plant surface by fixed spray or mist nozzles.

Sprinkler head means a sprinkler head that provides aboveground or overhead irrigation.

Stabilized lawn area means an area of ground underlain with structural support in the form of grass pavers or stabilized soil prepared to withstand the load of intended vehicular use, such as automobiles, fire trucks and garbage trucks.

Staggered work hours means a situation where an employer varies work shifts for employees by staggering beginning and end times. For example, twenty (20) employees work from 7:00 a.m. to 4:00 p.m., and another forty (40) employees work from 8:00 a.m. to 5:00 p.m., thereby reducing the number of trips arriving or leaving a place of employment at one (1) time.

State of the art means existing technology where the level of facilities, technical performance, capacity, equipment, components and service equal to that developed and

demonstrated to be more technologically advanced than generally available for comparable service areas in South Florida.

Stealth facility means any telecommunications facility that is designed to blend into the surrounding environment. For example, architecturally screened roof mounted antennae, building-mounted antennae painted to match the existing structure, antennae integrated into architectural elements, and communication towers designed to look like light poles, power poles, or trees.

Stormwater retention/detention area means an area designed, built and used for temporary storage of stormwater; these areas are intended to be permanently exempt from wetland regulations.

Storage and wholesaling facility means any premises where the principal use is the storage of goods and materials, or the sale of goods and materials in bulk quantities primarily for purposes of resale.

Storage warehouse means a structure which is designed and used for the containment of bulk products or materials of either dry, liquid, or cold storage nature and where goods are received and/or stored for delivery to an ultimate customer at remote locations primarily for the purpose of resale.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor next above, then the space between such floor and the ceiling next above it. A basement shall be counted as a story if its ceiling is equal to or greater than four (4) feet above grade.

Street means a public or private dedicated thoroughfare that affords the principal means of access to abutting property.

Street Tree Management Plan means the street tree management manual adopted by the City Council of the City of North Miami, which may be amended from time to time.

Structure means anything constructed or erected, the use of which requires a permanent location in or on the ground or attachment to something having a permanent location on the ground (section 29-2).

Structure, substantially destroyed means a structure where the cost of reconstruction is fifty (50) percent or more of the fair market value of the structure before the calamity.

Studio (fine arts) means an indoor use for the business of instructing one (1) or more persons, either children or adults in any of the following fine arts: voice, music, dancing, gymnastics, graphic/visual art, craft, design, art gallery/studio, pilates, martial arts, and ceramic studios and other like uses as determined by the city.

Substance abuse treatment facility means a service provider or facility that is:

(1) Licensed or required to be licensed pursuant to F.S. § 397.311 (18); or

(2) Used for room and board only and in which treatment and rehabilitation activities are provided at locations other than the primary residential facility, whether or not the facilities used for room and board and for treatment and rehabilitation are operated under the auspices of the same provider. For the purposes of this subsection, service

providers or facilities which require tenants or occupants to participate in treatment and rehabilitation activities, or perform testing to determine whether tenants or occupants are drug and/or alcohol free, as a term or condition of, or essential component of, the tenancy or occupancy shall be deemed to satisfy the "treatment and rehabilitation activities" component of this definition.

In addition, community residential homes are regulated by article 4 and F.S. § 419.001, and therefore are not substance abuse treatment facilities.

Substantial improvement means as defined in the Florida Building Code and F.S. § 161.54.

Substantial rehabilitation means rehabilitation, the cost of which exceeds fifty (50) percent of the replacement value of the building, structure or improvement, as determined by the county property appraiser's office, and resulting in a structure which meets all applicable requirements of the city property maintenance standards, the Florida Building Code, and the fire prevention and safety code.

Summer kitchen means an outdoor cooking facility not intended or used as the primary cooking facility or kitchen that may consist of an under the counter refrigerator, grill, burner(s), rotisserie, smoker or sink, or any combination of the above.

Survey, certified means a survey, sketch, plan, map or other exhibit is said to be certified when a written statement regarding its accuracy or conformity to specified standards is signed by a registered surveyor, and shall show property corner stakes; property line dimensions; interior property line angles; existing structures, their dimensions and relation to property lines; general elevation of property; all existing utilities and related data; existing right-of-way; easements of record; existing sidewalks; general block plan and other pertinent survey data.

Swimming pool means a structure containing a body of water intended for recreational purposes, including a wading pool having a depth of more than eighteen (18) inches and a water surface area of more than two hundred fifty (250) square feet, but not including an ornamental reflecting pool or fish pond located and designed so as not to create a hazard or be used for swimming or wading.

Tattoo parlor means any place in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

Telecommunications company shall have the meaning set forth in F.S. § 364.02(12), as amended. The term "Telecommunications company" does not include an open video system or cable services provider.

Telecommunications facilities, facilities or systems means cables, conduits, converters, splice boxes, cabinets, handhodes, manholes, vaults, equipment, drains, surface location markers, appurtenances, and related facilities located, to be located, used, or to be used, by a telecommunications service provider in the public rights-of-way of the city and used or useful for the transmission of telecommunications services.

Telecommunications facility means a facility that is used to provide one (1) or more telecommunications services, including, without limitation, radio transmitting towers, other supporting structures, and associated facilities used to transmit telecommunications signals. An open video system is not a telecommunications facility to the extent that it provides only video services; a cable system is not a telecommunications facility to the extent that it provides only cable service.

Telecommunications service shall include, without limitation, local service, toll service as defined in F.S. § 203.012(7), telegram or telegraph service, teletypewriter service, private communication service as defined in F.S. § 203.012(4), or any other provision of two-way communications services to the public for hire. "Ttelecommunications service," as contemplated herein, does not include the provision of service via an open video system, or cable services which shall require separate authorizations from the city.

Telecommunications service provider shall refer to any person providing telecommunications services, as defined herein, through the use of a telecommunications facility.

Telecommunications services means the offering of telecommunication (or the transmission, between or among points, specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received), for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Personal wireless communication services shall not be considered as essential services, public utilities or private utilities.

Telecommunications tower height when referring to a communications tower or other structure, the distance measured from the finished grade of a parcel to the highest point on the tower or other structure, including the base pad and any antenna, but excluding lights and lighting rods.

Telecommunications tower or tower means any structure, and support thereto, designed and constructed primarily for the purpose of supporting one (1) or more antennas intended for transmitting or receiving personal wireless services, telephone, radio and similar communication purposes, including lattice, monopole and guyed towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures, among others.

Telecommuting means the use of communication devices such as facsimile, modem, computer, or other machine to perform a minimum of twenty (20) percent of an employee's business activities at the employee's home or employee's satellite location without commuting to a principal place of employment.

Temporary irrigation systems means a system including surface distribution elements (hose, pipe, etc.) which may be easily removed when landscape is established.

Temporary use means a nonpermanent use permitted for a limited period of time by these regulations. See article 5, division 19.

Threatened trees mean species of plant native to the state that are in rapid decline in the number plants within the state, but which have not so decreased in such numbers as to cause them to be endangered.

Thrift store or resale shop means an establishment wherein secondhand articles are sold, such as clothing, shoes, accessories, furniture and other assorted items, the value of which is only a fraction of the original cost, for which price guides are not available, and which normally have no collectible or antique value. This term shall not apply to businesses which sell primarily new goods, and which may occasionally sell secondhand articles as a result of trade-ins, or unclaimed merchandise.

Towing or wrecking yard means a place where more than one (1) tow truck is parked and/or where damaged, inoperable or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought or sold.

Townhouse means a building or structure designed for or occupied by no more than one (1) family or household and attached to other similar buildings or structures by not more than two (2) party walls extending from the foundation to the roof, providing two (2) direct means of access from the outside, and cooking, sleeping and sanitary facilities for the use of each family or household of the townhouse. A townhouse may include a building or structure in fee simple, condominium, cooperative or leasehold ownership or any combination thereof.

Townhouse lot means the lot upon which an individual townhouse dwelling unit is constructed.

Townhouse row means a group of attached townhouses.

Trailer means a portable living unit other than a mobile home and less than ten (10) feet in width, and may include the following:

(1) Dependent trailer. A trailer having sleeping and usually kitchen facilities only and which is dependent upon a service building for toilet and lavatory facilities.

(2) Self-contained trailer. A trailer which can operate for short periods of time independent of connections to sewer, water, and electric systems. It contains a water-flushed toilet, lavatory, shower and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.

(3) Pickup coach. A pickup coach is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

(4) Motor home. A motor home is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

Trailers, trailer coaches and fifth-wheel trailers means recreational vehicles constructed with integral wheels to make them mobile and intended to be towed by passenger cars, station wagons and/or light pickup or panel trucks and similar motor vehicles, but not including truck tractors of any type.

Transient means an individual passing through a place with only a brief stay or sojourn.

Transient lodging facility means a dwelling in which each unit contains sleeping facilities, and which may or may not include cooking facilities, intended for more or less temporary occupancy. Motels are typical transient lodging facilities.

Transit subsidies means the provision of reimbursement or payment of transit fare (for example, tickets, tokens, or passes) to business occupants of a building to encourage use of public transit.

Transportation demand management program or TDM program means the alteration of travel behavior through programs of incentives, services, and policies shall be a program comprised of one (1) or more of the following program elements: bus pool, car pool, compressed work week, flex time, public transit, ride-matching, ride sharing, shared shuttle, shower and locker facilities, shuttle, staggered work hours, telecommuting, transit subsidies or van pool.

Travel trailer means a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses permanently identified as a travel trailer by the manufacturer.

~~Trees means any self-supporting woody plant which usually produces one (1) main trunk, and a more or less distinct and elevated head with many branches.~~ Tree means any self-supporting woody plant or palm which usually has a single main axis or trunk, with a minimum trunk diameter at breast height of two (2) inches and a minimum overall height of twelve (12) feet. This definition excludes plants which are defined as shrubs, hedges, vines, or ground covers. Palms shall have a minimum height of fourteen (14) feet in order to be classified as a tree.

Tree abuse means:

(1) Damage inflicted upon any part of a tree, including the root system, by machinery, construction equipment, cambium layer penetration, storage of materials, soil compaction, excavation, chemical application or spillage, or change to the natural grade.

(2) Hatracking.

(3) Girdling or bark removal of more than one-third ( 1/3 ) of the tree diameter.

(4) Tears and splitting of limb ends or peeling and stripping of bark resulting from improper pruning techniques not in accordance with the current ANSI A300 Standards.

Tree canopy means the aerial extent of the branches and foliage of a tree as defined by the drip line.

Tree removal means the act of cutting down, destroying, moving, or effectively destroying any tree situated on any private or public property within the city.

Tree services means any licensed person, arborist, company, corporation, or service provider which for compensation or a fee, transplants, removes, prunes, trims, repairs, injects or performs surgery upon a tree, whether or not in addition to other services.

Triplex means a building designed for and occupied exclusively as home or residence for three (3) families. Such building shall have three (3) separate entrances and each dwelling unit shall be self-contained.

Truck means ~~a truck is~~ a self-propelled device, licensed by the State of Florida, having a classification of one-half (½) ton or greater and by which any person or property may be propelled, moved or drawn upon a street or highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

Trunk Diameter Method shall have the meaning as defined by the current edition of the International Society of Arboriculture's Best Management Practices (BMP), Managing Trees During Construction.

Understory means the complex of woody, fibrous, herbaceous and graminoid plant species that are typically associated with a natural forest community, native plant community, or native habitat.

Urban place of public assembly means an open space, or plaza that is open to the public and is improved with pavers, decorative paving and amenities such as seating, and ornamental fountains.

Usable open space for multifamily structures means that space upon the lot or parcel to which it is appurtenant, which can be used by inhabitants of the property for outdoor activity and/or recreation and shall include landscaping. All such areas shall be readily accessible to the inhabitant(s) of the property. Usable open space does not include driveways, balconies, open or covered parking areas or utility space such as trash or garbage areas. The required yards may be counted if they are directly accessible to the dwelling units. Artificial water area, created from privately owned land within lots or project areas in which this regulation applies, may be calculated as usable open space, provided that water area shall not be credited as more than ten (10) percent of the total required open space. When development projects include several dwelling structures and common land and/or water open space, the total usable open space shall equal or exceed the area required by the total number of dwelling units.

Use means any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; or any occupation, business, activity, or operation carried on or intended to be carried on in a building or other structure or on land.

Utility shed means a permanent structure, which may be attached to or separated from the main building, used for the storage, shelter or enclosure of chattels or property of any kind related to the maintenance of the premises to which it serves, but shall not be used as a place of abode, garage or for the keeping of animals.

Van means ~~a van is~~ usually an enclosed wagon or motor truck, licensed by the State of Florida, and by which one (1) or more people or property may be transported.

Van pool means five (5) or more people traveling together on a continuing and pre-arranged basis in a van-type or similar type vehicle.

Variety store means a retail store that sells a wide variety of relatively small and inexpensive items.

Vegetation required to be preserved by law means any portion of a site, including but not limited to specimen trees, natural forest communities and native vegetation which are clearly delineated on site plans, plats, or recorded restrictions, or in some other legally binding manner that are to be protected from any tree or understory removal or effective destruction and maintained without any development.

Vegetation survey means a drawing provided at the same scale as the landscape plan which includes relevant information as required by division 12, article 5.

Vehicle means a conveyance for persons or materials.

(1) Commercial vehicle. Any vehicle, designed, intended, or used for transportation of people, goods or things, whether requiring a commercial license or not, whether for hire or not, except those private passenger vehicles and private trailers used for nonprofit transportation of goods, and except those light (less than three-quarter (¾) ton capacity) vehicles, displaying no advertising and used solely for personal transportation.

(2) Private vehicle. A vehicle no larger than three-quarter ton capacity, displaying no advertising and is used for personal transportation.

(3) Recreational vehicle. See section 29-15.

Vehicle rental means the leasing or rental of new or low mileage automobiles, small trucks (one (1) ton and under) and vans (less than one (1) ton) on a single parcel of land in the C-1 district, not including an out parcel, independent of any other uses on the same parcel of land and specifically not including vehicle service or car washing.

Vehicle sales/displays means a business or commercial activity involving the display and/or sale of principally new automobiles, small trucks and vans and other small vehicular or transport mechanisms and including vehicle service. The sale of previously owned vehicles shall only be permitted as subordinate to the principal use.

Vehicle sales/displays, major means a business or commercial activity involving the display and/or sale or rental of boat and marine vessels, recreational vehicles, heavy equipment, mobile homes, and other vehicular or transport mechanisms and including vehicle service.

Vehicle service means an activity conducted entirely within an enclosed structure primarily involved in servicing or repairing of automobiles, motorcycles, trucks, recreational vehicles and other similarly sized vehicular or transport mechanisms or heavy machinery. Vehicle services include washing, waxing, changing oil, tuning, installing mufflers or detailing, window tinting, shock absorbers, and painting.

Vehicle sales/displays, used means a business or commercial activity involving the display, rental and/or sale of used automobiles, small trucks and vans on a single parcel of land, not including an out parcel, independent of any other uses on the same parcel of land and specifically not including vehicle service or car washing.

Vehicle service, major means vehicle and boat repairs conducted entirely inside a building which include engine repairs where the cylinder head, pan or exhaust manifold is removed; steam cleaning of engines; undercoating; vehicle spray painting; auto glass repair and replacement; repair and replacement of transmission, differential, transaxles, shaft and universal joints, wheel and steering linkages and assemblies; rebuilding and upholstering the interior of vehicles; customizing, restoration or rebuilding of vehicles; chassis, frame, body, fender and bumper molding, straightening, replacement and finishing; and repairs involving extensive welding, racing of engines or lengthy or overnight idling of engines.

Vehicle service, minor means an activity conducted entirely within an enclosed structure primarily involved in servicing or repairing of automobiles, motorcycles, trucks, recreational

vehicles and other similarly sized vehicular or transport mechanisms or heavy machinery. Vehicle services include washing, waxing, changing oil, tuning, installing mufflers or detailing, window tinting, shock absorbers, and painting.

Vehicle sign means a sign affixed in any manner to, contained within, or painted on a transportation vehicle including automobiles, trucks, van, boats, trailers, bicycles, golf carts, and recreational vehicles, whether stationary or in motion, with the primary purpose of calling attention to a business establishment, service, production or event. This term shall not be interpreted to apply to vehicles that are operational with signs that identify the owner make, model or contents of the vehicle, which are moved and used daily for delivery or service purposes, and are not used, or intended for use, as portable signs. This term shall also not be interpreted to apply to common carrier vehicles which are licensed or certified by the city or other governmental agency, or information on vehicles required by law.

Vehicular use area means a hard surface area designed or used for off-street parking and/or an area used for loading, circulation, access, storage, including fire trucks, garbage trucks, or display of motor vehicles.

Vessel means any watercraft or other artificial contrivance used or capable of being used as a means for transportation on water.

Vested rights determination means a certificate issued by the department of community planning and development after city council approval, indicating the possession of vested rights to development, the extent of these vested rights and the time period during which these vested rights remain valid (article 3, division 13).

Veterinary clinics means an establishment providing for the short-term care of domestic animals by a veterinarian when such is conducted wholly within a building having no provision for outside storage and for which the keeping of animals is limited to short-term medical care.

Vine means a plant with a flexible stem which normally requires support to reach mature form.~~Vines mean a plant whose stem and branches are too thin and weak to grow and remain erect without support.~~

Visibility or sight triangle means the area of the corner lot closest to the intersection which is ~~keep~~ kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. See article 5, division 9.

Wall means a masonry structure forming an enclosure or demarcating a division.

Warehouse means a structure which is designed and used for the containment of bulk products or materials of either dry, liquid, or cold storage nature.

Watercraft ~~means any vehicle or contrivance used or capable of being used for navigation upon water whether or not capable of self-propulsion~~(see Vessel).

Waterfront premises means any site when any or all of its lot lines abut on or are contiguous to any body of water, including creek, canal, bog, river or any body of water, natural or artificial, not including a swimming pool, whether said lot line is front, side or rear.

Waterway means all waters within the city boundaries included in its charter, or as defined by state law, the State Constitution or the Federal Constitution or acts of congress.

Weekday means any day Monday through Friday that is not a legal holiday.

Whip antenna means a cylindrical antenna that transmits signals in three hundred sixty (360) degrees.

Wholesale facility means an establishment which, usually as an intermediate distributor, sells goods or products in bulk quantity to retail and personal service stores or other commercial establishments and does not deal directly with the ultimate consumer.

Workforce household means a household comprised of one (1) or more persons at least one (1) of which is an essential services personnel comprised of teachers and educators; artists and creative professionals; school district, community college and university employees; law enforcement personnel; fire and rescue personnel; health care personnel; persons employed in local businesses essential to the county's economy; county and local government personnel; utility (water/sewer, electric, communication) personnel; information technology personnel; child care personnel; and skilled trades and others employed in positions that provide government and municipal services essential to maintaining a high quality of life in and for North Miami, Florida.

Workforce housing means housing which is affordable to a workforce household with an adjusted gross income which is not less than eighty (80) percent and does not exceed one hundred forty (140) percent of the median income in the city.

Wrecker means a motor vehicle designed to be used primarily for removing or towing wrecked or disabled or stuck vehicles. Also known as a "tow truck."

Yard, required means an open space of ~~or~~ prescribed width and/or depth on the same land with a building or group of buildings, which open space lies between the nearest lot line and the required setback line and is unoccupied and unobstructed from the ground upward except for landscaping, fences, walls or other permitted structures and permitted accessory uses.

Yard sale, garage sale, lawn sale, moving sale, rummage sale means the sale of used or old personal effects, such as clothing, furnishings, decorative objects, furniture, books, appliances, home grown produce, or items customarily found on a residential property that were not purchased or obtained for resale (article 5, division 19).

(Ord. No. 1278, § 1(exh. 1), 4-28-09; Ord. No. 1293, § 1, 2-9-10; Ord. No. 1343, § 1, 10-23-12; Ord. No. 1387, § 1, 6-23-15)


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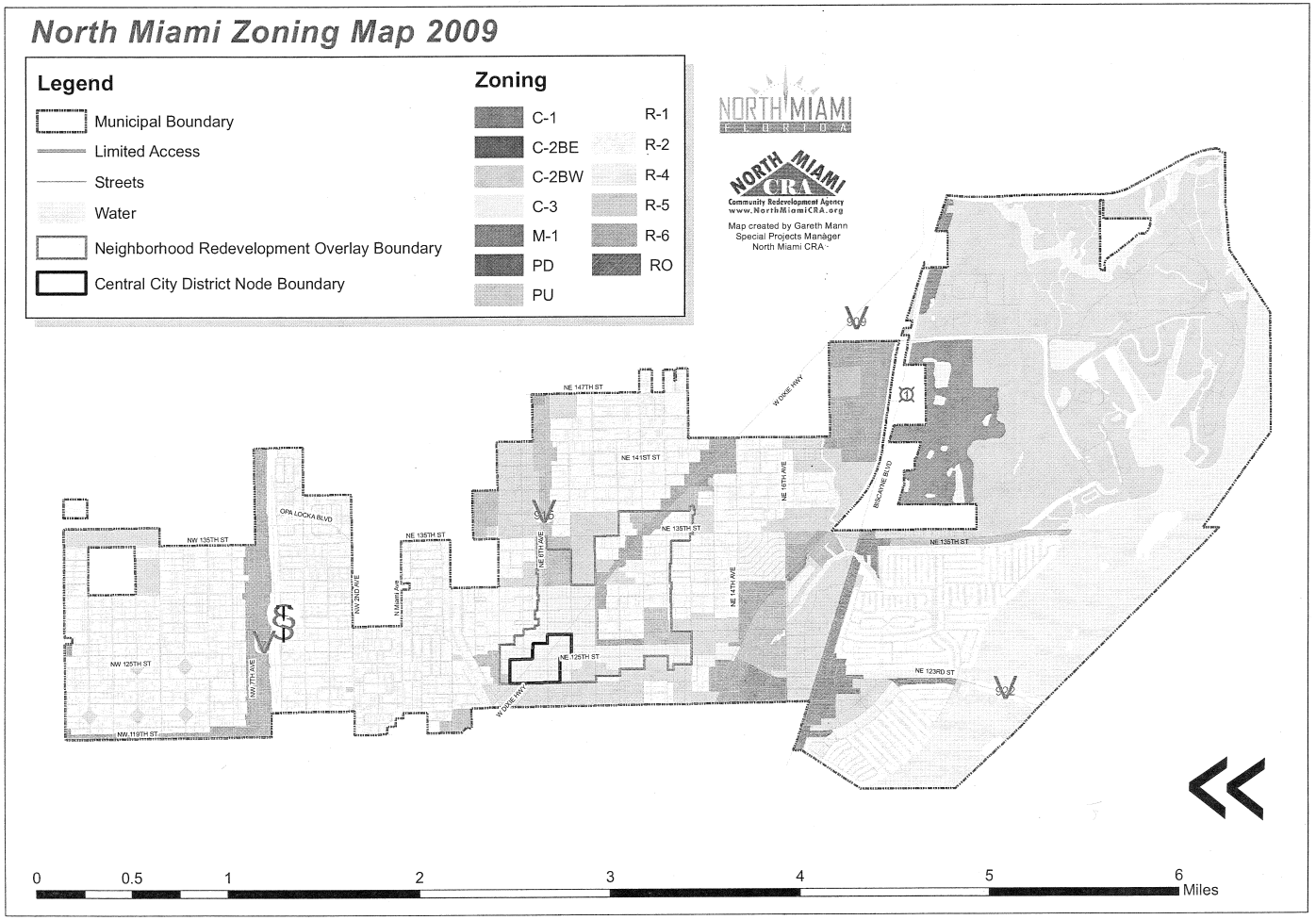
North Miami Zoning Map 2009
Legend
Municipal Boundary
Limited Access
Streets
Water
Neighborhood Redevelopment Overlay Boundary
Central City District Node Boundary
Zoning
C-1
C-2BE
C-2BW
C-3
M-1
PD
PU
R-1
R-2
R-4
R-5
R-6
RO
NORTH MIAMI FLORIDA
NORTH MIAMI CRA
Community Redevelopment Agency
www.NorthMiamiCRA.org
Map created by Gareth Mann
Special Projects Manager
North Miami CRA
NE 147TH ST
NE 141ST ST
NE 135TH ST
NE 125TH ST
NE 123RD ST
NW 135TH ST
NW 125TH ST
NW 119TH ST
W DIXIE HWY
BISCAYNE BLVD
OPA LOCKA BLVD
NW 2ND AVE
NW 7TH AVE
NE 6TH AVE
NE 15TH AVE
NE 14TH AVE
N Miami Ave
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Miles


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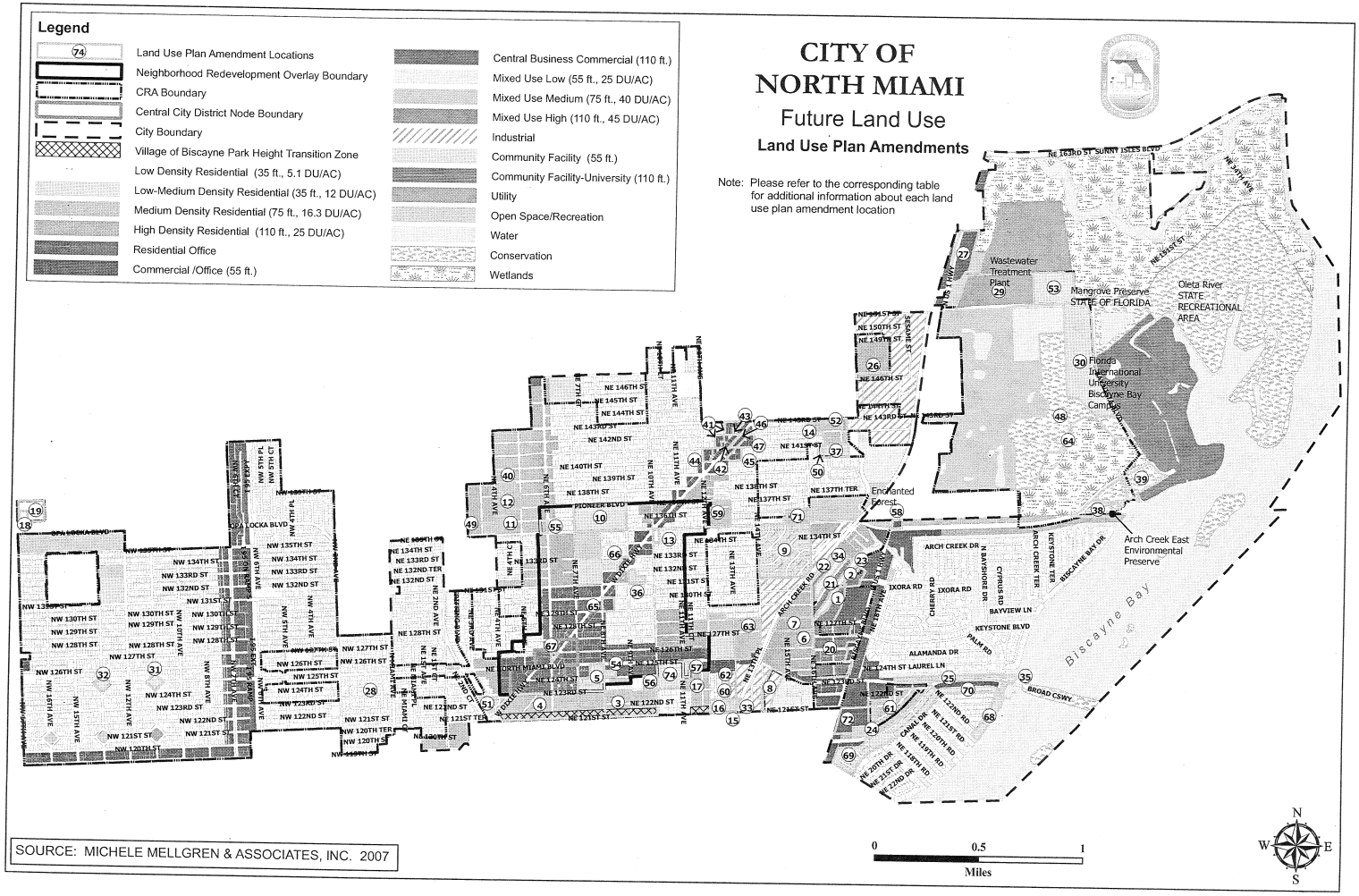
Legend
Land Use Plan Amendment Locations
Neighborhood Redevelopment Overlay Boundary
CRA Boundary
Central City District Node Boundary
City Boundary
Village of Biscayne Park Height Transition Zone
Low Density Residential (35 ft., 5.1 DU/AC)
Low-Medium Density Residential (35 ft., 12 DU/AC)
Medium Density Residential (75 ft., 16.3 DU/AC)
High Density Residential (110 ft., 25 DU/AC)
Residential Office
Commercial /Office (55 ft.)
Central Business Commercial (110 ft.)
Mixed Use Low (55 ft., 25 DU/AC)
Mixed Use Medium (75 ft., 40 DU/AC)
Mixed Use High (110 ft., 45 DU/AC)
Industrial
Community Facility (55 ft.)
Community Facility-University (110 ft.)
Utility
Open Space/Recreation
Water
Conservation
Wetlands
CITY OF NORTH MIAMI
Future Land Use
Land Use Plan Amendments
Note: Please refer to the corresponding table for additional information about each land use plan amendment location
Wastewater Treatment Plant
Mangrove Preserve STATE OF FLORIDA
Oleta River STATE RECREATIONAL AREA
Florida International University Biscayne Bay Campus
Enchanted Forest
Arch Creek East Environmental Preserve
Biscayne Bay
SOURCE: MICHELE MELLGREN & ASSOCIATES, INC. 2007
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1
Miles
N
W
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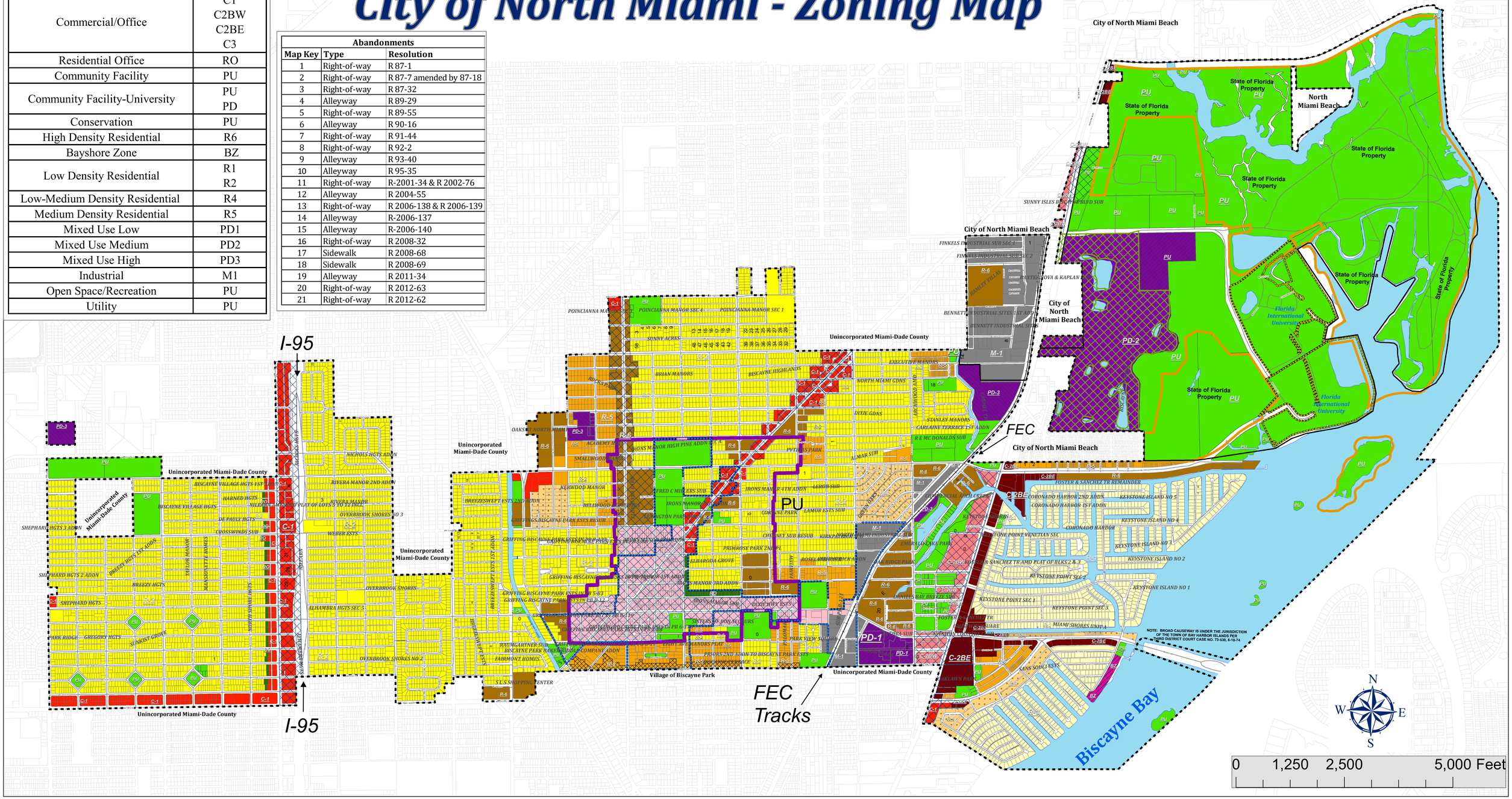
S

# City of North Miami - Zoning Map

| Legend (Land Use to Zoning translation) | |
|---|---|
| **Future Land Use** | **Zoning** |
| Central Business Commercial | C3 |
| Commercial/Office | C1<br>C2BW<br>C2BE<br>C3 |
| Residential Office | RO |
| Community Facility | PU |
| Community Facility-University | PU<br>PD |
| Conservation | PU |
| High Density Residential | R6 |
| Bayshore Zone | BZ |
| Low Density Residential | R1<br>R2 |
| Low-Medium Density Residential | R4 |
| Medium Density Residential | R5 |
| Mixed Use Low | PD1 |
| Mixed Use Medium | PD2 |
| Mixed Use High | PD3 |
| Industrial | M1 |
| Open Space/Recreation | PU |
| Utility | PU |

| Abandonments | | |
|---|---|---|
| **Map Key** | **Type** | **Resolution** |
| 1 | Right-of-way | R 87-1 |
| 2 | Right-of-way | R 87-7 amended by 87-18 |
| 3 | Right-of-way | R 87-32 |
| 4 | Alleyway | R 89-29 |
| 5 | Right-of-way | R 89-55 |
| 6 | Alleyway | R 90-16 |
| 7 | Right-of-way | R 91-44 |
| 8 | Right-of-way | R 92-2 |
| 9 | Alleyway | R 93-40 |
| 10 | Alleyway | R 95-35 |
| 11 | Right-of-way | R-2001-34 & R 2002-76 |
| 12 | Alleyway | R 2004-55 |
| 13 | Right-of-way | R 2006-138 & R 2006-139 |
| 14 | Alleyway | R-2006-137 |
| 15 | Alleyway | R-2006-140 |
| 16 | Right-of-way | R 2008-32 |
| 17 | Sidewalk | R 2008-68 |
| 18 | Sidewalk | R 2008-69 |
| 19 | Alleyway | R 2011-34 |
| 20 | Right-of-way | R 2012-63 |
| 21 | Right-of-way | R 2012-62 |




**New Zoning**

- C-1 (55 ft)
- C-2BE (55 ft)
- C-2BW (55 ft)
- C-3 (150 ft)
- M-1
- PD-1 (55 ft, 25 DU/AC)
- PD-2 (75 ft, 40 DU/AC)
- PD-3 (110 ft, 45 DU/AC)
- PU (55 ft / 110 ft univ)
- R-1 (35 ft, 5.1 DU/AC)
- R-2 (35 ft, 5.1 DU/AC)
- R-4 (35 ft, 12 DU/AC)
- R-5 (75 ft, 16.3 DU/AC)
- R-6 (110 ft, 25 DU/AC)
- BZ (115 ft, 100 DU/AC)
- RO (35 ft)

- City Limits
- Florida International University
- Arts & Design Overlay District
- Regional Activity Center
- State of Florida Land
- Neighborhood Redevelopment Overlay Boundary
- Biscayne Park Height Transition Zone
- Planned Corridor Development Overlay
- Planned Community Urban Design Overlay


KEITH & SCHNARS

6500 North Andrews Avenue
Fort Lauderdale, FL 33309 Tel: (954) 776-1616


*April 26 2017, Map Created By Keith & Schnars for City of North Miami*

# Cargo delivery at PortMiami terminal paralyzed after cyber attack

BY ELIZABETH KOH
*ekoh@miamiherald.com*

Some dry cargo delivery at PortMiami has come to a halt this week after a cyber attack hit a company that operates in one of the terminals.

The South Florida Container Terminal's website said Tuesday that its IT systems had been taken down and that it was closed to processing trucks, though it did not specify the cause.

The terminal is a partner of APM Terminals, a subsidiary of A.P. Moller-Maersk. Maersk was hit by a global cyber attack that hacked 17 shipping container terminals run by APM Terminals, Reuters reported Tuesday.

APM Terminals did not name the affected terminals in a statement but said those terminals had "implemented business continuity plans." The group operates nearly 200 port and inland facilities in 61 countries, according to its website.

The South Florida Container Terminal's website said the terminal would be open Thursday only to pick up live refrigerated containers from 8 a.m. to 3:30 p.m., and that dry cargo would still not be delivered nor any containers received. The website did not specify when the terminal might return to normal operations.

Companies that expected to receive shipments from the South Florida Container Terminal have been unable to pick them up, said Jerry Duitz, who runs a uniform clothing company based in New York that was expecting a container Wednesday.

"It presents a lot of problems," he added, saying that the retailers who sell his company's scrubs are stuck. "We can't deliver. They can't sell it."

Calls to the terminal director and the port's public affairs office were not returned Thursday afternoon.

## DIVIDENDS

| Period | Stk | rate | of record | payable |
|---|---|---|---|---|
| **IRREGULAR** | | | | |
| Greenbrier Cos | Q | .22 | 7-18 | 8-8 |
| Worthington Indust | Q | .21 | 9-15 | 9-29 |
| SPECIAL | | | | |
| Banner Corp | * | 1.00 | 7-10 | 7-18 |
| Territorial Bncp | * | .10 | 7-12 | 7-26 |
| **REGULAR** | | | | |
| Banner Corp | Q | .25 | 7-10 | 7-18 |
| Cantel Medical | S | .07 | 7-17 | 7-31 |
| Constellation Brands | Q | .52 | 8-9 | 8-23 |
| Dentsply Sirona | Q | .08759 | 9-31 | 10-13 |
| Hingham Inst Svgs | Q | .32 | 7-10 | 7-19 |
| Lennar Corp A B | Q | .04 | 7-13 | 7-27 |
| Limoneira Co | Q | .055 | 7-10 | 7-18 |
| Pier 1 Imports | Q | .07 | 7-19 | 8-2 |
| Progress Software | Q | .125 | 9-1 | 9-15 |
| Utd Security Bcshs | Q | .05 | 7-7 | 7-21 |
| Walt Disney Co | S | .78 | 7-10 | 7-27 |

g-Payable in Canadian funds



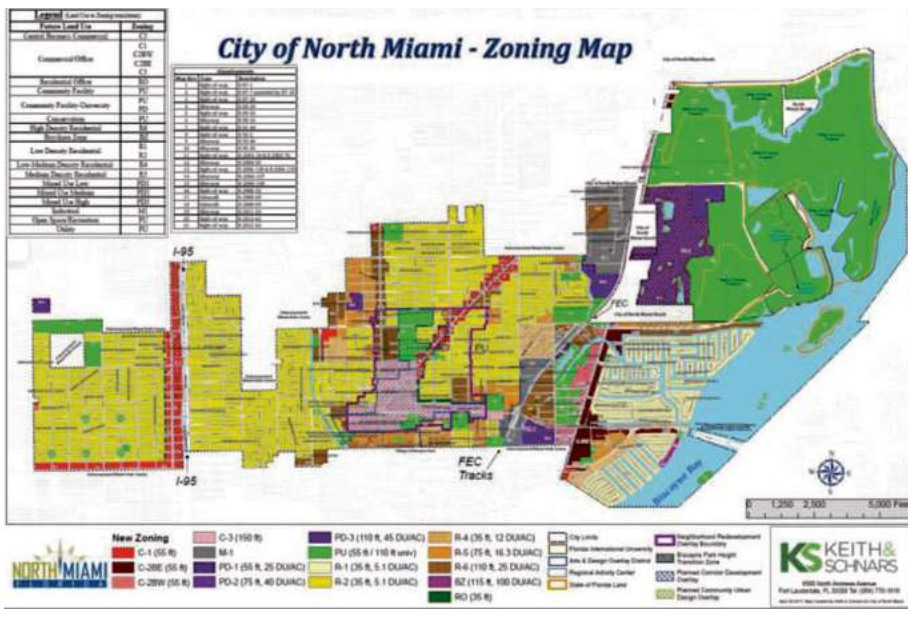
NORTH MIAMI FLORIDA

## NOTICE OF LAND DEVELOPMENT REGULATIONS TEXT AMENDMENT AND OFFICIAL ZONING MAP AMENDMENT

### CITY OF NORTH MIAMI, FLORIDA

NOTICE IS HEREBY GIVEN that the City of North Miami, Florida will hold a Second Public Hearing to consider the following ordinance:

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, REPEALING IN THEIR ENTIRETY CHAPTER 3, ENTITLED "ALCOHOLIC BEVERAGES", CHAPTER 20, ENTITLED "TREE PRESERVATION AND PROTECTION", AND CHAPTER 29A, ENTITLED "WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS" OF THE CODE OF ORDINANCES IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE; AND AMENDING CHAPTER 29, ENTITLED "LAND DEVELOPMENT REGULATIONS" IN THE FORM ATTACHED AS EXHIBIT "A"; PROVIDING FOR AN EXPANDED AND CONSOLIDATED LIST OF DEFINITIONS OF TERMS AND CLARIFICATION OF POWERS AND DUTIES; ESTABLISHING A NEW ZONING APPEALS BOARD, NEW ZONING DISTRICTS AND A NEW OFFICIAL ZONING MAP TO PROVIDE CONSISTENCY WITH AND IMPLEMENT THE CITY'S ADOPTED 2015 EAR-BASED COMPREHENSIVE PLAN AMENDMENTS AND MORE SPECIFICALLY, THE 2036 FUTURE LAND USE MAP OF THE FUTURE LAND USE ELEMENT THEREOF; UPDATING THE CONSOLIDATED TABLE OF PERMITTED USES AND THE CONSOLIDATED TABLE OF DEVELOPMENT STANDARDS; PROVIDING FOR NEW TRANSITION AND SUSTAINABILITY DESIGN STANDARDS AND MORE STREAMLINED, DEVELOPMENT-FRIENDLY PROCEDURAL REQUIREMENTS, IN ACCORDANCE WITH THE APPLICABLE SECTIONS OF CHAPTERS 163 AND 166 OF THE FLORIDA STATUTES (2016); PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.**




**A Second Public Hearing on this Ordinance will be held by the City Council on Tuesday, July 11th, 2017 at 7:00 p.m., or as soon thereafter as the matter can be heard, in the Council Chambers of North Miami City Hall, Second Floor, 776 NE 125 Street, North Miami, Florida 33161.**

Members of the public are invited to attend the Public Hearing and provide oral or written comments on the matter. A copy of the staff report or application materials will be available for public review Monday to Thursday between the hours of 8:15 am and 5:00 pm at the Community Planning and Development Department's office located at 12400 NE 8 Avenue. Written comments may be faxed prior to the meetings to (305) 895-4074 or mailed to: City of North Miami, Community Planning & Development Department, at 12400 NE 8 Avenue, North Miami, Florida 33161. For questions, please call (305) 893-6511.

**ANY PERSON WISHING TO APPEAL THE DECISION OF THE CITY COUNCIL WILL NEED A VERBATIM RECORD OF THE MEETING'S PROCEEDINGS, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED (SECTION 286.0105. F.S.).**

**IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE OFFICE OF THE CITY CLERK NO LATER THAN FOUR (4) DAYS PRIOR TO THE PROCEEDING. TELEPHONE (305) 893-6511, EXT. 12159, FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE OUR TDD LINE AT (305) 895-9825 FOR ASSISTANCE.**

Planning Commission recommendations, 5/17/17; **amended 6/21/17 (new changes are in bold)**

| Location | Recommendation | Comments |
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| Article 2, Division 2, Planning Commission. Section 2-202.A.2. | Restore residency and delete areas of experience for membership on the PC.<br><br>"Each member shall be a resident of the city and shall not hold any other elected public office or city employment within the City during the term of such appointment."<br><br>Restore: "Any member who ceases to reside within the city limits during the term of office shall be deemed to have resigned as of the date of moving from the city." | Since this does not reconfigure the board, the underlined proposed language regarding new appointments in section 2-202.B, could be removed. |
| Article 2, Division 3, Board of Adjustment, Section 2-302.A.2. | Same as above. | Same as above, as to section 2-302.B. |
| Design Review Board | Drafted new Division for adoption, forwarded separately. | |
| Article 4, Division 2, "Districts," Section 4-203.A., Residential Districts. footnote * | The minimum floor area of a dwelling unit in the R-1 district is one thousand five hundred (1,500) square feet, and in the R-2 district it is one thousand (1,000) square feet. Except for college/university dormitories <u>as per the approved campus master plan</u>, ~~and multifamily apartments~~ the minimum size for a dwelling unit in the multifamily residential and mixed use ~~R-4, R-5 and R-6~~ districts is <u>five hundred fifty</u> | |

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| | (550) ~~seven hundred fifty (750)~~ square feet, except that not more than twenty (20) per cent of the residential units in the Overlay and Special Purpose Districts may be five hundred (500) square feet. | |
| Separate Motion | To urge the City Council to amend the comprehensive plan to include residential in the Chinatown district. | |
| **Sec. 3-1407. Impact Fee Schedule.** | **Remove the schedule and have City Council adopt separately by resolution (if permitted by law).** | |
| **Sec. 4-302. Planned development district. (And elsewhere where applicable).** | **Recommends modification of comprehensive plan to require only combination of two or more uses to constitute a mixed use (and remove the requirement of residential).** | |
| **Sec. 4-302.B.2. a and b.** | **a. Reduce the minimum acreage from two (2) acres to one-half acre.**<br>**b. Remove the minimum average width and depth of 100 feet.** | |
| **Sec. 4-202. Types of Uses. Self Storage Facility.** | **Add to fn 5: "Prohibit on 123 – 125 Street from Biscayne Canal to Bayshore Drive, except for projects on 123 Street that have been designed and discussed with staff prior to May 17, 2017, and on which there has been reliance by the property owner, proven to the satisfaction of the city attorney, substantially as designed and discussed with staff."** | |

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| **Sec. 5-101.E. Accessory Use Chart.** | **For Off-street parking structures, add "P"'s to R-5, R-6, M-1 and BZ districts.** | |
| **Same.** | **For Drive-thru facilities, add "SE" to NRO district.** | |
| **Sec. 5-104.I. and Sec. 4-305.C.2.** | **Strike prohibition on drive-throughs in NRO.** | |
| **Sec. 5-109.B.6. Open air dining on public property.** | **Strike prohibition on "planters."** | |
| **Sec. 5-112.C . Unattached accessory structures.** | **Strike paragraph C setting size limits on utility sheds or prefab structures (120 sq. ft.) or other permitted unattached accessory structures (400 sq. ft.).** | **The thought is that the 30% lot coverage of all accessory structures in the rear yard, in new subsection F, provides sufficient regulation of this use.** |
| **Sec. 5-1402. Schedule of required parking.** | **PC recommends that City Council authorize further review of parking requirements.** | **The PC didn't have the time to review individual parking requirements, but believed that further review was necessary to reduce parking requirements.** |
| **Sec. 5-106, and definition in 7-101. " Drop in child care."** | **This is adequately covered in 5-105.A.4., and the section 5-106 and definition should be deleted.** | **The standards requiring parents to remain on site were unenforceable, and unnecessary for these licensed facilities.** |
| **Sec. 5-110.A. Solid waste containers/mechanical equipment.** | **Strike: "or as approved by the development review committee"**<br>**Amend:**<br>**An opaque gate ~~may~~ shall be used on the fourth side.** | **Provides certainty to prevent views of solid waste containers.** |
| **Sec. 5-2307. Pruning or trimming standards.** | **Tree pruning or trimming shall be permitted without a permit provided that the owner follows acceptable pruning/trimming practices...** | **There was no language that actually stated that pruning and trimming are allowed without a permit, even though staff confirmed this was so. This added language confirms it.** |
| **Sec. 5-2101.G.1. Murals. Permitting and review required.** | **Strike "Museum of Contemporary Art."** | |

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| **Sec. 5-2101.G.2. (Same)** | **Change to permit murals in all commercial zoning districts.** | |
| **Sec. 5-802.E.5. Transit oriented design standards. Architectural design.** | **"New buildings shall be oriented so as to face a public street or ~~public~~ active open space accessible to the public."** | |
| **Sec. 5-1405.B.** | **Add new subsection 4: "Boats or boat trailers shall not be stored in the front yard of single-family waterfront residential properties."** | |
| **Sec. 5-1408.A.1.f. Parking garages.** | **"Provide lighting fixtures which are cut-off fixtures or directed (aimed) so that they are not directly visible from any property in ~~the R-1 or R-2 district~~ any abutting or adjacent residential districts within two hundred (200) feet of the parking structure."** | |
| **Sec. 5-1408.A.1.e. Parking garages. Screening.** | **Add new language: "All existing principal and accessory parking garages not in compliance with this section shall be brought into compliance within four (4) years of the adoption of this amendment, to the maximum extent practicable as determined by the Development Review Committee."** | |
| **Sec. 5-1408.A.c. Parking garages. Masking.** | **"Be designed and constructed with architectural features so that the use of the structure for a parking garage is masked from the ~~R-1 or R-2~~** | |

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| | **sides of the structure facing residential zoning."** | |
| **Sec. 5-1203.F.1. Trees. Tree size.** | **Change minimum caliper from two (2) inches to four (4) inches, as provided elsewhere.** | **See subsection 11. But see subsection 2 on Street trees, which keep the two (2) inch caliper.** |
| **Sec. 7-101. Definitions. Retail showroom, automobile.** | **Add: "Automobile retail showrooms on less than one acre shall be for display and/or sale only without servicing of any kind."** | |
| **Same.** | **Strike: "previously sold or leased of the same brand or manufacturer licensed to the retail showroom owner."** | **This change would allow servicing of any brand automobile, and not just manufacturer licensed brands.** |
| **Sec. 7-101. Definitions. School.** | **"School means an educational institution, public, ~~or~~ private or charter, ..."** | |
| **Sec. 7-101. Definitions. School, special or technical.** | **Ends with "such as art and dance." Change to "such as fine, visual, liberal and/or performing arts."** | |
| **Churches** | **Change to religious institutions, wherever found.** | |
| **Sec. 7-101. Definitions. Retail, sales and service.** | **Remove "a maximum of twenty (20) automobiles" and change to "the number of vehicles of which shall be subject to the review and approval of the development review committee."** | |

## Attachment 5

## LDR Scriveners errors/Staff/Attorney Revisions & Edits

| Location | Comment By | Comment | K&S Response |
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| **General Comment** | Staff | Minor typos throughout and error boxes | K&S to fix |
| **General Comment** | Staff | Revisit the Section numbers to ensure consistency (see **Table of Contents**) | K&S to fix |
| **Sec. 2-201(C)** | Staff | Continually plan for the progress and growth of the city with respect to capital projects ~~**and local improvements, as these terms are defined in sections 58 and 111 of the City Charter**~~; assist the city manager and the director of community planning and development department in preparing the capital improvements portion of the annual budget~~**, as contemplated in section 46 of the Charter**~~; and from time to time, recommend to the city council such legislation as may be deemed appropriate to carry out such plans as the commission may decide. | **Removing cross-references to previously amended and no longer relevant provisions of the City Charter.** |
| **Sec. 2-202/2-302** | Staff | Remove references to unexcused and excused absences, and automatic forfeiture. Change to "three (3) absences" and forfeit membership "at the discretion of the City Council." | |
| **Sec. 2-601** | Staff | 1. Fix typo: "virtue"<br>2. Change "so designates" to "may designate" the director of CP&D. | |
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| **Sec. 3-204(3)** | Staff | Substantial compliance | |

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| **Sec. 3-204(15)(f)** | Staff | Unity of TItle | Provide for use of a Declaration in lieu of Unity of Title similar to Section 118-5 of the Miami Beach Code. (See Code excerpt below)<br><br>Sec. 118-5. - Unity of title; covenant in lieu thereof.<br>The term "Unified Development Site" shall be defined as a site where a development is proposed and consists of multiple lots, all lots touching and not separated by a lot under different ownership, or a public right of way. A "Unified Development Site" does not include any lots separated by a public right-of-way or any non-adjacent, non-contiguous parcels.<br>All applications for building permits where buildings and/or improvements are proposed for a single lot, or where building(s) are proposed for a unified development site, shall be accompanied by one of the following documents:<br>(1) Unity of Title. A unity of title shall be utilized when there is solely one owner of the entire Unified Development Site. The unity of title, approved for legal form and sufficiency by the city attorney, shall run with the land and be binding upon the owner's heirs, successors, personal representatives and assigns, and upon all mortgagees or lessees and others presently or in the future having any interest in the property; or<br>(2) Covenant in Lieu of Unity of Title. A Covenant in Lieu of Unity of Title or a declaration of restrictive covenants, shall be utilized when the Unified Development Site is owned, or is proposed for multiple ownership, including, but not limited to, a condominium form of ownership. The covenant in lieu of unity of title shall be approved for |

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| | | | legal form and sufficiency by the city attorney. The covenant in lieu of unity of title shall run with the land and be binding upon the owner's heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest in the property. The covenant shall contain the following necessary elements:<br>a. The unified development site shall be developed in substantial accordance with the approved site plan.<br>b. No modification to the site plan shall be effectuated without the written consent of the then owner(s) of the unified development site for which modification is sought.<br>c. Standards for reviewing a modification to the site plan. A modification may be requested, provided all owners within the original unified development site, or their successors, whose consent shall not be unreasonably withheld, execute the application for modification. The director of the city's planning department shall review the application and determine whether the request is for a minor or substantial modification. If the request is a minor modification, the modification may be approved administratively by the planning director. If the modification is substantial, the request will be reviewed by the DRC, after public hearing. This application shall be in addition to all other required approvals necessary for the modification sought. A minor modification would not generate excessive noise or traffic; tend to create a fire or other equally or greater dangerous hazard; provoke |

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| | | | excessive overcrowding of people; tend to provoke a nuisance; nor be incompatible with the area concerned when considering the necessity and reasonableness of the modification in relation to the present and future development of the area concerned. A substantial modification would create the conditions identified above. A substantial modification may also include a request to modify the uses on the unified development site; the operation, physical condition or site plan. Substantial modifications shall be required to return to the appropriate development review board or boards for consideration of the effect on prior approvals and the affirmation, modification or release of previously issued approvals or imposed conditions.<br>d. That if the unified development site is to be developed in phases, that each phase will be developed in substantial accordance with the approved site plan.<br>e. In the event of multiple ownerships subsequent to site plan approval that each of the subsequent owners shall be bound by the terms, provisions and conditions of the covenant in lieu of unity of title. The owner shall further agree that he or she will not convey portions of the subject property to such other parties unless and until the owner and such other party or parties shall have executed and mutually delivered, in recordable form, an instrument to be known as an "easement and operating agreement" which shall include, but not be limited to:<br>i. Easements for the common area(s) of each parcel for ingress to and egress from the other parcels; |

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| | | | ii. Easements in the common area(s) of each parcel for the passage and parking of vehicles;<br>iii. Easements in the common area(s) of each parcel for the passage and accommodation of pedestrians;<br>iv. Easements for access roads across the common area(s) of the unified development site to public and private roadways;<br>v. Easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in the unified development site;<br>vi. Easements on each parcel within the unified development site for construction of buildings and improvements in favor of each such other parcel;<br>vii. Easements upon each such parcel within the unified development site in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;<br>viii. Easements on each parcel within the unified development site for attachment of buildings;<br>ix. Easements on each parcel within the unified development site for building overhangs and other overhangs and projections encroaching upon such parcel from the adjoining parcels such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;<br>x. Appropriate reservation of rights to grant easements to utility companies;<br>xi. Appropriate reservation of rights to road right-of-ways and curb cuts; |

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| | | | xii. Easements in favor of each such parcel within the unified development site for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and<br>xiii. Appropriate agreements between the owners of the unified development site as to the obligation to maintain and repair all private roadways, parking facilities, common areas and common facilities and the like.<br>xiv. Such easement and operating agreement shall contain such other provisions with respect to the operation, maintenance and development of the property as to which the parties thereto may agree, or the director may require, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan. The planning department shall treat the unified site as one site under these land development regulations, regardless of separate ownerships. These provisions or portions thereof may be waived by the planning director if they are not applicable to the subject property (such as for conveyances to purchasers of individual condominium units). These provisions of the easement and operating agreement shall not be amended without prior written approval of the city attorney.<br>f. The declaration of restrictive covenants shall be in effect for a period of 30 years from the date the documents are recorded in the public records of Miami-Dade County, Florida, after which time they shall be extended automatically for successive periods of ten years |

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| | | | unless released in writing by the then owners and the planning director, acting for and on behalf of North Miami, Florida, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the property for the purposes herein intended.<br>g. Enforcement of the declaration of restrictive covenants shall be by action at law or in equity with costs and reasonable attorneys' fees to the prevailing party. |
| **Sec. 3-207** | Staff | Remove Owner/Builder permit | Leave building permit procedures to building code. |
| **Sec. 3-208** | Staff | Add at end: "... and other applicable provisions of these LDRs." | |
| **Sec. 3-209** | Staff | Change County to City, and County Commission to City Council. | |
| **Sec. 3-703** | Staff | Add after "Appealable decisions include" the following: ", but are not limited to". Also change bullet points to letters/numbers. | |
| **Sec. 3-707(B)** | Staff | Add: "In order to reverse, amend, modify, or remand for amendment, modification, or rehearing the decision of the lower board or authority, the Zoning Appeals Board shall find that the board or official below did not comply with any of the following:<br>(i) Provide procedural due process;<br>(ii) Observe essential requirements of law; or<br>(iii) Base its decision upon substantial competent evidence. | Added standard for review of lower authority decision. |

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| | | The decision on the appeal shall be set forth in writing, and shall be promptly mailed to all parties to the appeal." | |
| **Sec. 3-802(A)(3)(c)** | Staff | Add at end "or waiver of plat." | |
| **Sec. 3-804(L)(a)** | Staff | Change "section division 6 of this article" to "these LDRs." | |
| **Sec. 3-807(c)(3)(a)** | Staff | Change "section 29-214" to "these LDRs." | |
| **Sec. 3-808(2)(g)(2)** | Staff | Remove "Metropolitan" | |
| **Sec. 3-808(2)(h)(3)** | Staff | Change "article XV of this chapter" to "these LDRs" | |
| **Sec. 3-816/817(5-8)** | Staff | Change CP&D and fix street names.<br>Remove all. Naming of such not within Zoning jurisdiction | |
| **Sec. 3-824 & throughout** | Staff | Remove "department" from "CP&D department director" | |
| **Sec. 3-1307(5)** | Staff | "to be deposited with the city to secure and fund construction of any new public facilities and services required to be constructed by the development agreement, as permitted by applicable law. (add second underlined language) | |
| **Sec.3-1407** | Staff | Impact fee study | |
| **Sec. 3-1408 & throughout** | Staff | Change to building services department. | |
| **Sec. 3-1411(A)** | Staff | Change city council to zoning appeals board. | |
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| **Sec. 4-101** | Staff | Add PD-1, PD-2 and PD-3 to Planned Development District zoning districts. | |
| **Sec. 4-202** | Staff | Permitted Uses table: Add elderly/student housing.<br>Permit transit stations in PD.<br>Remove Vehicle – Parts, new from C-2BE, add in M-1.<br>Define fishery. | Delete PD column completely (?) |

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| | | Showroom, Retail sale should include vehicle sales. Revisit self-storage. Alcohol reference to Article 5, Division 9. No use is permitted unless it complies with the provisions of the zoning district in which it is located and the applicable development standards of article 5 of this Code, except as otherwise provided in these LDRs. Under "Industrial type uses" amend "Showroom, Retail Sale" to add "(non-vehicular)" | |
| **Sec. 4-203(A)** | Staff | In your special purpose district | |
| **Sec 5-203(C)(1)** | Staff | Rear yard setback of 50' | |
| **Sec. 4-205(B)** | Staff | Reference to Sec. 4-205(B)? | |
| **Sec. 4-205(B)** | Staff | Structured Parking (pedestal): 5 du/ac Structured parking (nonpedestal): 3 du/ac Public Art: 3 du/ac | |
| **Sec. 4-302(B)(1)** | Staff | Under the permitted uses in the PD section, add: "Accessory uses, incidental or subordinate to related to any of the above uses. | |
| **Sec. 4-302(T)** | Staff | Add: "Only minor modifications or alterations may be adjusted under this subsection, pursuant to the standards used in sections 3-409 (conditional use approval) and 3-206 (substantial compliance determinations)." | |
| **Sec. 4-305(8)** | Staff | Remove. In Sec. 4-205(B) | |
| **Sec. 4-306(A)** | Staff | NE 125th Street/123 Street (as depicted on zoning map) | |
| **Sec. 4-306(3)(a)** | Staff | Limited to a maximum height of 45' (not 55') | |
| **Sec. 4-306(C)(1)** | Staff | Remove last sentence: Landscaped alleyways, | |

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| | | canals, stormwater retention/detention ponds, may serve as required setback | |
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| **Sec. 5-101** | Staff | Eliminate the two columns of "accessory uses" set forth in Article 5, pages 2-4. There are two columns dealing with PD and PCUP. It is confusing and conflicting. | Any accessory use not specifically listed as permitted, or listed as a related use, and which the administrative official cannot categorize or authorize as permitted in these LDRs, as similar to a permitted use or related use, shall be considered expressly prohibited. PD & PCUP, accessory uses (refer to K&S). |
| **Sec. 5-105(A)** | Staff | Definitions within this section shall be added to Article 7 | |
| **Sec. 5-105(A)(4)** | Staff | Change from 3 hours to 4 hours.<br>After "shopping center" add "or business establishment" | |
| **Sec. 5-106** | Staff | Delete "Drop in child care" and change to "Reserved." | |
| **Sec, 5-110(A)** | Staff | "an opaque gate *shall* be used on the fourth side." | |
| **Sec. 5-112(A)** | Staff | Add language to side setbacks: …, according to administrative variance procedures." | |
| **Sec. 5-112(B)** | Staff | Add at the end "through administrative variance procedures." | |
| **Sec. 5-203(A)** | Staff | Delete bracketed language at end [see the statute...] | |
| **Sec. 5-802(B)(1)** | Staff | Underline subsection letters. | |
| **Sec. 5-908** | Staff | Under Type of Establishment, Church should be *religious establishment* | |
| **Sec. 5-909(E)** | Staff | Deleted bracketed language at the end: [Note:..., and parentheticals re: licensing. | |
| **Sec. 5-910** | Staff | Second to last line, remove: (See licensing | |

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| | | requirements)(See licensing compliance) Sec. 5-**910** | |
| **Sec. 5-913(A & B)** | Staff | Remove DB & DB2<br>Remove bracketed comments at end of subparagraphs A and B. | |
| **Sec. 5-1204(B)(3)** | Staff | Change title from "Maintenance of street streets." to "Maintenance of street trees." | |
| **Sec. 5-1208** | Staff | Remove [???] in subsection 3. | |
| **Sec. 5-1401(G)** | Staff | Remove: within seven (7) years of the adoption of these LDRs. | |
| **Sec. 5-1401(H)(1)** | Staff | Provide for use of a Declaration in lieu of Unity of Title similar to Section 118-5 of the Miami Beach Code. (Same as 5-101) | |
| **Sec. 5-1405(B)(3)** | Staff | Verify language | |
| **Sec. 5-1408(A)(5)** | Staff | Add note following chart: "Garages with more than two cars in other than multi-family projects shall have maximum dimensions of multiples of the above, subject to the review of the Development Review Committee." | |
| **Sec. 5-1408(2)(b, c & d)** | Staff | Verify 75% and add R-6 and BZ zones | |
| **Sec. 5-1501(D)** | Staff | Ordinance and adoption date, false.<br>Insert, "which provides" and substantive text from billboard ordinance no. 1246 at end of subparagraph. | Clarifies through codification uncodified prohibition/restriction on billboards. |
| **Sec. 5-1502(K)** | Staff | Informational, off-premises.<br>Insert "informational, after "official government" | |
| **Sec. 5-1503(A)(1)(b)** | Staff | Remove a & b, have Gary verify c<br>Omit paragraph on "False or misleading." | Gets into unneeded and troublesome area of content regulation. |

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| **Sec. 5-1512(A)** | Staff | Add language: or noncommercial message<br>Add to end of next to last sentence "or prevent the viewing of non-commercial messages." | Adds a non-commercial message standard for the granting of a variance previously only available to businesses. |
| **Sec. 5-1512(B)** | Staff | Regulations to "LDRs" and remove "pursuant to Section 1.E. above." | |
| **Sec. 5-1801(B)(3)** | Staff | Fix "subsections J., K. and L." | Incorrect reference. |
| **Sec. 5-1803(C)(6)** | Staff | Verify or remove last sentence allowing "tolling" of the time in which an application is to be processed.<br>If the city does not accept the full evaluation as provided as accurate, or if the city disagrees with any part of the evaluation, the city may deny the application, or advise the applicant there are deficiencies in the application that need to be addressed, following which time application is processed pursuant to this division shall be tolled pending further response by the applicant evaluation. | In order to stop a federal or state "shot clock" from running, the city would need to either deny the application or notify the applicant of deficiencies in the application to toll the clock until the applicant responds. |
| **Sec. 5-2310** | Staff | Change to Sec. 5-910. | |
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| **Sec. 7-101** | Staff | Drop-in child care. Remove definition. | |
| | | Liquor package store. *Liquor package store* means a state licensed vendor selling alcoholic beverages in sealed containers only for consumption off the premises | |

**Draft Design Review Board regulations for North Miami;**

**drafted 5-23-17; revised 6-21-17 (added sec. 3-1501(a)(19) (<u>double underlined</u>)**

Chapter 29 – LAND DEVELOPMENT REGULATIONS

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ARTICLE 2. – DECISION MAKING ADMINISTRATIVE BODIES

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<u>DIVISION 7. - DESIGN REVIEW BOARD</u>

**<u>Sec. 2-701. - Powers and duties.</u>**

<u>The design review board shall have the following powers and duties:</u>

<u>(1) To promote excellence in urban design.</u>

<u>(2) (a) To review all applications requiring design review approval for all properties on which a commercial, industrial or multi-family residential project or structure is proposed.</u>

<u>(b) For works of art in the art in public places program, the design review board shall serve as advisor to the city commission, and may impose binding criteria, as provided in chapter 82, article VII, "art in public places," division 4, "procedures."</u>

<u>(c) This authority shall include review and approval of design and location within public rights-of-way of all wireless communications facilities.</u>

**<u>Sec. 2-702. - Membership.</u>**

<u>(a) *Composition.* The design review board shall be composed of seven regular members. The seven regular members shall consist of:</u>

<u>(1) Two architects registered in the United States;</u>

<u>(2) An architect registered in the State of Florida or a member of the faculty of a school of architecture, urban planning or urban design in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of architecture; or a professional practicing in the fields of architectural design or urban planning;</u>

<u>(3) One landscape architect registered in the State of Florida (who may but need not be a resident of the city);</u>

<u>(4) One architect registered in the United States, or a professional practicing in the fields of architectural or urban design, or urban planning; or resident with demonstrated interest or background in design issues; or an attorney in good standing licensed to practice law within the United States; and</u>

<u>(5) Two citizens-at-large.</u>

<u>(b) *Appointment.* Design review board members shall be appointed with the concurrence of at least three members of the city commission.</u>

<u>(c) *Residency and place of business.* All regular members shall reside in or have their primary place of business in the county. The two citizens-at-large members and one of the registered landscape</u>

architects, registered architects, or professionals practicing in the fields of architectural or urban design or urban planning shall be residents of the city, unless a resident filling these categories cannot be identified and approved by the city council.

**Sec. 2-703. - Terms of office.**

The term of service on the design review board shall be two years.

**Sec. 2-704. - Quorum and voting.**

A quorum shall consist of four regular members. An affirmative vote of four regular members shall be required to approve an application for design review. If an application is denied, the board shall provide an explanation, from which staff shall prepare a written statement in support of the board's finding.

**Sec. 2-705. - Meetings.**

The design review board shall meet within a reasonable time upon receipt of an application, at the call of the chairperson or the planning director. All meetings shall be open to the public and shall be conducted in accordance with the city's quasi-judicial ordinance, and rules and regulations adopted by the board.

**Sec. 2-706. - Conflict of interest.**

Members of the design review board shall abide by the applicable provisions of F.S. § 112.311 et seq., Dade County Code section 2-11.1 and provisions of this Code regarding voting and conflicts and disclosures of financial interests.

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ARTICLE 3. – DEVELOPMENT REVIEW

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DIVISION 15. - DESIGN REVIEW PROCEDURES

**Sec. 3-1501. - Design review criteria.**

(a) Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The board and the community planning and development department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and design guidelines adopted and amended periodically by the design review board. Recommendations of the community planning and development department may include, but not be limited to, comments from the building department and the public works department. If the board determines that an application is not consistent with the criteria, it shall explain the reasons substantiating its findings, which the staff shall commit to writing. The criteria referenced above are as follows:

(1) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.

(2) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.

(3) The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance

with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

(4) The color, design, selection of landscape materials and architectural elements of exterior building surfaces and primary public interior areas for developments requiring a building permit in areas of the city within the jurisdiction of the board.

(5) The proposed site plan, and the location, appearance and design of new and existing buildings and structures are in conformity with the standards of this article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and all pertinent master plans.

(6) The proposed structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties.

(7) The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

(8) Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.

(9) Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

(10) Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

(11) Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

(12) The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridors.

(13) The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure, if any, from the surrounding area and is integrated with the overall appearance of the project.

(14) The building shall have an appropriate and fully integrated rooftop architectural treatment that substantially screens all mechanical equipment, stairs and elevator towers.

(15) An addition on a building site shall be designed, sited and massed in a manner that is sensitive to and compatible with the existing improvements.

(16) All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

(17) The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

(18) In addition to the foregoing criteria, relevant sections of the city code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.

(19) See also the standards in Article 5, Division 8, of these Land Development Regulations.

**Sec. 3-1502. - Applicability and exemptions.**

(a) *Applicability.*

(1) All building permits for new construction, public interior areas, interior areas that face a street or sidewalk, demolitions and wrecking, alterations, or additions to existing buildings, including fences, parking lots, walls and signs, whether new or change of copy, and exterior surface finishes and materials, shall be subject to review under the design review procedures except as provided in subsection (b) of this section. No building permit shall be issued without the written approval by the design review board or staff as provided for in these regulations.

(2) Except for stormwater pump stations and related apparatus installed by the city, all public improvements upon public rights-of-way and easements shall be reviewed by the design review board. For purposes hereof, public improvements shall include, structures, streetscape projects, street improvements or redesign, modifications to street lighting or signage, landscaping projects, medians, master screening plans for stormwater pump stations and related apparatus, and above ground utilities; provided, however, that public improvements shall not include routine maintenance, utility repair work, and stormwater pump stations and related apparatus installed by the city.

(b) *Exemptions.* Exemptions to these regulations include all of the following provided no new construction or additions to existing buildings are required:

(1) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment when such work is entirely within the interior of the building, excluding public interior areas and interior areas that face a street or sidewalk; however, the community planning and development director may approve such building permit applications for minor work on the exterior of buildings.

(2) Any permit necessary for the compliance with a lawful order of the building official, fire marshal or public works director related to the immediate public health or safety.

(3) All single-family dwellings are exempt from the design review regulations.

**Sec. 3-1503. - Application for design review.**

(a) The applicant shall obtain a design review application from the community planning and development department, which shall be responsible for the overall coordination and administration of the design review process. When the application is complete, the department shall place the application on the agenda and prepare a recommendation to the design review board. The department shall determine the date on which the application will be heard by the board; however, the board shall consider the application and department recommendation at the next available meeting date after the submission of a completed application to the planning department. Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

(b) In the event the applicant seeks a preliminary evaluation of a project from the board for information and guidance purposes only, an application for preliminary evaluation shall be required. The community planning and development director, or designee, shall determine the supplemental documents and exhibits necessary and appropriate to complete an application for a preliminary

evaluation; the required supplemental documents and exhibits shall serve to describe and illustrate the project proposed in the application in a manner sufficient to enable the board to provide general comments, feedback, information and guidance with respect to the application. Preliminary evaluations by the board shall be for informational purposes only; a preliminary evaluation by the board shall not constitute a binding approval, nor shall any comments, feedback, information or guidance provided by the board be binding upon the board during subsequent review of the preliminary application or a related final application. The board may provide a general comment, feedback, information and guidance during the initial hearing on the application for preliminary evaluations, and may continue discussion on a preliminary evaluation to subsequent meetings in order for the applicant to better address any specific concerns raised by the board or staff, or may elect to terminate the preliminary evaluation process after providing general comments. All preliminary evaluations shall be subject to the noticing requirements provided in these LDRs. Preliminary evaluations shall not constitute a design review approval, and therefore an applicant acquires no equitable estoppel rights or protections of any kind, type or nature based upon the filing or review of the preliminary evaluation application. The board will not issue an order either approving or denying a project or take any formal action on preliminary evaluation application. Preliminary evaluations shall not entitle applicants to any of the benefits accorded to applicants who have received design review approval, inclusive of appeals or rehearings. Except as used in this section, the use of the phrase "application" throughout this article refers to a completed application for approval and not to a preliminary evaluation application.

(c) All applications involving demolition, new building construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, landscape feature, public interior or site shall be on a form provided by the planning department and shall include such information and attached exhibits as the board and the community planning and development department determine are needed to allow for complete evaluation of the proposed demolition, construction and other physical improvements, alterations or modifications including, but not limited to, the following:

(1) Completed board application, affidavits and disclosures of interest.

(2) Written description of proposed action with details of application request.

(3) Survey (original signed and sealed) dated less than six months old at the time of application (lot area shall be provided by surveyor), identifying grade (if not sidewalk, provide a letter from Public Works, establishing grade), spot elevations and elevation certificate.

(4) All applicable zoning information.

(5) Complete site plan.

(6) Materials containing detailed data as to architectural elevations and plans showing proposed changes and existing conditions to be preserved.

(7) Preliminary plans showing new construction in cases of demolition.

(8) All available data and historic documentation regarding the building, site or features, if required.

(9) Provided certain minimum criteria as to gross square footage or floor area are triggered as delineated under subsection a., below.

A traffic circulation analysis and plan, prepared by a professional traffic engineer, licensed and registered in the State of Florida, which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated, shall be required in the following instances:

a. Within the City's Transportation Concurrency Management Areas (TCMA's), as amended from time to time, all new development projects exceeding 5,000 gross square feet.

b. For development projects that propose new floor area or an increase in floor area, and are located within a half mile of any roadway segment with a level of service E or F, as defined by the Transportation Research Board's Highway Capacity Manual, as amended from time to time.

c. The following shall be excluded from performing a transportation study and mitigation plan to:

1. Multi-family projects (exclusive of mixed-use projects) with less than five units or 15,000 gross square feet.

**Sec. 3-1504. - Decision of design review board.**

(a) The design review board shall consider each application at a quasi-judicial, public hearing, at which the applicant and interested persons shall have an opportunity to express their opinions, present evidence and rebut all evidence presented. The community planning and development department, shall provide the applicant with advance notice of the hearing date and time, including a copy of the agenda and the recommendation of the department.

(b) Applications shall comply with the notice requirements in accordance with these LDRs.

(c) The board may require such changes in the plans and specifications, and conditions, as in its judgment may be requisite and appropriate to the maintenance of a high standard of architecture, as established by the standards contained in these land development regulations and as specified in the city's comprehensive plan and other specific plans adopted by the city of pertaining to the areas within the board's jurisdiction.

(d) Upon approval of an application by the board, the community planning and development director or designee shall stamp and sign three sets of plans. Two sets of plans shall be returned to the applicant who may then submit an application for a building permit. The remaining approved plans shall be part of the board's official record and shall be maintained on file with the department. The board's decision shall be set forth in a written order, specifying the reasons for such decision.

(e) The department, shall promptly mail a copy of the board's order to the applicant.

**Sec. 3-1505. - Clarification hearing.**

Should a question arise as to compliance with the conditions as outlined by the design review board, a clarification hearing before the design review board may be called at the request of the community planning and development department, or by the applicant.

**Sec. 3-1506. - Deferrals, continuances, and withdrawals.**

(a) An applicant may defer an application before the public hearing only one time. The request to defer shall be in writing. When an application is deferred, it shall be re-noticed at the applicant's expense. The applicant shall also pay a deferral fee, if set forth in these LDRs. If the application is deferred by the board if not to a date certain, the notice requirements shall be the same as for a new application and shall be at the city's expense.

(b) The board may continue an application to a date certain at either the request of the applicant or at its own discretion.

(c) In the event the application is continued due to the excessive length of an agenda or in order for the applicant to address specific concerns expressed by the board and/or staff, the applicant shall present for approval to the board a revised application inclusive of all required exhibits which attempt to address the concerns of the board and/or staff, for the date certain set by the board, which shall be no more than 120 days after the date on which the board continues the matter.

(d) In the event that the applicant fails to present for approval to the board, a revised application as described above within 120 days of the date the application was continued, the application shall be deemed null and void.

(e) Deferrals or continuances for a specific application shall not exceed one year cumulatively for all such continuances or deferrals made by the board, or the application shall be deemed null and void, unless such time period is extended by the board.

(f) An application may be withdrawn by the applicant if such request is in writing and filed with the community planning and development department prior to the public hearing, or requested during the public hearing, provided, however, that no application may be withdrawn after final action has been taken. Upon a withdrawal or final denial of an application for design review approval from the design review board the same application cannot be filed within six months of the date of the withdrawal or denial unless, however, the decision of the board taking any such action is made without prejudice to refile.

(g) In the event there is a lack of a quorum, all pending or remaining matters shall be continued to the next available meeting of the board.

**Sec. 3-1507. - Building permit application.**

(a) The applicant or his authorized agent shall make application for a building permit. The application shall include, at a minimum, the two sets of plans which were approved by the design review board and stamped and signed by the community planning and development director or designee.

(b) No building permit, certificate of occupancy, certificate of completion, or occupational license shall be issued unless all of the plans, including amendments, notes, revisions, or modifications, have been approved by the community planning and development director. Minor modifications to plans that have been approved by the board shall be permitted when approved by the director.

(c) *Expiration of orders of the Design Review Board.* No building permit, full building permit or phased development permit shall be issued for any plan subject to design review except in conformity with the approved plans, except as modified as permitted herein. The applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the board meeting at which design review approval was granted to obtain a full building permit or a phased development permit. The foregoing 18-month time period includes the time period during which an appeal of the decision of the design review board may be filed, pursuant to the requirements of these LDRs. If the applicant fails to obtain a full building permit or a phased development permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which design review approval was granted, and/or construction does not commence and proceed in accordance with such permit and the requirements of the applicable Florida Building Code, all staff and board approvals shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the board, at its sole discretion, provided the applicant submits a request in writing to the planning director no later than 90 calendar days after the expiration of the original approval, showing good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the community planning and development department has reviewed the plans and provided initial comments.

(d) *Stay of work and proceedings on appeal.* An appeal of a board order stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:

(i) A stay would cause imminent peril to life or property. In such a case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board or by a court of competent jurisdiction, upon application for good cause shown; or

(ii) If the appeal arises from an application for development review board hearing or other approval requiring a hearing before a land use board, the final order shall contain appropriate conditions to stay its effectiveness until the final resolution of all administrative and court proceedings. No building permit, or certificate of occupancy, or business tax receipt, dependent upon such hearing approval, shall be issued until the final resolution of all administrative and court proceedings as certified by the city

attorney. The applicant for such land use board hearing shall hold the city harmless and agree to indemnify the city from any liability or loss resulting from such proceedings. Notice of the final resolution of administrative and court proceedings shall be provided as required for notice of hearings under these land development regulations. Notwithstanding the foregoing, an appeal to the board or court, or other challenge to an administrative official's decision, shall neither stay the issuance of any building permit, full building permit or phased building permit nor stay the running of the required time period set by board order or these land development regulations to obtain a full building permit or phased building permit.

(iii) Tolling during all appeals. Notwithstanding the time limits contained herein, in the event the original decision (board order) of the applicable board, is timely appealed, the applicant shall have 18 months, or such lesser time as may be specified by the board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.

(d) An applicant may submit an application for a building permit simultaneously with a design plan review in order to expedite processing, however, no building permit shall be issued until the final design plan has been stamped and signed by the community planning and development director or designee in accordance with these land development regulations.

(e) No construction may commence in the event a design review approval expires.

**Sec. 3-1508. - Phased development permit.**

A phased development permit shall apply to multiple building/structure development only and shall include all plans for each phase of the project as submitted, required and approved by the design review board. The applicant shall request the board approve a phased development in its application and at the public hearing and the board shall specify a reasonable time limit within which the phases shall begin or be completed or both. The board shall require a progress report from the applicant at the completion of each phase. A phased development permit shall not be a demolition, electrical, foundation, mechanical or plumbing permit or any other partial permit.

**Sec. 3-1509. - Administrative review procedures.**

(a) The community planning and development director or designee, shall have the authority to approve, approve with conditions or deny an application on behalf of the board, for the following:

(1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way, any waterfront or public park. For those lots which are greater than 10,000 square feet, the floor area of the proposed addition may not exceed ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.

(2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.

(3) Facade and building alterations, renovations and restorations which are minor in nature.

(4) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements.

(5) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage.

(6) Minor work associated with the public interiors of buildings and those interior portions of commercial structures which front a street or sidewalk.

(7) Minor work involving public improvements upon public rights-of-way and easements.

(8) Minor work which is associated with rehabilitations and additions to existing buildings, or the construction, repair, or rehabilitation of new or existing walls, at-grade parking lots, fences.

The director's decision shall be based upon the criteria listed in this article. The applicant may appeal a decision of the planning director to the design review board, pursuant to the procedural requirements of these LDRs.

**Sec. 3-1510. - Design review approval conditions and safeguards.**

In granting design review approval, the design review board may prescribe appropriate conditions and safeguards, consistent with the public health, safety and welfare, and the design review criteria, either as part of a written order or on approved plans. Violation of such conditions and safeguards, when made a part of the terms under which the design review approval is granted, shall be deemed a violation of these land development regulations.