

EXHIBIT 3

Sec. 114-1. - Definitions.

The following words, terms and phrases when used in this subpart B, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a detached subordinate building or portion thereof, the use of which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use. Where there is no main building on the lot, an accessory building shall be considered as a main building for the purpose of the height, area, and bulk regulations.

Accessory use means a subordinate use which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use.

Adult congregate living facility means any state licensed institution, building, residence, private home, boarding home, home for the aged, or other place whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding 24 hours, one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services. A facility offering personal services for fewer than four adults shall be within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Adult congregate living facility unit means any room, or inter-connected rooms with one main entrance, in an adult congregate living facility, containing one or more beds.

Aggregate area or aggregate width means the sum of two or more designated areas or widths to be measured, limited, or determined under these regulations.

Alcoholic beverage shall be as defined by F.S. § 561.01(4).

Alcoholic beverage establishment means any commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises.

Alcoholic beverage establishment (midnight to 2 a.m.) means a commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises, up until 2:00 a.m.

Alcoholic beverage establishment (midnight to 5 a.m.) means a commercial establishment located in the city which allows for alcoholic beverages (liquor, beer or wine) to be consumed by patrons on the premises, up until 5:00 a.m.

Alley means a public or private thoroughfare which affords only a secondary means of access to abutting property and which is not otherwise designated as a street.

Apartment building means a building with or without resident supervision occupied or intended to be occupied by more than two families living separately with separate cooking facilities in each unit.

Apartment hotel means a building containing both apartment units and hotel units, under resident supervision, and having an inner lobby through which all tenants must pass to gain access.

Apartment unit means a room, or group of rooms, occupied or intended to be occupied as separate living quarters by one family and containing independent cooking and sleeping facilities. (Term includes condominium.)

Applicant means any person seeking to undertake any development as defined in this section.

Archeological site means a specific location which has yielded or is likely to yield information about local history or prehistory. Archeological sites may be found within archeological zones, historic sites, or historic districts.

Architectural district means that area listed on the National Register of Historic Places, as of May 14, 1979, in accordance with the National Preservation Act of 1966 as amended and in the Florida Master Site File under Number 8-DA 1048 as the city architectural district.

Availability or *available* mean with regard to the provision of facilities and services concurrent with the impacts of development, means that at a minimum the facilities and services will be provided in accordance with the standards set forth in F.A.C. 9J-5.055(2).

Awning means a detachable, roof like cover, supported from the walls of a building for protection from sun or weather.

Balcony means a platform that projects from the wall of a building and has a parapet or railing, the long side of which is open above the guardrail or parapet. The platform may service one unit or it may be a continuous platform serving more than one unit with a wall separating the platform between the units.

Bar means an alcoholic beverage establishment which is not also licensed as a restaurant, dance hall or entertainment establishment.

Bar counter, accessory outdoor means an accessory freestanding or substantially unenclosed counter or similar device either stationary or mobile at or behind which alcoholic beverages may be prepared and served.

Base flood elevation, for the City of Miami Beach shall be as defined in Section 54-35.

Beachfront park and promenade plan means a revegetation program including beach recreation structures which are primarily constructed of wood, concrete or other hard surface and located on the dune, for the purpose of permitting the passage of pedestrians along, over and across the dune in such a manner as to protect and stabilize the dune, vegetation, and beach.

Bed and breakfast inn means a historic structure originally built as a single-family residence which is owner occupied and operated to provide guest rooms with breakfast and/or dinner included as part of the room rate.

Beer means a brewed beverage containing malt.

Block means a segment of the city, usually but not always a square area, formed by and lying between intersecting streets or other physical boundaries, unless otherwise defined by an official plat of property in the city. Also, the length of one side of such a square.

Building means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property and includes the word structure and includes any part thereof.

Building card means a document maintained by the building services department for purposes of recording building permits and other pertinent construction data and zoning related actions that affect the property which document originates at the time a parcel of land is created and is kept as a history of the property.

Building official means the individual appointed by the city manager to administer and enforce the South 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 site means any improved lot, plot, or parcel of land where there may exist a main permitted structure and any accessory/auxiliary building or structure including, but not limited to, swimming pools, tennis courts, walls, fences, or any other improvement which was heretofore constructed on property containing one or more platted lots or portions thereof shall constitute one building site.

Bulkhead line means an official line designated by the city commission for properties located along Biscayne Bay, Government Cut or the Atlantic Ocean, as described in chapter 14, article V.

Cabana means an accessory structure used as a bathhouse or a shelter directly associated with a swimming pool or deck.

Cafe, beachfront means a permanent structure located on the beach in the dune overlay district where food and beverages are served.

Cafe, 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, as described in section 142-1109.

Cafe, sidewalk means a use 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.

Canopy means a detachable, rooflike cover, supported from the ground, or deck, or floor of a building, and from the walls of a building, for protection from sun or weather.

Carport/shelter means a canopy or rooflike structure, open on at least two sides, which may be attached or detached from the main building, for the purpose of providing shelter for one or more motor vehicles.

Certificate of appropriateness means a certificate issued by the historic preservation board indicating that new construction, alteration or demolition of an historic structure or an improvement within an historic district is in accordance with chapter 118, article X of this Code.

Certificate of compliance means a document issued by the proper authority certifying that the plans for a proposed use meet all applicable codes, regulations and ordinances.

Certificate to dig means a certificate issued by the historic preservation board allowing for the excavation or fill on a site designated as archaeologically significant.

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.

Certificate of use means a document issued by the fire department, department of code compliance allowing the use of a building and certifying that the use is in compliance with all applicable city codes, regulations and ordinances.

City of Miami Beach Freeboard, for purposes of measuring building height, "City of Miami Beach Freeboard" means the additional elevation between the minimum finished floor elevation and the base flood elevation, as provided in section 54-48, specific standards.

Clinic means a medical use without overnight facilities where patients are admitted for examination and treated by a group of physicians or dentists practicing medicine together. The term does not include a place for the treatment of animals.

Club, private means building and facilities or premises used or operated by an organization or association for some common purpose, such as, but not limited to, a fraternal, social, educational or recreational purpose, but not including, clubs organized primarily for profit or to render a service which is customarily carried on as a business and are incorporated under the Laws of Florida as a nonprofit corporation and their purpose shall not be the serving of alcoholic beverages.

Commercial establishment means an establishment operated for profit, whether or not a profit is actually made.

Commercial uses means 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, semitrailers, tractors, motor homes, and vehicles for rent or lease utilized in connection with the operation of a commerce, trade, or business, or automobile rental agency as defined in section 102-356, and not utilized as a dwelling.

Commercial vessel means every vessel which is used or operated for profit or fee on the navigable waters of the city; that is either carrying passengers, carrying freight, towing, or for any other such use.

Community redevelopment agency means the redevelopment agency of the city, a public agency created pursuant to F.S. § 163.330 et seq. and section 34-31 et seq.

Comprehensive plan means the document adopted by the city commission 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.

Concurrency means a condition where the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

Concurrency management system means the procedures and/or process that the city will utilize to assure that development orders and permits when issued will not result in a reduction of the adopted level of service standards at the time that the impact of development occurs, as specified in chapter 122 of this Code.

Conditional use means a use that would not be appropriate generally or without restriction throughout a particular zoning district, but would be appropriate if controlled as to number, area, location, or relation to the neighborhood.

Conditional use permit means a permit issued by the planning and zoning director and recorded in the public records of the county allowing a specific conditional use that was approved for a particular property pursuant to procedures set forth in chapter 118, article IV.

Consistency or consistent means compatible with the principles of, and furthering the objectives, policies, land uses, and intensities of the city comprehensive plan.

Construction vehicle means any vehicle or motorized equipment utilized for the manufacture of a structure, and not utilized as a dwelling.

Contributing building, structure, improvement, site, or landscape feature means one which by location, scale, design, setting, materials, workmanship, feeling or association adds to a local historic district's sense of time and place and historical development. A building, structure, improvement, site or landscape feature may be contributing even if it has been altered if the alterations are reversible and the most significant architectural elements are intact and repairable.

Court means an open space which may or may not have direct street access and around which is arranged a single building or a group of related buildings.

Courtyard, internal means that portion of a lot whether sodded, landscaped or paved, unoccupied by any part of a structure and open to the sky, which is substantially surrounded by a single building or group of buildings on three or more sides.

Crown of road shall be as defined in Section 54-35.

Crown of road, future shall be as defined in Section 54-35.

Currently available revenue sources means an existing source and amount of revenue presently available to the city. It does not include the city's present intent to increase the future level or amount of a revenue source which is contingent on ratification by public referendum or the present intent to increase revenue sources which may require future action by the city commission.

Dance hall means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants, alcoholic beverage establishments and entertainment establishments.

Day care facility means any establishment other than a family day care facility providing care during the day, but not at night, of children under the age of six who are not attending a school in grade kindergarten or higher, and who are not related to the resident family.

Demolition means the partial, substantial, or complete removal or destruction of any structure, building or improvement.

Design review means the process set forth in chapter 118, article VI.

Development means the undertaking of any building or construction, including new construction, rehabilitation, renovation or redevelopment, the making of any material changes in the use or appearance of property or structures, the subdivision of land, or any other action for which development approval is necessary.

Development agreement means an agreement entered into by the city and the property owner with respect to a project, by which the development, use, timing, capital improvements and other elements of the project may be specified.

Development approval means any zoning, rezoning, conditional use, variance or subdivision approval, or any other official approval of local government required for the alteration or use of land or improvements.

Development rights, transfer (TDR) means the removal of the right to develop or build, expressed in floor area, from land in one zoning district to land in another zoning district where such transfer is permitted.

Dining room, accessory means a portion of a building devoted exclusively to the serving of food and refreshment for consumption on the premises by occupants.

Dormitory means an accessory use located in a building which provides sleeping accommodations for students enrolled in a religious, educational, or business program who occupy rooms on a contractual basis generally for a period of time corresponding to the length of the program.

Drive means the area which connects a parking aisle in a parking lot or parking garage either to a street, alley or another parking aisle; or which serves as the approach to the off-street parking space(s) or parking garage for a single-family residence or townhome.

Drive-in means an establishment or part thereof designed or operated to serve a patron seated in an automobile parked in an off-street parking space.

Dune means a mound or ridge of loose usually sand-sized sediments, lying landward of the beach and extending inland to the leeward toe of the mound or ridge which intercepts the 100-year storm surge.

Dwelling means a building or portion thereof, designed or used exclusively for residential occupancy, but not including trailers, mobile homes, hotels, boardinghouses and lodginghouses, tourist courts, or tourist homes.

Dwelling, multiple-family means a building designed for or occupied by three or more families.

Dwelling, single-family means a building designed for or occupied exclusively by one family.

Dwelling, single-family detached means a dwelling designed for or occupied, exclusively by one family surrounded by yards or other landscape areas on the same lot.

Dwelling unit, portable means any vehicle designed for use as a conveyance upon the public streets and highways and for dwelling or sleeping purposes.

Entertainment establishment means a commercial establishment with any live or recorded, amplified or nonamplified performance, (excepting television, radio and/or recorded background music, played at a volume that does not interfere with normal conversation, and indoor movie theater operations). Entertainment establishments may not operate between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under subsection 6-3(3)(b).

Erosion control line (ECL) means the line determined in accordance with the provisions of F.S. §§ 161.041—161.211 and amendments thereto, which represents the landward extent of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico and the bays, lagoons, and other tidal reaches thereof on the date of the recording of the survey as authorized in F.S. § 161.181.

Evaluation guidelines means the standards applicable to alteration, renovation, new construction for a historic site or improvement within a historic district, which standards will be used as criteria by the historic preservation board and its staff in making decisions on applications for certificates of appropriateness.

Exterior means all external surfaces of any improvement.

Fallout shelter means a structure or portion of a structure intended to provide protection to human life during periods of danger from nuclear fallout, air raids, storms or other emergencies.

Family means an individual or two or more persons related by blood or marriage, or a group of not more than three persons (excluding servants) who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Family day care facility means an occupied residence in which child care is regularly provided for children and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A family day care facility shall be allowed to provide care for one of the groups of children as defined in subsection 142-905(b)(1) and in F.S. § 402.302(5).

State Law reference— Local zoning regulations regarding family day care homes are defined in F.S. §§ 402.302(5), 166.0445.

Filling station means any establishment that sells, distributes or pumps fuels for motor vehicles.

Fire prevention and safety code means the code adopted pursuant to chapter 50.

Fixture means an article in the nature of personal property which has been permanently attached or affixed to a building, structure or land by means of cement, plaster, nails, bolts or screws.

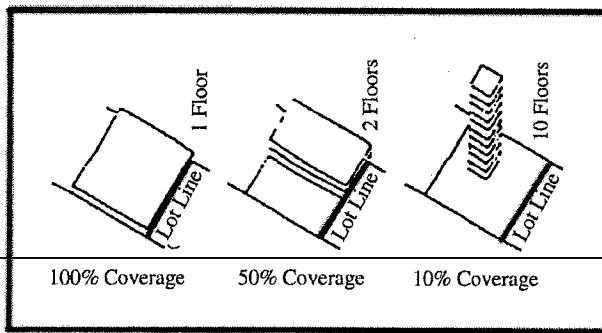
Floor area means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. However, the floor area of a building shall not include the following unless otherwise provided for in these land development regulations.

- (1) Accessory water tanks or cooling towers.
- (2) Uncovered steps.
- (3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- (4) Terraces, breezeways, or open porches.
- (5) Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio.
- (6) Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.
- (7) Mechanical equipment rooms located above main roof deck.
- (8) Exterior unenclosed private balconies.
- (9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation.
- (10) Enclosed garbage rooms, enclosed within the building on the ground floor level.

Volumetric buildings, used for storage, where there are no interior floors, the floor area shall be calculated as if there was a floor for every eight feet of height.

When transfer of development rights are involved, see chapter 118, article V for additional regulations that address floor area.

Floor area ratio means the floor area of the building or buildings on any lot divided by the area of the lot.



Each example illustrated above has a floor area ratio of 1.0.

Freeboard shall be as defined in Section 54-35.

Freeboard, maximum shall be as defined in Section 54-35.

Freeboard, minimum shall be as defined in Section 54-35.

Full building permit means the full and complete building permit allowing construction of the entire project, and requiring submission of all plans required and approved by the design review board, the historic preservation board, the planning board or the board of adjustment. A full building permit shall not be merely a demolition, electrical, foundation, mechanical or plumbing permit or any other partial permit that does not include all plans for the entire project as submitted, required and approved by the design review board, the historic preservation board, the planning board or the board of adjustment; except that projects that have been approved for phased development by the design review board, the historic preservation board, the planning board or the board of adjustment may obtain a phased development permit instead of a full building permit.

Garage, accessory means an accessory building designed or used for parking for the main permitted structure.

Garage, commercial means a building or a portion thereof, used primarily for indoor parking of vehicles for compensation.

Garage, mechanical means any premise where vehicles are mechanically repaired, rebuilt or constructed for compensation.

Grade means the city sidewalk elevation at the centerline of the front of the property. If there is no sidewalk, the elevation of the crown of the road at the centerline of the front of the property shall be used.

Grade, adjusted means the midpoint elevation between grade and the minimum required flood elevation for a lot or lots.

Grade, average existing means the average grade elevation calculated by averaging spot elevations of the existing topography taken at 10-foot intervals along the property lines.

Grade, future adjusted means the midpoint elevation between the future crown of the road as defined in the CDM Smith Stormwater Plan, and the base flood elevation plus minimum freeboard for a lot or lots.

Green infrastructure shall be as defined in Section 54-35.

Guest/servants quarters means living quarters within a detached or semi-detached accessory building located on the same lot with the main building for use by temporary guests or servants of the occupants of the premises. Such quarters shall not have separate utility meters, shall not be rented or otherwise used as a separate dwelling or have cooking facilities except as set forth in section 142-905.

Height of building means the vertical distance from the lowest floor according to the following, as applicable:

- (a) When the minimum finished floor elevation is located between grade and base flood elevation plus "City of Miami Beach Freeboard", height shall be measured from the minimum finished floor elevation to the highest point of the roof;
- (b) When the minimum finished floor elevation is located above the base flood elevation plus Freeboard, height shall be measured from the base flood elevation plus Freeboard.

The highest point of a roof is as follows:

1. The highest point of a flat roof;
 2. The deck line of a mansard roof;
 3. The average height between eaves and ridge for gable hip and gambrel roofs; or
 4. The average height between high and low points for a shed roof.
- (c) As all rights-of-way have not yet been elevated, for commercial properties, height shall be measured from the base flood elevation, plus freeboard, provide that the height of the first floor shall be tall enough to allow the first floor to eventually be elevated to base flood elevation, plus minimum freeboard, once the adjacent right-of-way is elevated as provided under the City's Public Works Manual.

Historic building, improvement or structure means a building, improvement or structure which has been designated as historic pursuant to the procedures in chapter 118, article X, division 4 or which is designated as historic in the historic properties database. The public portions of interiors of historic buildings and significant landscape features may also be considered historic if they have been so designated pursuant to chapter 118, article X, division 4 or in the historic properties database.

Historic district means a geographically definable area which has been designated as an historic district pursuant to chapter 118, article X, division 4.

Historic district suites hotel means any contributing structure within a local historic district or any designated historic site, which existed as an apartment building as of March 13, 1999, and is subsequently rehabilitated to operate as a suites hotel pursuant to section 142-1105 in a district where suite hotels are a main permitted use.

Historic landscape feature means vegetation, geological feature, ground elevation, body of water or other natural or environmental feature which has been designated as a historic landscape feature pursuant to chapter 118, article X, division 4.

Historic preservation and urban design director means that individual appointed by the city manager who is the deputy director of the development, design and historic preservation department.

Historic properties database (database) means a list maintained by the city containing the names, addresses and relevant historic data regarding the following:

- (1) Buildings, structures, improvements, sites, interiors and landscape features designated pursuant to chapter 118, article X, division 4 as historic buildings, structures, improvements, sites, interiors and landscape features.
- (2) Buildings located in a historic district. Properties located in a historic district shall be classified in the database as historic, contributing or noncontributing. Entries for historic and contributing buildings may include architecturally significant features of the public portions of interiors of the buildings.
- (3) Historically significant properties. The database may be updated, amended and revised by the historic preservation board.

Historic site means a site which has been designated an historic site pursuant to chapter 118, article X, division 4 or which is designated as a historic site in the historic properties database.

Historically significant property means a building, structure, improvement or site which has not been designated historic pursuant to chapter 118, article X, division 4 and is not located in a historic district, but meets the requirements for historic designation as set forth in subsection 118-592.

Home based business office means an accessory business office in a single family residence or apartment unit which is incidental to the primary residential use and which satisfies the criteria prescribed in section 142-1411.

Hospital means an institution licensed by the State of Florida as a hospital, having facilities for in-patients, providing medical or surgical care for humans requiring such treatment, and which may include accessory uses, related facilities such as nursing homes, convalescent homes, home health agencies, hospice facilities and other accessory hospital facilities as described in subsection 142-452(2).

Hospital-based physician means a physician who is affiliated with a hospital:

- (1) As an anesthesiologist, radiologist, pathologist, or emergency room doctor; or
- (2) As a full time hospital employee; or
- (3) On a full time basis pursuant to a contract.

Hospital staff means physicians and other medical staff affiliated with, and having staff privileges at a hospital who are not hospital-based physicians.

Hotel means a building occupied or intended to be occupied by transient residents, with all residents occupying hotel units and where ingress or egress may or may not be through a common lobby or office that is supervised by a person in charge at all times.

Hotel, convention means a newly constructed or substantially rehabilitated hotel located within 2,500 feet of the city convention center.

Hotel unit means a room, or group of rooms, with ingress or egress which may or may not be 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 without cooking facilities. (This term includes a suite hotel unit, see section 142-1105.)

Houseboat means a watercraft designed for dwelling purposes which is propelled by sail, motor or both.

Housebarge means a vessel or watercraft capable of being utilized as a residence floating on water, usually permanently moored, which does not have a system of propulsion.

Improvement means any building, structure, fence, gate, wall, walkway, parking facility, light fixture, bench, fountain, sign, work of art, earthworks or other manmade object constituting a physical betterment of real property.

Individual means any person, corporation, firm, partnership, limited partnership, association, joint stock association, estate, trust, or business entity.

Institution means a use, building or organization of a public character or providing a public or semipublic service.

Interior side yard open space means that open space portion of a lot whether sodded, landscaped or paved, unoccupied by any part of a structure and open to the sky, which is surrounded by a single building or group of buildings on three sides by walls, and extending towards an interior or side facing street yard.

Land development regulations means ordinances enacted by the city commission 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 feature means all vegetation, geological features, ground elevation, bodies of water, or other natural or manmade environmental feature.

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.

Liquor means all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

Live aboard means any person who utilizes a vessel as a temporary or permanent place of abode or habitation. A vessel used for recreation or entertainment, but not sleeping shall not ~~be~~ deemed a live aboard.

Loading space means space logically and conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

Lot means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, minimum width, and area, and to provide such yards and other open spaces as are required in these land development regulations. Such lot shall have frontage on a public street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, and portions of lots of record; or of portions of lots of record;
- (4) A parcel of land described by metes and bounds.

"Lot" includes the word "plot" or "parcel" or "tract" or "site."

Lot area means the total horizontal area within the lot lines of the lot.

Lot, corner means a lot abutting upon two or more streets at their intersection.

Lot coverage means the percentage of the total area of a lot that, when viewed directly from above, would be covered by all principal and accessory buildings and structures, or portions thereof; provided, however, that exterior unenclosed private balconies, awnings and porte-cocheres shall not be included in determining the building area.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot front means the front of a lot shall be construed to be the portion nearest the street. For corner lots, the lot front shall be the narrowest portion abutting the street unless determined otherwise by the city.

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, key means an interior lot having its side lot lines coincident on one or both sides with the rear lot lines of adjacent lots.

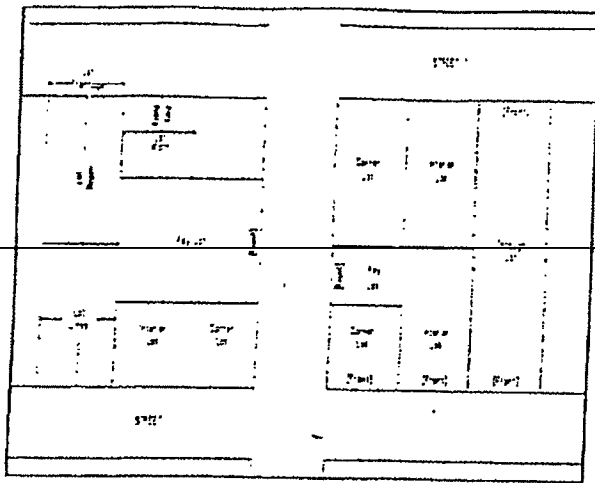
Lot line means the boundary line of a lot.

Lot, oceanfront means any lot having the erosion control line (ECL) as a property line. Floor area computations shall include all of lot area measured to the erosion control line.

Lot of record means a lot which is part of a subdivision, the map of which has been recorded in the public records of the county, or a lot described by metes and bounds, the description of which has been recorded in the public records of the county. (See "Site.")

Lot, through (double frontage) means any lot having frontages on two parallel or approximately parallel streets.

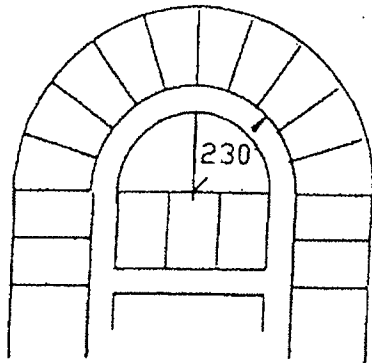
Lot width means the level distance between the side lot lines measured at the required front yard setback line and parallel to the front street line.



ILLUSTRATIONS OF LOT DEFINITIONS

However, in single-family districts, the lot width shall be the average of the front and rear lot widths if a lot meets the following criteria means:

- (1) Side lot lines are not parallel.
- (2) The front lot line is a least 30 feet wide.
- (3) The lot fronts on a turning circle of a cul-de-sac or a circular street with a radius of less than 230 feet.



CIRCULAR STREET WITH
RADIUS OF 230'
(NOT TO SCALE)

Major cultural dormitory facility means a building which is occupied by members, and their authorized guests, of a sponsoring major cultural institution with all residents occupying major cultural dormitory facility units and where ingress or egress may be through a common lobby or office that is supervised at all times for security purposes.

Major cultural dormitory facility unit means a room, or group of rooms with one main entrance with ingress or egress through a common lobby or office, occupied or intended to be occupied by members, and their authorized guests, of a sponsoring major cultural facility; not leased or subleased to the general public and without cooking facilities.

Major cultural institution means an institution that meets the mandatory requirements as set forth in section 142-1332.

Mandatory requirements means requirements or provisions of these land development regulations not subject to relaxation or waiver by the variance process.

Marina means a place for docking pleasure boats or commercial vessels and providing services to the occupants thereof, including minor servicing and minor repair to boats, sale of fuel and supplies, and provision of lodging, food, beverages, commercial offices, and entertainment as accessory uses.

Marine dockage means accessory use only, a place for docking of pleasure boats.

Mezzanine means an intermediate floor in any story or room. When the total floor area of any such mezzanine floor exceeds one-third 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 feet.

Miami Beach Property Maintenance Standards refers to section 58-176 et seq. and section 58-336 et seq.

Minimum finished floor elevation means the lowest enclosed floor above grade and shall not include areas for building access, provided such areas do not exceed a depth of 20 feet from the exterior building face. Interior stairs, ramps and elevators used to transition from grade to the minimum finished floor elevation may be located beyond the 20 feet depth from the exterior building face. However, areas for building access may exceed a depth of 20 feet from the exterior building face if approved by the design review board or historic preservation board, as applicable.

Motion picture theater means a building or part of a building used solely for the purpose of showing movies, motion pictures, and projections of events and performances conducted elsewhere, including permitted accessory uses such as eating and drinking concessions; and provided such theater, or any part thereof, is not an adult entertainment establishment (section 142-1271), dance hall, nor entertainment establishment (section 114-1).

Neighborhood plan means the neighborhood plan adopted by the city commission which establishes design guidelines, planning concepts and zoning recommendations for a geographical area.

Nonconforming building or structure means a building or structure or portion thereof which was designed, erected or structurally altered prior to the effective date of these land development regulations in such a manner that characteristics of the building or structure, other than its use, do not comply with the restrictions of these land development regulations.

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.

Noncontributing building, structure, improvement, or landscape feature means a building, structure, improvement, site or landscape feature located in a designated historic district which does not add to the district's sense of time and place and historical development; or one where the location, design, setting, materials, workmanship, feeling and association have been so altered or have so deteriorated that the overall integrity of the building has been irretrievably lost.

Nursing home means a facility licensed by the state as a nursing home and providing long-term care of the chronically ill, the physically disabled, and the aged who are unable to move about without the aid of another person or device.

Occupational license means the required license to conduct business within the city pursuant to chapter 18.

Overlay district means 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.

Parking aisle means the area to the rear of off-street parking spaces utilized for maneuvering of 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 lot, commercial means a parking lot where parking is offered to the general public for compensation.

~~*Parking lot, provisional* means a parking lot designed and authorized to be used for a period of time shorter than that permitted for a temporary parking lot. (See section 130-69.)~~

Parking lot, temporary means a parking lot designed to be used for a temporary period of time. (See section 130-68.)

Parking space, off-street means an area, not in a street or alley, that is maintained for the parking of one motor vehicle.

Parking space, tandem means an area, not in a street or alley, maintained for the stacked parking of two motor vehicles.

Pawn means either of the following transactions:

- (1) *Loan of money.* A written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.
- (2) *Buy-sell agreement.* Any agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

Pawnbroker means Any person, corporation, partnership, or other business organization or entity which is not solely a secondary metals recycler subject to F.S. ch. 538, pt. II, which is regularly engaged in the business of making pawns. The term does not include a financial institution as defined in F.S. § 655.005 or any person who regularly loans money or any other thing of value on stocks, bonds or other securities.

Pawnshop means a place or premise at which a pawnbroker is registered to conduct business as a pawnbroker, or conducts such business.

Pedestal means that portion of a building or structure which is equal to or less than 50 feet in height above sidewalk elevation.

Performance standard use means any development in the PS performance standard district for which a building permit or development approval is required, and, which use is permissible as of right or by conditional use in the PS district.

Personal service means any services in addition to housing and food service, which include, but are not limited to, personal assistance with bathing, dressing, ambulation, housekeeping, supervision, emotional security, eating, supervision of self-administered medications, and assistance with securing health care from appropriate sources.

Planned residential development means a residential development of ten acres or more which has a cohesive site development plan encompassing more than one building, and meeting the requirements of section 118-1.

Planning and zoning director means the individual appointed by the city manager who is the deputy director of the development, design and historic preservation department.

Pleasure craft or pleasure boat means a vessel not within the classification of a commercial vessel, housebarge 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.

Porte-cochere means an attached or detached rooflike structure extending from the entrance of a building over an adjacent driveway.

Premises means a lot, together with all buildings and structures thereon.

Promenade linkage means a structure which functions as a stairway or ramp connecting the upland property to the beachfront park and promenade. Such structure shall conform to the design specifications for the beachfront park and promenade and shall be located at points established by the planning, design and historic preservation division. All such structures shall conform to the requirements of the State of Florida Department of Natural Resources, Division of Beaches.

Property owner means the person or persons having a legal or equitable interest in real property, including property that is the subject of a development agreement, and includes the property owner's successor in interest.

Public facilities and services 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 means roads, sanitary sewer, solid waste, drainage, potable water, recreation, and mass transit.

Recycling receiving station means a building or a portion thereof, where, for compensation certain types of recyclable materials including, but not limited to aluminum, plastic, paper and scrap metal could be rendered for its wrapping, packing and shipping to another environmentally approved location where the actual recycling of the materials will take place. The term does not include a motor vehicle junkyard.

Redevelopment area means that portion of the city designated by the city commission pursuant to F.S. § 163.330 et seq., and amendments thereto.

Redevelopment plan means the South Shore Revitalization Strategy prepared pursuant to F.S. § 163.330 et seq. adopted by the city commission on February 15, 1984, and constituting the redevelopment plan for the redevelopment area as well as the redevelopment element of the city comprehensive plan.

Religious institution means a use where an establishment, organization or association conducts religious prayer or activity that is open to members and/or the general public, and may be accompanied by accessory uses customarily associated with religious institutions such as, but not limited to, education classes, youth centers, day care, offices, and rooms for licensed catering of life cycle or other gatherings or celebrations (e.g., weddings, confirmations, and coming-of-age events). A group privately assembling for worship, prayer or religious service in a private home or dwelling in which at least one member of the group resides, is not a religious institution, even if life cycle rituals are included in the service, including weddings, confirmations, and coming-of-age (such as bar or bat-mitzvah) observances and meals accompany the service.

Replacement value means a figure determined by the county tax assessor which is the cost of replacing all or a portion of a building based on new construction.

Restaurant means a commercial establishment where refreshments or meals may be purchased by the public and which conducts the business of serving of food to be consumed on or off the premises.

Roof deck means a structural platform located above the finished main roof line of a building, designed for outdoor occupation.

Roominghouse means a building other than an apartment, apartment hotel, hotel, where, for compensation and by pre-arrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons but not for more than 20 persons.

Safety barriers means a screened-in patio, a wooden or wire fence, a stone or concrete block wall, crime prevention fence or other materials constructed or used to separate persons from potential hazards on the premises.

Self-service laundry means a business establishment equipped with customer operated automatic washing machines having a capacity per unit not exceeding 25 pounds of dry clothing.

Service station. (See "Filling station.")

Shall is mandatory, the word "may" is permissive.

Shared parking means parking space that can be used to serve two or more individual uses without conflict or encroachment.

Sign means an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon land or a building or structure or object and which directs attention to a place, activity, product, person, institution, or business.

Sign area means that area within a line including the outer extremities of all letters, figures, characters, and delineations, or within a line including the outer extremities of the framework or background of the sign, ~~whichever line includes the larger area. The support for the sign background, whether it be columns, a~~ pylon, or a building or part thereof, shall not be included in the sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

Sign, awning means any sign painted, stamped, perforated or stitched on an awning, canopy, roller curtain or umbrella.

Sign, construction means a temporary sign which is located at a construction-site and which lists the name of the project, developer, architect, contractor, subcontractor and sales information.

Sign, detached means a 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, double-faced means a sign with two parallel, or nearly parallel, faces, back to back and located not more than 24 inches from each other.

Sign, establishment service-identification means a sign which pertains only to the use of a premises and which, depending upon the zoning district in which it is located, contains any or all of the following information:

- (1) The name of the owner, operator, and/or management of the use.
- (2) Information identifying the types of services or products provided by the establishment.

Sign, flashing means an illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign.

Sign, flat means any sign attached to, and erected parallel to, the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall.

Sign, general advertising means any sign which is not an accessory sign or which is not specifically limited to a special purpose by these regulations.

Sign, illuminated means any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

Sign, marquee means any sign attached to or hung from a marquee for a theatre. For the purpose of these land development regulations, a marquee is a nondetachable roof-like structure supported from the walls of a building and projecting over the main entrance for protection from sun and weather.

Sign, monument means a 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.

Sign, pole means a detached sign erected on a metal pole or poles and attached to the ground by a permanent foundation.

Sign, projecting means a sign which is attached to and projects more than 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 36 inches above a roof line or parapet wall shall be designated as a roof sign.

Sign, roof means a sign which is fastened to and supported by or on the roof of a building or which extends over the roof of a building or a projecting sign which extends more than 36 inches over or above the roof line or parapet wall of a building.

Site means a parcel of land considered as a unit, capable of being occupied by a use permitted in this subpart, possessing a continuous or unbroken boundary not divided by a public street, alley, right-of-way, private street, or waterway; except for properties which are involved in the transfer of development rights where the site is that property within a project that has been approved under chapter 118, article V.

Site plan means a drawing illustrating a proposed development and prepared in accordance with the specifications and requirements as set forth in chapter 118, article II, divisions 2 and 3, and chapter 118, articles IV and VI.

Site plan approval means final approval by the properly designated city agency, department or official pursuant to the procedure set forth in chapter 118, article II, divisions 2 and 3, and chapter 118, articles IV and VI.

South Florida Building Code means the South Florida Building Code adopted pursuant to section 14-31.

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 be no floor next above it, 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 feet above grade.

Street means a public or private thoroughfare which affords a means of access to abutting property.

Street line means the right-of-way line of a street.

Structural alteration means any change, except for repair or replacement, in the supporting members of a building or structure, such as bearing walls, columns, floor or roof joists, beams or girders.

Structure means anything constructed or erected, the use of which requires permanent location on the ground. Among other things, structures include buildings or any parts thereof, walls, fences, parking garages, parking lots, signs and screen enclosures.

Substantial rehabilitation means rehabilitation, the cost of which exceeds 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 South Florida Building Code, and the fire prevention and safety code.

Subterranean means that portion of a building or structure which is equal to or less than the sidewalk elevation. Where a subterranean area abuts a side lot line, open and unencumbered access shall be provided from the front yard area to the roof or deck of such area by means of a ramp or stairs.

Surface stormwater shallow conveyance shall be as defined in Section 54-35.

Swimming pool, commercial means any conventional pool, spa type pool, wading pool, or special purpose pool, constructed and operated pursuant to the standards and regulations of the state department of health and serving any type of structure or group of structures of four or more dwelling units.

Terrace means a platform that extends outdoors from a floor of a house serving as an outdoor living space, and which may not be covered.

Tower means that portion of a building or structure which exceeds 50 feet in height.

Townhome or townhome development means a grouping of single-family attached or detached units on one site arranged so that no unit is above another with each unit having separate ingress and egress.

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.

Used or occupied include the words "intended," "designed" or "arranged" to be used or occupied.

Value determination means the method set forth in the South Florida Building Code for determining the estimated cost of new construction or substantial rehabilitation.

Variance means a relaxation of certain regulations contained in these land development regulations as specified in section 118-352.

Vendor means an individual who sells or offers for sale a product.

Venetian Causeway Historic Site Designation Report means the document prepared by the city planning, design and historic preservation division, adopted by the city commission on April 15, 1989, containing the review guidelines for the Venetian Causeway Historic Preservation site.

Wine means all beverages made from fresh fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added, in a manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combinations of the aforesaid beverages, vermouths and the like products.

Waterway means any body of water, including any creek, canal, river, lake, bay, or ocean, natural or artificial except a swimming pool or ornamental pool located on a single lot.

Yard means an open area, other than a court, which is on the same lot as a building and which is unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations. The words "required yards" or "minimum required yards" and "minimum yards" includes the word "setback."

Yard, front means a yard extending the full width of the lot between the main building and the front lot line.

Yard, rear means a yard extending the full width of the lot between the main building and the rear lot line.

Yard, required means the minimum distance allowed between a lot line and a building or structure excluding allowable encroachments.

Yard, side means a yard between the building and the adjacent side of the lot, and extending from the front yard to the rear yard thereof.

Zoning district map means the city zoning district map as amended, dated and signed by the mayor and city clerk of the city, upon adoption.

Zoning ordinance means the city zoning ordinance printed in subpart B of this Code.

(Ord. No. 89-2637, eff. 4-15-89; Ord. No. 89-2665, §§ 3-1, 3-2, eff. 10-1-89; Ord. No. 90-2719, eff. 11-6-90; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 91-2768, eff. 11-2-91; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2779, eff. 3-28-92; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 93-2867, eff. 8-7-93; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 94-2925, eff. 6-15-94; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 95-3019, eff. 11-4-95; Ord. No. 96-3035, eff. 3-1-96; Ord. No. 96-3050, § 1, 7-17-96; Ord. No. 97-3083, § 1, 6-28-97; Ord. No. 97-3097, § 1, 10-8-97; Ord. No. 98-3108, § 1, 1-21-98; Ord. No. 98-3109, § 1, 5-20-98; Ord. No. 99-3176, § 1, 3-3-99; Ord. No. 99-3222, § 2, 12-15-99; Ord. No. 2000-3264, § 1, 9-13-00; Ord. No. 2000-3271, § 1, 9-27-00; Ord. No. 2006-3539, § 1, 10-11-06; Ord. No. 2008-3593, § 1, 1-16-08; Ord. No. 2011-3714, § 1, 1-19-11; Ord. No. 2014-3876, § 1, 6-11-14; Ord. No. 2014-3891, § 1, 9-10-14; Ord. No. 2014-3899, § 1, 10-22-14; Ord. No. 2014-3907, § 1, 11-19-14; Ord. No. 2015-3944, § 1, 6-10-15; Ord. No. 2015-3955, § 1, 7-31-15; Ord. No. 2016-4010, § 5-11-16)

Cross reference— Definitions generally, § 1-2.

Sec. 114-7. - Enforcement.

- (a) It shall be the duty of the planning, design and historic preservation division and the department of code compliance to enforce the provisions of these land development regulations and to refuse to approve any permit for any building or for the use of any premises, which would violate any of the provisions of these land development regulations. ~~The building official shall enforce those provisions of the land development regulations which~~ delegate specific powers and duties to that individual. It shall also be the duty of all officers and employees of the city to assist these departments by reporting to them any seeming violation in new construction, reconstruction or land uses.
- (b) The city's planning and zoning director, building official, and director of the department of code compliance are authorized, where deemed necessary for enforcement of these regulations, to request the execution of an agreement for recording.
- (c) In case any building is erected, constructed, reconstructed, altered, repaired, or converted, or any building or land is used in violation of these land development regulations, the city's planning and zoning director, building official, and director of the department of code compliance, or the city in their behalf is authorized and directed to institute any appropriate action to put an end to such violation.
- (d) For purposes of inspection and upon presentation of proper credentials, the city's planning and zoning director, building official, and director of the department of code compliance or their authorized representatives, may enter at any reasonable time, any building, structure or premises, for the purpose of determining whether these land development regulations are being violated. In the event violations of these land development regulations are found on a given premises, the building official and the director of the department of code compliance, historic preservation and urban design director or their authorized representative, are empowered to issue notices of violation to the owner of such premises and to any persons responsible for creating or maintaining the violations. Additionally, the building official may stop work on projects which violate these land development regulations with respect to materials, work, grades, use or other regulations or provisions thereof.

(Ord. No. 89-2665, § 21-1, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 2015-3978, § 1, 12-9-15, eff. 4-1-16)

ARTICLE IV. - CONDITIONAL USE PROCEDURE

Sec. 118-191. - Purpose.

The purpose of this article is to establish a process which is designed to determine if certain uses, referred to as conditional uses in this article, should be permitted, at a given location. Special review of conditional uses is required not only because these generally are of a public or semi-public character and are essential and desirable for the general convenience and welfare of the community, but also because the nature of the uses and their potential impact on neighboring properties, requires the exercise of planning judgment as to location and site plan.

(Ord. No. 89-2665, § 17-4(A), eff. 10-1-89)

Sec. 118-192. - Review guidelines.

- (a) Conditional uses may be approved in accordance with the procedures and standards of this article provided that:
 - (1) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.
 - (2) The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.
 - (3) Structures and uses associated with the request are consistent with these land development regulations.
 - (4) The public health, safety, morals, and general welfare will not be adversely affected.
 - (5) Adequate off-street parking facilities will be provided.
 - (6) Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.
 - (7) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.
- (b) In reviewing an application for conditional use for new structures 50,000 square feet and over, the planning board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines listed in subsection a. above:
 - (1) Whether the proposed business operations plan has been provided, including hours of operation, number of employees, goals of business, and other operational characteristics pertinent to the application, and that such plan is compatible with the neighborhood in which it is located.
 - (2) Whether a plan for the mass delivery of merchandise has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.
 - (3) Whether the scale of the proposed use is compatible with the urban character of the surrounding area and create adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.
 - (4) Whether the proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking and operational needs of the structure and proposed uses.

- (5) Whether an indoor and outdoor customer circulation plan has been provided that facilitates ingress and egress to the site and structure.
 - (6) Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the business and its users and minimizes impacts on the neighborhood.
 - (7) Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.
 - (8) Whether a noise attenuation plan has been provided that addresses how noise will be controlled in the loading zone, parking structures and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.
 - (9) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.
 - (10) Whether the proximity of the proposed structure to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated.
 - (11) Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect will be addressed.
- (c) In reviewing an application for a religious institution, the planning board shall apply the following review criteria instead of the standard review guidelines listed in subsection (a) above:
- (1) Whether a proposed operations plan has been provided, including hours of operation, number of employees, and other operational characteristics pertinent to the application, and that such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.
 - (2) Whether a plan for the delivery of supplies has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.
 - (3) Whether the design of the proposed structure is permitted by the regulations in the zoning district in which the property is located, and complies with the regulations of an overlay district, if applicable.
 - (4) Whether a proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking for the use in the zoning district in which the property is located.
 - (5) Whether an indoor and outdoor congregant/parishioner circulation plan has been provided that facilitates ingress and egress to the site and structure.
 - (6) Whether a security plan for the establishment and supporting parking facility, if any, has been provided that addresses the safety of the institution and its users and minimizes impacts on the neighborhood.
 - (7) Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.
 - (8) Whether a noise attenuation plan has been provided that addresses how noise will be controlled in and around the institution, parking structures or areas, and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.
 - (9) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.

- (10) Whether the proximity of the proposed structure to adjacent and nearby residential uses creates adverse impacts and how such impacts are to be mitigated.
- (11) Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect will be addressed.

(Ord. No. 89-2665, § 17-4(B), eff. 10-1-89; Ord. No. 99-3179, § 1, 3-17-99; Ord. No. 2006-3518, § 1, 7-12-06; Ord. No. 2011-3714, § 5, 1-19-11)

Sec. 118-193. - Applications for conditional uses.

Quasi-judicial, public hearing applications for approval of a conditional use shall be submitted to the planning department, which shall prepare a report and recommendation for consideration by the planning board, and when required, by the city commission and shall comply with the notice requirements in accordance with section 118-8. Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

- (1) *Site plan required.* Each application for a conditional use permit shall be accompanied by a site plan meeting the requirements of section 118-1, and such other information as may be required for a determination of the nature of the proposed use and its effect on the comprehensive plan, the neighborhood and surrounding properties.
- (2) *Expiration of Orders of Planning Board.*
 - a. An 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 a conditional use was granted to obtain a full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first. The foregoing 18-month time period, or lesser time period, includes the time of the decision of the planning board may be filed. If the applicant fails to obtain a full building permit within 18 months, or such lesser time period as is specified, of the board meeting date at which a conditional use was granted and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the conditional use 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 planning board, provided the applicant submits a request in writing to the planning and zoning 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 planning department has reviewed the plans and provided initial comments.

Please refer to 118-9 relating to appealed orders, and tolling.

- b. [Reserved.]
- c. An approved and operational conditional use which remains idle or unused in whole or in part for a continuous period of six months or for 18 months during any three-year period whether or not the equipment, fixtures, or structures remain, shall be required to seek re-approval of the conditional use from the board. Resumption of such use shall not be permitted unless and until the board approval has been granted.
- d. 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 as provided in subsection 118-196(5). The applicant shall also pay a

deferral fee as set forth in this article. In the event that the application is not presented to the board for approval at the meeting date for which the application was deferred, the application shall be deemed null and void. If the application is deferred by the board, the notice requirements shall be the same as for a new application as provided in subsection 118-196(5) and shall be at the city's expense.

- e. The board may continue an application to a date certain at either the request of the applicant or at its own discretion.
- f. 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 that attempts 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.
- g. 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.
- h. 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.
- i. An application may be withdrawn by the applicant if such request is in writing and filed with the planning 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 by the planning 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.
- j. In the event there is a lack of a quorum, all pending or remaining matters shall be automatically continued to the next available meeting of the board.

(Ord. No. 89-2665, § 17-4(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 2000-3270, § 1, 9-27-00; Ord. No. 2003-3416, § 1, 6-11-03; Ord. No. 2008-3599, § 1, 3-12-08; Ord. No. 2010-3711, § 2, 12-8-10; Ord. No. 2014-3889, § 2, 7-23-14; Ord. No. 2015-3976, § 3, eff. 12-19-15; Ord. No. 2015-3977, § 7, eff. 12-19-15; Ord. No. 2015-3978, § 4, 12-9-15, eff. 4-1-16)

Sec. 118-194. - Compliance with conditions.

- (a) No occupational license, certificate of use, certificate of occupancy, or certificate of completion shall be issued until all conditions of approval have been met. The establishment of a conditional use without complying with the conditions of approval shall constitute a violation of these land development regulations and shall be subject to enforcement procedures as set forth in section 114-8, and as provided herein.
- (b) Within a reasonable time after a conditional use application or amendment has been approved, the applicant shall record the planning board's action and conditions in the public records of the county. No building permit, certificate of use, certificate of occupancy, certificate of completion or occupational license shall be issued until this regulation has been complied with.
- (c) The board may revoke or modify a conditional use approval pursuant to the following procedures:
 - (1) The planning director shall notify the applicant by certified mail of the failure to comply with the conditions of the approval;

- (2) If, after expiration of a 15-day cure period commencing on the date of the notice, the applicant fails to comply with the conditions, or the applicant has exhibited repeated or intermittent noncompliance with the conditions prior to the cure period and the planning director is concerned about further repeated or intermittent noncompliance, the planning director shall advise the board at the next meeting and the board may consider setting a public hearing for the purpose of examining the noncompliance issues;
- (3) If the board elects to set a public hearing, the planning director shall place the matter on the board's agenda in a timely manner and all notice requirements imposed for conditional use applications as set forth in section 118-193 shall be applicable, with the addition of notice to the applicant; and
- (4) The board shall hold a public hearing to consider the issue of noncompliance and the possible revocation or modification of the approval, and, based on substantial competent evidence, the board may revoke the approval, modify the conditions thereof, or impose additional or supplemental conditions.
- (d) In determining whether substantial competent evidence exists to support revocation, modification or the imposition of additional or supplemental conditions to the approval, intermittent noncompliance with the conditions, as well as the frequency, degree and adverse impact of such intermittent noncompliance, may be considered by the board.
- (e) In the event the board takes any of the enforcement actions authorized in this section, the applicant shall reimburse the planning, design and historic preservation division for all monies expended to satisfy notice requirements and to copy, prepare or distribute materials in anticipation of the public hearing. The applicant shall not be permitted to submit a new application, for related or unrelated matters, nor shall an application be accepted affecting the subject property, for related or unrelated matters, for consideration by the board of adjustment, planning board, design review board, historic preservation board, or the design review/historic preservation board until repayment in full of all monies due and payable pursuant to the foregoing sentence.
- (f) In addition to all other enforcement actions available to the board, based upon a board finding that the applicant has failed to comply with the conditions of the approval, the board may recommend that the code compliance director (or his/her successor in interest with respect to the issuance of occupational licenses and certificates of use), in his/her discretion, revoke or suspend the certificate of use for the subject property and/or the applicants occupational license applicable to the business conducted at the subject property.

(Ord. No. 89-2665, § 17-4(D), eff. 10-1-89; Ord. No. 96-3047, § 2, 7-3-96; Ord. No. 2001-3314, § 2, 7-18-01)

Sec. 118-195. - Amendment of an approved conditional use.

- (a) When an applicant requests an amendment to an approved conditional use, the planning and zoning director shall first determine whether the request is a substantial or minor amendment. A minor amendment may be authorized by the planning and zoning director. If the planning and zoning director determines that the request is a substantial amendment, the review process shall be the same as for a new application. In determining whether the request is a substantial or minor amendment, the planning and zoning director shall consider the overall impact of the change, increase or decrease in parking or floor area, landscaping and design, consistency with these land development regulations, efficient utilization of the site, circulation pattern and other pertinent facts. Any increase in lot area, parking requirements, floor area ratio, density or lot coverage shall be considered as a substantial amendment.
- (b) If the planning and zoning director determines the request is a minor amendment, the applicant may submit an application for a building permit; however, the planning and zoning director shall approve the site plan prior to the issuance of a building permit.

(Ord. No. 89-2665, § 17-4(E), eff. 10-1-89)

Sec. 118-196. - Reserved.

Editor's note— Sec. 4 of Ord. No. 2015-3978, adopted Dec. 9, 2015, effective Apr. 1, 2016, repealed § 118-196 which pertained to fees, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 90-2722, effective Nov. 21, 1990; Ord. No. 92-2820, effective Oct. 31, 1992; Ord. No. 94-2959, effective Dec. 17, 1994; and Ord. No. 95-2993, effective May 27, 1995.

Sec. 118-197. - Reserved.

Editor's note— Sec. 8 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-197, which pertained to review of conditional use decisions, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 90-2722, effective Nov. 21, 1990; Ord. No. 94-2946, effective Oct. 15, 1994; and Ord. No. 96-3047, adopted July 3, 1996.

Secs. 118-198—118-220. - Reserved.

DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS

Subdivision I. - Generally

Secs. 142-131—142-150. - Reserved.

Subdivision II. - RM-1 Residential Multifamily Low Intensity

Sec. 142-151. - Purpose.

The RM-1 residential multifamily, low density district is designed for low intensity, low rise, single-family and multiple-family residences.

(Ord. No. 89-2665, § 6-2(A)(1), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92)

Sec. 142-152. - Main permitted uses.

The main permitted uses in the RM-1 residential multifamily, low density district are single-family detached dwelling; townhomes; apartments; hotels, for properties fronting Harding Avenue or Collins Avenue, from the City Line on the north, to 73rd Street on the south; and bed and breakfast inn (pursuant to article V, division 7 of this chapter).

(Ord. No. 89-2665, § 6-2(A)(2), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 2000-3257, § 1, 7-12-00; Ord. No. 2014-3869, § 1, 5-21-14)

Sec. 142-153. - Conditional uses.

- (a) The conditional uses in the RM-1 residential multifamily, low density district are adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages.
- (b) For properties located in the Collins Waterfront Local Historic District, which are designated as a Local Historic Site, a hall for hire use within the interior of an existing building shall require conditional use approval and shall comply with the following:
 - (1) The conditional use shall only be permitted within an existing structure that is on a property designated as a "Historic Site" and such limitation shall be recorded in the Public Records;
 - (2) Dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as part of a hall for hire;
 - (3) The hall for hire use shall close by 11:00 p.m. Sunday through Thursday, and by 12:00 a.m. Friday and Saturday;
 - (4) Events at the hall for hire shall be for the exclusive use of the property owner (and its subsidiaries) and invited guests. Events at the hall shall not be for the general public, with the exception of adjacent schools and community organizations within the Collins Park and Flamingo Drive areas, which may use the hall until 9:00 p.m.;
 - (5) Restaurants, stand-alone bars and alcoholic beverage establishments, not functioning as a hall-for-hire, shall be prohibited;

- (6) Outdoor dining, outdoor entertainment and open-air entertainment uses shall be prohibited;
- (7) Private or valet parking for any event at the hall shall be prohibited from using Flamingo Drive, Flamingo Place or Lake Pancoast Drive to facilitate access to the site.

There shall be no variances from the provisions of Section 142-153(b).

(Ord. No. 89-2665, § 6-2(A)(3), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2014-3909, § 1, 11-19-14)

Sec. 142-154. - Accessory uses.

The accessory uses in the RM-1 residential multifamily, low density district are as required in article IV, division 2 of this chapter.

(Ord. No. 89-2665, § 6-2(A)(4), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92)