MIAMIBEACH
LAND USE BOARDS

PLANNING BOARD AGENDA
1700 CONVENTION CENTER DRIVE 3RD FL.

Friday, June 17, 2022, 10:00 AM | Virtual Meeting/ City Commission Chamber at Miami Beach City Hall (1700 Convention Center Dr., 3rd Fl., Miami Beach, FL 33139)

To attend or participate via Zoom, please use the following link to join the webinar: https://miamibeachfl-gov.zoom.us/j/86143426327, or dial in via telephone at US: +19292056099,,86143426327# or 877 853 5257 (Toll Free) Webinar ID: 861 4342 6327. Members of the public wishing to speak on an item during the meeting, must click the "raise hand" icon if using the Zoom app or press *9 on the telephone to "raise hand". Members of the public who wish to provide testimony and/or submit evidence in support of or in opposition to an item scheduled to be heard may appear in person and will be encouraged to wear facial coverings and observe social distancing, consistent with CDC guidance at the at the City Commission Chamber, Miami Beach City Hall (1700 Convention Center Drive, 3rd Floor, Miami Beach, FL 33139).

I. ATTENDANCE
II. APPROVAL OF MINUTES
III. CITY ATTORNEY UPDATES
IV. SWEARING IN OF PUBLIC
V. REQUESTS FOR CONTINUANCES/WITHDRAWALS
VI. REQUESTS FOR EXTENSIONS OF TIME
VII. DISCUSSION ITEMS
VIII. PROGRESS REPORT
IX. MODIFICATION OF PREVIOUSLY APPROVED BOARD ORDER
X. CONTINUED ITEMS
XI. OPEN AND CONTINUED ITEMS
XII. NEW APPLICATIONS
XIII. AMENDMENTS TO: COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS
XIV. APPEALS (BOA ONLY)
XV. OTHER BUSINESS
XVI. ADJOURNMENT

OTHER BUSINESS

1. Resiliency Code Workshop

Applications listed herein have been filed with the Planning Department for review by the Planning Board, pursuant Section 118-51 of the City's Land Development Regulations. All persons are invited to attend this meeting or be represented by an agent, or to express their views in writing addressed to the Planning

Board c/o the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Applications for items listed herein are available for public inspection at the following link: or during normal business hours at the Planning Department, 1700 Convention Center Drive, 2nd Floor, Miami Beach, Florida 33139. Inquiries may be directed to the Department at (305) 673-7550.

Any items listed in this agenda may be continued. Under such circumstances, additional legal notice would not be provided. Please contact the Planning Department at (305) 673-7550 for information on the status of continued items.

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: Appeals of any decision made by this Board with respect to any matter considered at its meeting or hearing, such person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in alternate format, sign language interpreter (five-business day notice is required), information on access for persons with disabilities, and accommodation to review any document or participate in any city-sponsored proceedings, call 305.604.2489 and select 1 for English or 2 for Spanish, then option 6; TTY users may call via 711 (Florida Relay Service).

MIAMIBEACH

LAND USE BOARDS

FILE NO.

APPLICANT:

MEETING DATE:
6/17/2022

PRIOR ORDER NUMBER:

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?	Does this item utilize G.O. Bond Funds?
Yes	No

ATTACHMENTS:

Description	Type
Cover Letter – Changes Identified	Other
Chapter 1 General Provisions - WORKING DRAFT	Other
Chapter 2 Administrative and Review Procedures - WORKING DRAFT	Other
Chapter 3 Concurrency and Mobility Fees – WORKING DRAFT	Other
Chapter 4 Landscape – WORKING DRAFT	Other
Chapter 6 Signs – WORKING DRAFT	Other

Miami Beach Resiliency Code and LDR Update

Draft Proposed Code Covering Memo

June 15, 2022.

Background

After contract award in August 2020 the consulting team commenced the code update process by engaging in substantive scenario planning with City staff. This included an analysis of future trends, projected impacts of climate change and sea level rise, as well as other factors such as population growth, transportation and mobility, hazard mitigation and the preservation and protection of cultural and architectural resources. This scenario planning has resulted in an ideal framework for the recommendations that will be included as part of the draft of the Resiliency Code.

In 2021, City staff organized a number of focus group workshops involving stakeholders from a wide variety of interests and disciplines, including residents, developers, property owners, attorneys, design professionals and neighborhood groups. Because of the size of the workshops, multiple meetings were held, primarily using virtual platforms, due to the pandemic.

Meetings

- May 27, 2021
    - Resiliency Code Focus Group Meeting Homeowner Associations
- June 2, 2021
    - Resiliency Code Focus Group Meeting - CMB Chamber of Commerce
    - Resiliency Code Focus Group Meeting CMB Convention Center & GMCVB
    - Resiliency Code Focus Group Meetings Land Use and Sustainability Committee
- June 3, 2021
    - Resiliency Code Focus Group Meeting HPB – MDPL
    - Resiliency Code Focus Group - Design Review Board
    - Resiliency Code Focus Group - Land Use Attorneys
- June 10, 2021
    - Resiliency Code Focus Group - Landowner and Developer
    - Resiliency Code Focus Group Meeting PB & BOA- Board Members
    - Resiliency Code Focus Group Meeting – Architects
- February 10, 2022
    - Tom Mooney – Brief to Miami Beach Chamber of Commerce
- June 1, 2022
    - Resiliency Code to Land Use and Sustainability
- June 3, 2022
    - Community Meeting/ Workshop- PB

Future Meetings

- June 17, 2022
    - Community Meeting/ Workshop- PB
- July 26, 2022
    - Transmittal Hearing

Goals of the Code Update

- Address climate adaptation and resilience
- Modernize, simplify and update the Code while protecting quality of life
- Safeguard historic preservation
- Ensure clarity and transparency in Code, Land Use Boards and permitting process
- Allow flexibility for Code updates over time

Draft Proposed Code

The enclosed document is a working draft of the proposed Miami Beach Resiliency Code as of mid-June, 2022. The Administration and the consultant team are continuing to work together to refine recommendations for Code updates. Feedback from LUSC and the Planning Board will also be considered for incorporation into the final draft document which is anticipated to be transmitted by the Planning Board to the City Commission on July 26, 2022.

Proposed Changes by Chapter

The following provides a summary of substantive proposed changes to each chapter of the Code and should be read with the draft Code document. In addition to the substantive proposed changes noted below and highlighted in the draft Code document minor changes have been made such as reordering of content for readability and removal of redundant regulations. Section references are highlighted or shown in red text as these will be updated when the draft Code is finalized.

Chapter 1: General Provisions (formerly Chapter 114: General Provisions)

- Article II: Definitions
    - All definitions currently distributed throughout the Code have been consolidated in Article II: Definitions
    - Definitions have been categorized for easier reference
    - Use definitions have been categorized to correspond to new use tables introduced in Chapter 7: Zoning Districts and Regulations
    - New and revised definitions are highlighted in the draft Code document
- New section: 1.3.6 Administration of Regulations
    - New section has been added to clarify the role of the planning director to interpret the land development regulations, the standards for administrative interpretation and the appeal process in case of disagreement

Chapter 2: Administration and Review Procedures (formerly Chapter 118: Administration and Review Procedures)

- Consolidated and standardized provisions for appointment and conduct of Land Use Boards
- Consolidated, standardized and updated application and hearing procedures for land use approvals
- Created new annual zoning cycle
- Created new process and standards for commission approval allowing exemption up to 25% from design parameters for specific projects
- No changes to historic preservation regulations

Chapter 3: Concurrency Management and Mobility Fees (formerly Chapter 122 Concurrency Management and Mobility Fees)

- No major changes proposed

- Parks Department is updating concurrency management and this will be inserted when complete

Chapter 4: Landscape Requirements (formerly Chapter 126: Landscape Requirements)

- General
  - Enhancements to promote drought tolerant, salt tolerant species suitable for Miami Beach
- Section 4.2.3: Minimum standards
  - Soil volumes added for street trees to improve street tree health
- Section 4.2.7 Landscaped areas in permanent parking lots & Sec. 4.2.8 Temporary and provisional parking lot standards
  - New requirements to promote permeability for stormwater management

Chapter 5: Off-Street Parking (formerly Chapter 130: Off-Street Parking)

- Replaced parking districts 1-9 with parking tiers 1-3, creating a structure of areas with reduced parking requirements that in future can be expanded to align further with transit corridors and hubs as identified by the City's Comprehensive Plan and Transportation Master Plan
- Tier 1 (highest parking requirements)
  - Tier 1 is composed of former parking district 1 and applies to all areas outside of other parking districts/tiers
  - Parking requirements have been consolidated for some uses but no changes have been made
- Tier 2 (intermediate parking requirements)
  - Tier 2 is composed of former parking districts 5, 6 and 9
  - Lower parking requirements are specified for some uses
  - Tier 1 requirements apply for uses for which no parking requirements are specified
  - If parking requirements for districts 5, 6 and 9 differed the lowest requirement was generally chosen
  - Geographic exceptions preserve specifics of former districts 5, 6 and 9
- Tier 3 (lowest parking requirements)
  - Tier 3 is composed of former parking districts 2, 3, 4, 7 and 8
  - Lower parking requirements are specified for some uses
  - If parking requirements for districts 2, 3, 4, 7 and 8 differed the lowest requirement was generally chosen
  - For uses for which no parking requirements are specified the parking requirement is 0 (which is consistent with the former parking districts)
  - Geographic exceptions preserve specifics of former districts 2, 3, 4, 7 and 8
- Parking requirements are provided in tables organized by use, similar to use tables in Chapter 7: Zoning Districts and Regulations
- Section 5.2.5: Bicycle off-street parking requirements
  - Short term and long term bicycle parking requirements have been applied city-wide for commercial non-retail, retail, restaurants, bars, nightclubs, hotel and multifamily residential
  - Bicycle parking is permitted to apply towards vehicle parking reductions up to a maximum which increases in each tier
- Section 5.2.8: Off-site parking facilities

    - Made maximum distance for offsite parking consistent across the city at 1,200 feet from the property
- New Section 5.2.9: Non-conforming parking lots
    - New regulations for the repair and/or rehabilitation of nonconforming parking lots
- Parking regulations formerly in Chapter 142: Zoning Districts and Regulations have been consolidated in Chapter 5: Off-street Parking
- Removed Supplementary Convention Center Parking Article as authority to issue supplementary convention center parking permits expired in 1993

Chapter 6 Signs (formerly Chapter 138: Signs)

- Clarified design review requirements
- Clarified interpretation of maximum sign sizes
- Standardized terminology for different types of signs and added definitions
- Updated graphic exhibits

Chapter 7: Zoning Districts and Regulations (formerly Chapter 142: Zoning Districts and Regulations and Chapter 133 Sustainability and Resiliency)

Note: Changes relating to the relocation of content are shown in grey

7.1 GENERAL TO ALL ZONING DISTRICTS

7.1.2 Resilience and Adaptation Standards

- Placed in this the first section and combined it with 'Exterior building and lot standards', which regulate yard height, an adaptation response. Chapter 133 – Sustainability and Resiliency is current location of these standards.
- Whenever possible clarified and streamlined vertical measurements and tied them to Base Flood Elevation. Because this vertical measurement is in flux, this allows the code to remain up to date as Base Flood Elevation migrates upwards over time.
- New and Updated Definitions:
    - Pedestal definition was updated from '50 feet measured from the sidewalk elevation' to '50 feet measured from BFE'.
    - New Use definition: Neighborhood Impact Lot: Developments on properties greater than 20,000 square feet of lot area.
    - New Use definition: Neighborhood Impact Structure: New construction of structures 50,000 square feet and over (even when divided by a district boundary line), which review shall be the first step in the process before the review by any of the other land development boards.
    - Neighborhood Impact Establishment was updated by lower the occupancy that triggers a Conditional Use Permit for alcohol from 300 to 150; and for alcohol with entertainment from 200 to 10. (Sec 142-1361)

- Created a new hierarchy of regulations supported by exhibits in the following order:
    - **7.1.2.2 Resilience and Adaptation Standards for Buildings**. These include:
        - Subterranean (formerly Sec 142-870.17. Design and Resilience Standards (b))
        - Understory
        - Residential First Habitable Level and
        - Non Residential First Habitable Level

        Placed current 'Article III. Ground Floor Standards for Nonresidential Buildings', nearly unchanged, except for increasing the minimum floor-to-ceiling height to 12 feet for residential FHL and 14 feet for non-residential FHL in the new 'First Habitable Level Standards' section, in order to create a longer lifespan/looser fit which will ease the retrofit process. The 5 feet additional height currently awarded through DRB is now by right if the 14 feet at the non-residential first habitable level are provided.

    - **7.1.2.3 Resilience and Adaptation Standards for Exterior Building and Lot.** These include:
        - Minimum and Maximum Yard Elevations (Relocated some of the Exterior building and lot standards and yard standards in the RS zoning districts as well as RM-1, and RM-2). Standards were converted to tables.
        - Updated elevation of minimum required yards from 5 feet NAVD to Future Adjusted Grade (if Future Crown of the Road is known), and BFE minus 1 foot (if Future Crown of the Road is not known) in order to keep up with a portion of IPCC's projections.

7.1.3 Environmental Mitigation Standards

- Placed Green Buildings and Rating Systems in this section in order to emphasize the close relationship between 'adaptation' which precedes this section, and 'mitigation.' Source: Chapter 133 – Sustainability and Resilience, Article 1. Green Buildings.
- Created a section for 'Original Green Standards' that would deal with passive cooling, daylighting, and other environmental measures that are not related to rating systems and higher tech solutions. Held in 'Reserved'.

7.1.4 Frontages

- Created a new section which shows the idealized cross-sections of new construction and future retrofit. This is inspired by Smart Code but illustrates how the frontage relates to the future crown of the road.

7.1.5 Minimum Unit Sizes

- Created a new section for minimum unit sizes that makes them consistent citywide, unless regulated in each district, overlay, or historic district. Most districts have the same minimum unit sizes. This allows for them to be deleted in each zoning district, thereby shortening the code.
- Removed 'Average Unit Sizes' in order to simplify calculations and enforcement of the code and to make the projects more market friendly.

7.1.6 Parking Screening Standards

- Relocated and enhanced 'Ground Floor Requirements' from RMs, CDs and other districts and renamed it '7.1.6 Parking Screening Standards'. This enabled the code to be shortened and improves frontage quality. Rewrote provision to require liner buildings for parking so that it is consistent with the terms 'understory' and 'First Habitable Level (FHL)' as used elsewhere in the proposed code.

7.1.7 Colors

- Clean up but no significant changes.

7.1.8 Prohibited Uses

- Relocated Sec. 142-1. Prohibiting Gambling and Casinos to Prohibited Uses to this section.
- Relocated 'Assisted living facilities and medical uses' to supplementary use section.

7.2 DISTRICT REGULATIONS

All Zoning Districts

- Cleaned up and created a consistent and clear District section structure. All Districts include:
    - Purpose
    - Uses (with tables)
    - Development Regulations (with tables and exhibits) and
    - Additional Regulations if any
- Numbering throughout the code was made consistent and simplified so that the code can be amended and expanded without having to leave 'Reserved' sections.
- All zoning districts remain except for a few that were removed because they had not been deployed in the zoning map. Districts removed were RO-2 and RO-3.
- Districts were reorganized as a gradient from less intense (such as Single Family Residential and Townhome Districts) to more intense (such as Mixed Use Entertainment and Town Center Districts) and Civic Districts (Government Use, Special Public Facilities Districts) and Special Districts (Golf Course and Waterway Districts)
- Most Overlay Districts remain except for a few that were incorporated into the underlying zoning district, such as the 40th Street Overlay (that affected only a few properties in the RS-2 and RS-4 Districts)
- Converted permitted, conditional, accessory and prohibited uses paragraphs into tables. Supplemental use regulations remain and are referenced on the tables. This makes the code easier to interpret and consistent.
- Combined the Development Regulations Table or text with the Setback Requirements to create one larger table. All standards in all Districts have the same table structure. This makes the code shorter and more user friendly.
- Added FAR from the Comprehensive Plan to all Development Regulations Tables. This allows the code to be more user friendly and clear.
- Relocated and enhanced 'Ground Floor Requirements' and 'For New Construction' to General to All Districts and renamed it '7.1.6 Parking Screening Standards' and refer to that section in all applicable Districts. This enabled the code to be shortened and improves frontage quality.

- Deleted setback requirements for At-Grade parking lots from all districts on the same lot because a table was added to the Parking Chapter which establishes general standards for surface parking lots.
- Whenever there is a mention of a geographic area in the district regulations a reference to a map key was added and mapped in GIS. This map appears on the Gridics Platform directly accessible through the text.
- Deleted Video Game Arcade from uses regulations because this is not used anymore.
- Included Accessory Uses listed in the 'Article IV Supplementary District Regulations' to the District's Uses tables. Any specific supplementary regulations remain in '7.5.4 supplementary use regulations'.

7.1.2 RS

- Created a consistent maximum height of 28 feet (flat roofs) / 31 feet (sloped roofs) across the 4 districts. This allows the buildings to have a long life span. The additional height allows for floor height to be adjusted over time without compromising comfortable ceiling height and will ensure that houses can adapt to future revisions of Base Flood Elevation. It is not uncommon to find similar height maximums in analogous zoning districts in other municipalities (RS, RSF, T-3). Best practice shows that there is not necessarily a correlation between platting increment and maximum height in historic communities around the Country. In other words, more spacious lots do not imply greater maximum height.
- Understories are allowed without having to go through DRB or HPB approval. If a single-family house has an Understory, the height may be increased by 3 ft. An Understory with a minimum height of 10 feet places the Residential First Habitable Level (FHL) above the maximum Design Flood Elevation. Therefore 3 additional feet are awarded to ensure comfortable and climate responsive ceiling heights.
- Consolidated setback table with other development standards to create one table, making the code more user friendly and clear.
- Eliminated parapet setbacks because this is inauthentic to the detailing of parapets in art deco and streamlined moderne buildings.
- Relocated other yard requirements to the text and notes immediately following the table. (7.2.2.3 vii Exterior Building and Lot Standards (RS))
- Altos del Mar Historic District
    - Preserved the maximum height of 37 feet but changed the calculation of height so that it is measured from DFE rather than from grade, in order to ease future retrofit and promote a long lifespan/loose fit and to be consistent in the way height is measured throughout the code.
- 'Commercial Use of Single-Family Homes Prohibited' currently Sec. 142-109, was moved to supplemental uses section in RS.
- 'Provisions for the demolition of single-family homes located outside of historic districts' was moved to 7.7.7.4 Additional Regulations (RS)

7.1.3 TH

- Relocated public-private parking agreement paragraph and 'Sec. 142 607 Design Review' to '7.2.3.4 Additional Regulations (TH)'

7.1.4 RM-1

- Added Hostels as a prohibited use.

- Because 'Exterior Lot Standards' has been relocated in Section 7.1.2, deleted it from RM-1 and refer to that section.
- Relocated standards for the 'Flamingo Park Local Historic District' to '7.2.4.4 Additional Regulations (RM-1)'
- Relocated the 'North Beach Private and Public School Overlay District' to section 7.2.4.5 as part of the RM-1 District. This Overlay only affects a few properties in RM-1 and it is more appropriate as part of the District Regulations.

7.1.5 RM-2

- Added Hostels as a prohibited use.
- Because 'Exterior Lot Standards' has been relocated in Section 7.1.2, deleted it from RM-2 and refer to that section.
- Relocated regulations for properties that front the west side of Alton Road and Julia Tuttle Causeway to '7.2.5.4 Additional Regulations'

7.1.6 RM-3

- Added Hostels as a prohibited use.
- Organized many of the remaining regulations into a section, 'Additional Development Regulations.'

7.1.7 RM-PRD

- Added Supplemental minimum unit sizes because it differed from those found in Article 1.

7.1.8 RM-PRD-2

- Separated Sec. 142-187 'Purpose and Uses' into two sections, 'Purpose' and 'Uses' to be consistent with other zoning districts.
- Under uses, added a sentence regarding allowance of limited accessory ground floor retail to the Accessory Uses. The sentence had been located, previously, in a part of the document that does not pertain to uses.
- Created 'Additional Use Regulations' in order to gather the use regulations for the St. Francis Hospital Site and place these with other use regulations rather than at the end of the document.
- Reformatted 'Sec. 142-188. Development Regulations' so that the metrics are organized as a table 'RM-PRD-2 Development Regulations Table.'
- Created a new section 'Parking Standards' that organizes those regulations relating to parking.
- Deleted any use regulations, alternative setback or building metrics from Sec. 142-294 Urban and Architecture Design Guidelines and moved these to the master table, leaving only the regulations pertaining to Urban and Architecture Design.

7.1.9 RO

- Removed RO-2 and RO-3 from the District Regulations because they are not deployed in the zoning map. This makes the code shorter.

7.1.10 CD-1

- Removed Tower setbacks because the maximum height is 40 feet, therefore Tower setbacks do not apply. This helps clean up the code.

- FAR for mixed-use buildings refers to the RM-1 district. Brought 1.25 FAR from RM-1 and removed this reference. This makes the code easier to interpret and takes away the burden of having to go to many different districts to find specific regulations.

7.1.11 CD-2

- Relocated 'Special Regulations for Alcoholic Beverage Establishments' to 'Supplemental Use Regulations (CD-2)'
- FAR for mixed use buildings refers to RM-2 district. Got FAR of 2.0 from RM-2 and removed this reference. This makes the code easier to interpret and takes away the burden of having to go to many different districts to find specific regulations.
- Removed setbacks for Oceanfront Lots because there are no Oceanfront lots in CD-2. This helps clean up and make the code leaner.
- Created separate sections and development regulations for:
    - Washington Avenue (CD-2)
    - The Wolfsonian Arts District (CD-2)
    - Alton Road Gateway Area (CD-2)
    - Alton Road – Historic District Buffer (CD-2)
    - Sunset Harbour (CD-2)
    - Alton Road Office Development Overlay (CD-2) (This used to be an Overlay District but now is part of CD-2 regulations)

7.1.12 CD-3

- Relocated 'Special Regulations for Alcoholic Beverage Establishments' to 'Supplemental Use Regulations (CD-3)'
- Supplementary Minimum Unit Sizes specific to CD-3 were included in the development regulations table.
- Relocated 'Lincoln Road Hotel Incentives and Public Benefits Program to '7.2.12.4 Additional Regulations (CD-3)'

7.2.13 MXE

- Relocated 'Sec. 142-546 Additional restrictions for lots fronting Ocean Drive, Ocean Terrace and Collins Avenue' and 'Sec 142-546 Additional regulations' to '7.2.13.2 e Additional Use Regulations (MXE)' section after the uses table.

7.2.14 TC

- Created a Use Table and a Development Regulations Table for each TC sub-district.
- Relocated 'Cultural Use' definition to general uses definitions chapter. This helps clean up the code and have all use definitions in one place.
- Removed FAR for 'properties bounded by 69th Street on the south, Collins Ave on the east, 72nd St on the north and Indian Creek Drive/Dickens Ave on the west' from TC-1, TC-2 and TC-3 tables because this is now part of TC-C.
- Removed Video Game Arcades from uses list.
- Created separate development regulations tables for TC-1, TC-2 and TC-3.
- Removed 'Sec. 142-739 Parking' because it conflicts with the standards in parking district no. 8. (now Tier 3)
- TC-C is now a subdistrict of TC.
- Supplemental minimum unit sizes for TC-C have been added to the development regulations table.

- Setback and encroachments are part of the development regulations table in TC-C.
- Relocated 'Sec. 142-746 Nonconforming structures within unified development sites', Sec. 442-747 Public Benefits Program' and 'Sec. 142-748 North Beach Public Benefits Fund' to 'Additional Regulations (TC-C)'

7.2.15 PS

- Created a new structure and sub-districts for R-PS, C-PS and RM-PS Districts
- Made uses tables consistent with other district's uses tables.
- Incorporated Accessory Uses to uses tables.
- Removed oceanfront lots metrics in C-PS subdistricts because there are no oceanfront lots in C-PS.
- Relocated 'Sec. 142-704 Minimum required yards in relation to minimum open space ratio' to '7.2.15 Additional Regulations (PS)'.
- Removed 'Sec. 142-706 Supplemental Parking Regulations' and incorporate standards into Off-Street Parking Chapter 5.

7.2.16 GU

- No significant formatting or content changes

7.2.17 CCC

- Changed one measurement for the 17th Street and Convention Center Drive Front Setbacks to be related to DFE rather than from grade.
- 'Sec. 142-367. Notice of public hearing; vote' and 'Sec. 142-368 Off-site parking' to Additional Regulations (CCC)

7.2.18 SPE

- Converted Development Regulations and Uses into tables.

7.2.19 HD

- Reformatted the section for minimum yards and maximum height as part of the table.
- Deleted Sec. 142-454. Master plan for hospital development as this was supposed to have occurred by 1990.
- Relocated 'Sec. 142-455 Special use regulations' to '7.2.19.2 Uses (HD)'
- Removed setbacks for St. Francis, South Shore and Heart Institute because they are obsolete.

7.2.20 MR

- Removed tower setbacks because at a maximum height of 40 feet, tower setbacks do not apply.

7.2.21 WD

- Combined WD-1 and WD-2 and made them 2 separate sub-districts of WD with their separate uses and development regulations tables.

7.2.22 GC

- The regulations limiting waste collection hours of operation moved to the noise regulations section because they were formerly located in setback requirements and have nothing to do with building setbacks.
- Removed setbacks for properties fronting 17th Street and Convention Center Drive because the Miami Beach Golf Club is designated GU not GC.

7.2.23 I-1

- Relocated 'Sec. 142-488. Special regulations for alcohol beverage establishments' to supplemental use regulations.

7.3 OVERLAY DISTRICTS

- Overlay Districts did not change except for renumbering of sections and used a consistent section structure:
    - Location and Purpose
    - Compliance with Regulations

7.3.1 Dune Preservation and Oceanfront Overlays District

- Combined into 1 overlay district with specific location and purpose and regulations for each.

7.3.2 Convention Hotel Overlay District

- No significant formatting or content changes

7.3.3 West Avenue Bay Front Overlay District

- No significant formatting or content changes

7.3.4 Collins Park Arts District Overlay District

- Removed map from text and create an exhibit code to view map on Griddics platform.
- No significant formatting or content changes

7.3.5 Faena District Overlay District

- Removed map from text and create an exhibit code to view map on Griddics platform.
- No significant formatting or content changes

7.3.6 Ocean Terrace Overlay District

- Removed map from text and create an exhibit code to view map on Griddics platform.
- No significant formatting or content changes

7.3.7 Art Deco MIMO Commercial Character Overlay District

- Removed map from text and create an exhibit code to view map on Griddics platform.
- No significant formatting or content changes

7.3.8 North Beach National Register Conservation Overlay District

- No significant formatting or content changes

7.3.7 Sunset Harbour Mixed-Use Neighborhood Overlay District

- Removed map from text and create an exhibit code to view map on Griddics platform.
- No significant formatting or content changes

7.4 NEIGHBORDHOOD CONSERVATION DISTRICTS

7.4.1 Gilbert M. Fein Neighborhood Conservation Overlay District

- Created a new category for Conservation Districts and placed it in the section.
- Removed map from text and create an exhibit code to view map on Griddics platform.
- No significant formatting or content changes.

7.5 SUPPLEMENTARY DISTRICT REGULATIONS

- No significant formatting or content changes

7.5.2 Height Regulations

- No significant formatting or content changes

7.5.3 Supplementary Yard Regulations

- No significant formatting or content changes

7.5.4 Supplementary Use Regulations

- Relocated 'Division 2. Accessory Uses' Under supplementary Use Regulations.
- Relocated Use definitions to the General Use Definitions Chapter. This allows the code to be clearer.
- Removed 'Sec. 142-1104 Video Game and machines in commercial districts'.
- Cleaned-up '7.5.4.13 Accessory Uses'
- Removed and Relocated 'Solar Panels' in accessory Uses. This is not a use.
- Landing or storage areas for helicopter, or other aircraft pads are only allowed in HD District.

Chapter 1

GENERAL PROVISIONS

ARTICLE I – INTENT

1.1.1 INTENT

a. It is the intent of this chapter to set forth general provisions for the land development regulations for the City of Miami Beach including the meaning of defined terms in the land development regulations and requirements for compliance, interpretation and enforcement.

ARTICLE II – DEFINITIONS

1.2.1 GENERAL DEFINITIONS

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.

Advertising or ***advertisement*** shall mean any form of communication for marketing or used to encourage, persuade, or manipulate viewers, readers or listeners for the purpose of promoting occupancy of a residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six (6) months and one (1) day, as provided herein, upon the premises, as may be viewed through various media, including, but not limited to, newspaper, magazines, flyers, handbills television commercial, radio advertisement, outdoor advertising, direct mail, blogs, websites or text messages.

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).

Adult material means one or more of the following, regardless of whether it is new or used:

a. Books, magazines, periodicals or other printed matter; photographs, films, motion pictures, videocassettes, slides or other visual representations; recordings, other audio matter; and novelties

or devices, including, but not limited to, clothing, food, drinks, materials for preparing food and drinks; which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to sexual conduct or specified anatomical areas as defined in this section; or

b. Instruments, novelties, devices or paraphernalia which are designed for use in connection with sexual conduct as defined in this section, except for birth control devices or devices for disease prevention.

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.

Alternative modes of transportation means a method of commuting in any way other than driving in single-occupancy vehicles. Examples include biking, walking, carpooling, and taking public transportation.

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.

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.

Beds means one resident or patient, as applicable.

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.

Blue roof means a non-vegetated source control to detain stormwater. A blue roof slows or stores stormwater runoff by using various kinds of flow controls that regulate, block, or store water instead of vegetation.

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.

Cannabis or ***marijuana*** means all parts of any plat of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, cannabis derivative product, mixture or preparation of the plant of its seeds or resin.

Cannabis delivery devices means a device utilized for the consumption of prescribed medical cannabis or low-THC cannabis. Such devices can only be sold to a qualified patient that has been prescribed medical cannabis or low-THC cannabis or someone authorized by the qualified patient or the qualified patient's legal representative authorized to receive the device on the qualified patient's behalf.

Cannabis derivative product means any form of medical cannabis or low-THC cannabis that is suitable for routes of administration.

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.

Carpools means a motor vehicle occupied by two to six people traveling together for a commute trip that results in the reduction of a minimum of one motor vehicle commute trip. Persons under 16 years of age commuting in a carpool do not count as a carpool member because they do not eliminate a vehicle trip.

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.

Carport, solar means a canopy or rooflike structure, the top surface of which is composed of solar panels, open on at least two sides, which structure may be attached to or detached from a 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 city manager or designee 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.

Cool pavement means a paving material that has a high albedo surface and reflects more solar energy than standard paving materials, or that has been otherwise modified to remain cooler than conventional pavements.

Cool roof: See "white roof."

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

Commercial gain means operated for pecuniary gain, which shall be presumed for any establishment which has received an occupational license. For the purpose of this division, commercial or pecuniary gain shall not depend on actual profit or loss.

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.

Cultural use means a use that engages in the performing arts (including, but not limited to, music, dance and theater), or visual arts (including, but not limited to, painting, sculpture, and photography), or engages in cultural activities, serves the general public and has a permanent presence in the city.

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.

Day/night treatment means treatment provided on a nonresidential basis at least three hours per day and at least 12 hours each week and is intended for clients who meet the placement criteria for this component.

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

Design flood elevation means the base flood elevation plus "City of Miami Beach Freeboard," as defined in this section. As applicable to existing development where the minimum finished floor elevation is located below the "City of Miami Beach Freeboard," the design flood elevation means the minimum finished floor elevation.

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

Detoxification means is a process involving sub-acute care that is provided to assist clients who meet the placement criteria for this component to withdraw from the physiological and psychological effects of substance abuse. The use is short term, four to 14 days and is not residential in nature. Twenty-four-hour medical supervision is required.

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.

Dingbat means a building type and frontage in which the First Habitable Floor (FHL) is supported entirely upon a grid of columns, otherwise know as “pilotis”.

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.

Dispensing organization means an organization approved by the state to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis.

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 lodging houses, 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, accessory (ADU) means an independent living quarter that is accessory to a single-family detached dwelling. The ADU can be in an accessory building or attached to the single-family detached dwelling.

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

Electric vehicle means any motor vehicle registered to operate on public roadways that operates either partially or exclusively on electric energy. Electric vehicles include:

a. Battery-powered electric vehicles;
b. Plug-in hybrid electric vehicles;
c. Electric motorcycles; and
d. A fuel cell vehicle.

Electric vehicle charging level means the standardized indicator of electrical force, or voltage, at which the battery of an electric vehicle is recharged.

a. Level 1 transfers 120 volts (1.4-1.9 kW) of electricity to an electric vehicle battery.
b. Level 2 transfers 240 volts (up to 19.2 kW) of electricity to an electric vehicle battery.
c. DC fast charging transfers a high voltage (typically 400—500 volts or 32—100 kW. depending on the electrical current) of direct current to vehicle batteries.

Electric vehicle charging station means battery charging equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

Electric vehicle parking space means an off-street parking space that is equipped with an electric vehicle charging station.

Entertainment means any live show or live performance or music amplified or nonamplified. Exceptions: Indoor movie theater; big screen television or background music, amplified or nonamplified, played at a volume that does not interfere with normal conversation.

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.

Establishment, as used in the definitions of formula restaurant and formula commercial establishment means a place of business with a specific store name or specific brand. Establishment refers to the named store or brand and not to the owner or manager of the store or brand. As an example, if a clothing store company owns four brands under its ownership umbrella and each branded store has ten locations, the term "establishment" would refer only to those stores that have the same name or brand.

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.

Eyebrow: Eyebrow is a masonry cantilevered element that shelters an entrance, storefront, window or portions of a wall.

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.

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

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. For the purpose of clarity, floor area includes, but is not limited to, stairwells, stairways, covered steps, elevator shafts at every floor (including mezzanine level elevator shafts), and mechanical chutes and chases at every floor (including mezzanine level).

For the avoidance of doubt, unless otherwise provided for in these land development regulations, floor area excludes only the spaces expressly identified below:

a. Accessory water tanks or cooling towers.
b. Uncovered steps.
c. Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
d. Terraces, breezeways, or open porches.

e. 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.
f. Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.
g. Mechanical equipment rooms located above main roof deck.
h. Exterior unenclosed private balconies.
i. 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. Despite the foregoing, for existing contributing structures that are located within a local historic district, national register historic district, or local historic site, when the top of the slab of an existing ceiling of a partial basement is located above grade, one-half of the floor area of the corresponding floor that is located below grade shall be included in the floor area ratio calculation.
j. Enclosed garbage rooms, enclosed within the building on the ground floor level.
k. Stairwells and elevators located above the main roof deck.
l. Electrical transformer vault rooms.
m. Fire control rooms and related equipment for life-safety purposes.
n. Secured bicycle parking.

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.

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.

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 ten-foot intervals along the property lines.

Grade, future adjusted means the midpoint elevation between the future crown of the road as defined in the city's stormwater master plan, as may be amended, and the base flood elevation plus minimum freeboard for a lot or lots.

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

Green roof means a green space created by layers of growing medium and vegetation added on top of a traditional roofing system. It may also include additional layers such as a root barrier and drainage and irrigation systems.

Health care clinic exemption means businesses that have gotten an exemption to the health care clinic license requirement. However, businesses that meet the exemption criteria are not required to have an official exemption, so there may be clinics that are exempt that are not listed here. The exemption criteria are listed in F.S. § 400.9905(4), as may be amended.

Height of building means the vertical distance from the design flood elevation to the highest point of a roof, as defined below:

The highest point of a roof is as follows:

a. The highest point of a flat roof;
b. The deck line of a mansard roof;
c. The average height between eaves and ridge for gable hip and gambrel roofs; or
d. The average height between high and low points for a shed roof.

For new, nonresidential development, the height of the ground floor shall comply with the minimum height of nonresidential ground floors, as defined in this section.

High albedo surface means a material that has a solar reflectance value of 0.65 or greater on the Solar Reflectance Index ("SRI"), consistent with the Cool Roof Rating Council Standard Product Rating Program Manual ("CRRC-1"), as may be amended from time-to-time.

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:

a. 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.
b. 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.
c. 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.

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

a. As an anesthesiologist, radiologist, pathologist, or emergency room doctor; or
b. As a full time hospital employee; or
c. 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.

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.

Long-term bicycle parking means facilities that provide a high level of security such as bicycle lockers, bicycle cages and bicycle stations. These facilities serve people who frequently leave their bicycles at the same location for the day or overnight with access limited to individuals. These facilities shall be in a highly secure location, sheltered from weather, and should be located within 100 feet of the main entrance. Design of these facilities shall be consistent with the long-term bicycle parking standards of the Miami Beach Street Design Guidelines.

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:

a. A single lot of record;
b. A portion of a lot of record;
c. A combination of complete lots of record, and portions of lots of record; or of portions of lots of record;
d. 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 lot covered by the ground floor of all principal and accessory buildings, plus all areas covered by the roofs of such buildings including, but not limited to, covered porches, covered terraces, and roof overhangs.

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.

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:

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

Low-tetrahydrocannabinol cannabis or ***low-THC cannabis*** means a plant of the genus cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than ten percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, cannabis derivative product, mixture, or preparation of such plant or its seed or resin that is dispensed only from a dispensing organization approved by the Florida Department of Health pursuant to F.S. § 381.986.

Low-THC cannabis treatment center means an establishment where low-THC cannabis is dispensed at retail.

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

May means permissive, not required.

Mechanical parking means mechanical parking lifts, robotic parking systems, and/or vehicle elevators.

Mechanical parking lift means an automated mechanism that lifts vehicles to make space available to park other vehicles below it in a vertical tandem fashion.

Medical cannabis or ***medical marijuana*** means all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant: and every compound, manufacture, sale, cannabis derivative product, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient.

Medical use of cannabis means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:

a. Possession, use, or administration of low-THC cannabis or medical cannabis by or for smoking; or
b. Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative authorized to receive it on the qualified patient's behalf;
    i. Use or administration of low-THC cannabis or medical cannabis:
    ii. On any form of public transportation.
    iii. In any public place.
    iv. In a qualified patient's place of employment, if restricted by their employer.
    v. In a correctional institution.
    vi. On the grounds of any child care facility, preschool, or school.
    vii. On or in any vehicle, aircraft, or motorboat.

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.

Minimum height of nonresidential ground floor means the minimum elevation of the underside of the ceiling of the ground floor of a nonresidential use, which shall be located a minimum of 12 feet above the design flood elevation.

Must means a mandatory and not merely directory action or requirement. The term is interchangeable with the word "shall."

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.

Non-elderly and elderly low and moderate income housing shall be defined in chapter 58, article V.

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

Ornamental Features

Overlay district means 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, 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:

a. 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.
b. 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.

Pedestal means that portion of a building or structure which is equal to or less than 50 feet in height above design flood elevation (DFE), except as defined differently in district regulations.

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. This definition shall only be applicable to assisted living facilities as defined in article 5, division 2 of chapter 142.

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.

Porous pavement means a pavement material that allows for water to drain through the pavement surface into the ground. Such pavement shall have a minimum of 20 percent of air content, or voids to allow for the water to drain.

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.

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.

Renewable energy system means a method of producing electricity derived from resources that are regenerative or for all practical purposes cannot be depleted, including wind, tidal, geothermal; and solar energy and as opposed to fossil fuels.

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.

Residence means a dwelling unit utilized for at least six months and a day.

Residential means the term "residential" or "residence" is applied herein to any lot, plot, parcel, tract, area or piece of land or any building used exclusively for family dwelling purposes or intended to be used, including concomitant uses specified herein.

Retail tobacco products dealer permit means a permit issued by the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or successor agency, pursuant to F.S. § 569.003, as amended, that authorizes the sale of tobacco products.

Robotic parking system means a mechanical garage using elevator systems to hoist individual vehicles from receiving areas to separate auto storage areas.

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

Roof overhang: The portion of a roof which extends from the perimeter wall of a building.

Roof top farm means a garden on the roof of a building including roof plantings that may provide food, temperature control, hydrological benefits, architectural enhancement, recreational opportunities, and large-scale ecological benefits.

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.

Scooter, moped and motorcycle parking means either individual parking spaces or groupings of parking spaces for the exclusive use of scooter, mopeds, or motorcycles. Parking spaces with such designation shall have either poster signs, curb markings, or pavement markings promulgating scooter, moped and motorcycle parking only.

Sexual conduct means any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act which is prohibited by law, erotic touching, caressing or fondling of the breasts, buttocks or any portion thereof, anus or genitals or the simulation thereof.

Shall means a mandatory and not merely directory action or requirement. The term is used interchangeable with the word "must."

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

Short-term bicycle parking means facilities, including bicycle racks, to serve people who leave their bicycles for relatively short periods of time, typically for shopping, recreation, eating or errands. Bicycle racks should be located in a highly visible location within 50 feet on the same level of the main entrance to the use. Design of these facilities shall be consistent with the bicycle parking installation standards of the Miami Beach Street Design Guidelines.

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.

Smoking means inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.

Smoking devices means any of the following devices:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.
b. Water pipes;
c. Carburetion tubes and devices;
d. Chamber pipes;
e. Carburetor pipes;
f. Electric pipes;
g. Air-driven pipes;
h. Chillums;
i. Bongs; or
j. Ice pipes or chillers.

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

Souvenirs are items, exclusive of books, magazines or maps, which serve as a token of remembrance of Miami Beach or any geographic areas in Florida and which bear the name of the City or geographic areas or streets thereof or of events associated with Miami Beach or South Florida.

Specified anatomical areas shall mean either of the following:

a. Less than completely opaquely covered human genitals, pubic region, anal cleft, cleft of the buttocks, and all or any part of the areola of the female breast; and
b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

The word "used" as utilized in the definitions of "adult booth" and "adult motion picture theater" in this section shall describe a continuing course of conduct of exhibiting sexual conduct or specified anatomical areas as defined in this section.

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.

Sustainable roof fee means a fee that is charged for the use of non-sustainable roofing systems. The funds collected shall be deposited in the "sustainability and resiliency fund," established pursuant to section 133-8 of the city Code.

Sustainable roofing system means a solar roof, blue roof, white roof, cool roof, green roof, metal roof, or any other roofing system recognized by a green building certification agency that reduces heat island effect, allows for the reuse or retention of stormwater or reduces greenhouse gases.

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.

Tobacco products means loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing.

Tower means that portion of a building or structure which exceeds 50 feet in height above design flood elevation (DFE), except as defined differently in district regulations.

T-shirt is any garment or article of clothing which has no collar, including, but not limited to, T-shirts, sweat shirts, tank tops, shirts or scrub shirts, which are designed or intended generally to be worn on or over the chest and containing any communicative verbiage, graphics, or images imprinted or to be imprinted on the garment or article of clothing, exclusive of a garment manufacturer's mark or logo, exclusive of decorative words and information woven or dyed in the fabric by the manufacturer of the fabric, exclusive of hand stitched, needle work or embroidery, exclusive of tie-dye garments, and exclusive of hand-painted or air-brushed garments that contain no communicative verbiage, graphics or images.

Transportation for compensation vehicle means a vehicle used to transport a person or persons for compensation. These include for-hire vehicles, taxis, transportation network company vehicles, jitneys, limousines, buses, or other form of public transportation.

Understory means the air-conditioned and/or non-air-conditioned space(s) located below the first elevated habitable floor.

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.

Vanpool means a motor vehicle occupied by seven to 15 people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. Vanpools may have a destination other than an employee's worksite and may have employees from other agencies.

Vapor means aerosolized or vaporized nicotine, or other aerosolized or vaporized substance produced by a vapor generating electronic device or exhaled by the person using such a device.

Vapor-generating electronic device means any product that employs an electronic, a chemical, or a mechanical means capable of producing vapor or aerosol from a nicotine or tetrahydrocannabinol (THC) product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of a solution or other substance intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

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

Vehicle elevator means an elevator used for motor vehicles in lieu of ramps within a parking structure.

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.

White roof means a roof that has been painted white or is surfaced with some other light or reflective material.

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.

1.2.2 USE DEFINITIONS

1.2.2.1 Residential

Affordable housing shall be defined as sales housing with a retail sales price not in excess of 90 percent of monthly median the county new housing sales price, or rental housing rates (project average) not in excess of 30 percent of the gross median county monthly income.

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 a combination of suite hotel unit, apartment units and hotel units, under resident supervision, and having an inner lobby through which all tenants must pass to gain access. An apartment hotel must contain at least one unit apartment.

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.)

Co-living shall mean a small multi-family residential dwelling unit that includes sanitary facilities and provides access to kitchen facilities; however, such facilities may be shared by multiple units. Additionally, co-living buildings shall contain amenities that are shared by all users.

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.

Live-work shall mean residential dwelling unit that contains a commercial or office component which is limited to a maximum of 70 percent of the dwelling unit area.

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.

Rooming house 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.

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.

1.2.2.2 Lodging

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.

Hostel means a building occupied or intended to be occupied by transient residents, where ingress or egress may or may not be through a common lobby of office that is supervised by a person in charge at all times. A hostel provides communal or dormitory-style accommodations where transient residents can rent a bed, usually a bunk bed (as opposed to renting an entire unit, as in a hotel or suite hotel), and share a bathroom, lounge, and sometimes a kitchen. Rooms can be mixed or single-sex, although private rooms may also available.

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, each unit containing a separate bathroom facility, 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.

Suite hotel unit and ***suite hotel*** means a room, or group of rooms, each containing separate bathroom and full cooking facilities, with ingress and 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.

1.2.2.3 Office

Chiropractor's office. (See "medical office.")

Dentist's office. (See "medical office.")

Dietician. (See "medical office.")

Doctor's office. (See "medical office.")

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.

Homeopathic physician's office. (See "medical office.")

Medical office means a small-scale office providing medical or dental treatment. This includes chiropractor's office, dentist's office, dietician, doctor's office, homeopathic physician's office, pathologist, physiotherapist's office, phlebotomist's office, podiatrist's office, optometrist's office, ophthalmologist's office, psychiatrist's office. A small-scale office shall mean a maximum floor area of 5,000 square feet. This shall not include Class III to X medical sub-uses.

Optometrist's office. (See "medical office.")

Optician means a professional that provides eve exams for the purposes of the retail sale of glasses or contact lenses. (See "medical office.")

1.2.2.4 Commercial

Adult bookstore means an establishment which sells, offers for sale or rents adult material for commercial gain. This definition includes establishments selling or renting adult videos when applicable under the above-stated conditions.

Adult booth means a small enclosed or partitioned area inside an establishment operated for commercial gain which is designed or used for the viewing of adult material by one or more persons and is accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.

Adult entertainment establishment means any adult bookstore, adult booth, adult motion picture theater or nude dancing establishment as defined in this section.

Adult motion picture theater means an enclosed building used for presenting for observation by patrons motion pictures, films, or video media, distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual conduct or specified anatomical areas as defined in this section.

After-hours dance hall means a commercial establishment where dancing by patrons is allowed, including, but not limited to, restaurants and entertainment establishments, which by its nature as an establishment not

licensed or operating as an alcoholic beverage establishment, is not subject to the regulations on hours of sale for alcoholic beverage establishments contained in section 6-3 of this Code.

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 2:00 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 5:00 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.

Artisanal retail for on-site sales only shall mean a retail establishment where consumer-oriented goods, services, or foodstuffs are produced; including, but not limited to, works of art, clothing, personal care items, dry-cleaning, walk-in repairs, and alcoholic beverages production, for sale to a consumer for their personal use or for consumption on the premises only. Such facilities use moderate amounts of partially processed materials and generate minimal noise and pollution.

Artisanal retail with off-site sales shall mean a retail establishment where consumer-oriented goods, services, or foodstuffs are produced; including, but not limited to, works of art, clothing, personal care items, dry-cleaning, walk-in repairs, and alcoholic beverages production, for sale to a consumer for their personal use or for consumption on the premises and concurrently for sale to vendors and retailers off the premises. Such facilities use moderate amounts of partially processed materials and generate minimal noise and pollution.

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.

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

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, as described in section 142-1109.

Café, 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.

Cigar/hookah bar means an alcoholic beverage establishment which is combined with a retail tobacco products dealer, and where smoking of the tobacco products sold at the establishment is permitted on the premises. Such an establishment must comply with all of the requirements for an alcoholic beverage establishment.

Check cashing store means a business which cashes checks on a regular basis for a fee. This definition does not include banks, which may cash checks in addition to providing other financial services such as, but not limited to, money savings accounts, loan services and checking accounts.

Nude dancing establishment means an establishment operated for commercial gain wherein performers or employees of the establishment display or expose to others specified anatomical areas as defined in this section, regardless of whether the performer or employee so exposed is actually engaging in dancing.

Convenience store means a retail store with direct access from the street or sidewalk that is designed and stocked to sell a mixture of goods such as non-prescription medications, beverages, magazines, food (packaged and/or prepared), school/office supplies, cosmetics, and other household supplies. A store that markets itself as a "pharmacy store" or "pharmacy" in addition to selling the goods described above, but that does not provide pharmacy services, including the dispensing of medicinal drugs by a pharmacist, shall be considered a convenience store and not a pharmacy or pharmacy store.

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

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 between the hours of 5:00 a.m. and 10:00 a.m., except as provided for under subsection 6-3(3)(b).

Experiential retail means a retail establishment that engages the public through the use of performing arts (including, but not limited to, music, dance and theater), visual arts (including, but not limited to, painting, sculpture, video and photography), culinary education, cultural education, or other cultural offerings. Such facilities shall not include dance halls and may only serve alcohol while cultural offerings are taking place.

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

Formula commercial establishment means a commercial use, excluding office, restaurant and hotel use, that has ten or more retail sales establishments in operation or with approved development orders in the United States of America; provided, however, for those businesses located in a building that is two stories or less with frontage on Ocean Drive, formula commercial establishment means a commercial use, excluding office, restaurant and hotel, which has five or more other establishments in operation or with approved development orders in Miami Beach. In addition to meeting or exceeding the numerical thresholds in the preceding sentence, the definition of formula commercial establishment also means an establishment that maintains two or more of the following features: a standardized (formula) array of merchandise: a standardized facade: a standardized decor or color scheme: uniform apparel: standardized signs, logos, trademarks or service marks. For the purpose of this definition, the following shall apply:

a. ***Standardized (formula) array of merchandise*** means that 50 percent or more of in-stock merchandise is from a single distributor and bears uniform markings.
b. ***Trademark*** means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown. A trademark may be registered with the U.S. Patent and Trademark Office and/or the

Florida Department of State. However, an unregistered trademark may also be protected under common law.

c. ***Service mark*** means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor. A service mark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered service mark may also be protected under common law.

d. ***Decor*** means the style of interior or exterior furnishings, which may include, but is not limited to, style of furniture, wall coverings or permanent fixtures.

e. ***Color scheme*** means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the façade.

f. ***Façade*** means a face (usually the front) of a building, including awnings, that looks onto a street or an open space.

g. ***Uniform apparel*** means standardized items of clothing including, but not limited to, standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

Formula restaurant means a restaurant with 75 or more establishments in operation or with approved development orders in the United States or a restaurant with more than five establishments in operation or with approved development orders in Miami Beach. With respect to the preceding sentence, in addition to the numerical thresholds the establishments maintain two or more of the following features: A standardized (formula) array of merchandise; a standardized façade; a standardized decor or color scheme; uniform apparel for service providers, food, beverages or uniforms; standardized signs, logos, trademarks or service marks. For the purpose of this definition, the following shall apply;

a. ***Standardized (formula) array of merchandise or food*** means that 50 percent or more of in-stock merchandise or food is from a single distributor and bears uniform markings.

b. ***Trademark*** means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if the source is unknown. A trademark may be registered with the U.S. Patent and Trademark Office and/or the Florida Department of State. However, an unregistered trademark may also be protected under common law.

c. ***Service mark*** means any word, name, symbol, or device, or any combination thereof, used by a person to identify and distinguish the services of such person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown, titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that the person or the programs may advertise the goods of the sponsor. A service mark may be registered with the U.S. Patent and Trademark Office and/or the

Florida Department of State. However, an unregistered service mark may also be protected under common law.

d. ***Decor*** means the style of interior or exterior furnishings, which may include, but is not limited to, style of furniture, wall coverings or permanent fixtures.

e. ***Color scheme*** means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

f. ***Facade*** means a face (usually the front) of a building, including awnings, that looks onto a street or an open space.

g. ***Uniform food, beverages or apparel/uniforms*** means standardized items of clothing including, but not limited to, standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing, food or beverages listed on the menus of such establishments or standardized uniforms worn by employees.

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

Grocery store means a retail store with direct access from the street or sidewalk that primarily sells food, including canned and frozen foods, fresh fruits and vegetables, and fresh (raw) and prepared meats, fish, and poultry.

Marijuana dispensary or ***cannabis dispensary*** means a building, structure, or other facility where marijuana or cannabis, inclusive of medical cannabis, and cannabis delivery devices, are dispensed at retail.

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.

Massage therapy center means an establishment that offers, sells, or provides manipulations of the tissues or other tactile stimulation of the human body with the hand, foot, arm, leg, elbow, or part of the torso, whether or not aided by any electrical or mechanical device: and may include bathing, hydrotherapy, thermal therapy, or application of chemicals, oils, lotions, or similar preparations to the human body.

Medical cannabis treatment center *or* ***dispensing facility*** means an establishment where medical cannabis, low-THC cannabis, as well as cannabis delivery devices, is dispensed at retail that is operated by a dispensing organization.

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 fulfillment center shall mean a retail establishment where clients collect goods that are sold off-site, such as with an internet retailer. Additionally, the establishment provides a hub where goods can be collected and delivered to clients' homes or places of business by delivery persons that do not use cars, vans, or trucks. Such facilities are limited to 35,000 square feet.

Neighborhood impact establishment means:

a. An alcoholic beverage establishment or restaurant, not also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 300 or more persons as determined by the chief fire marshal; or
b. An alcoholic beverage establishment or restaurant, which is also operating as an entertainment establishment or dance hall (as defined in section 114-1), with an occupant content of 200 or more persons as determined by the chief fire marshal.

Occult science establishment shall mean an establishment engaged in the occupation of a fortune teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, psychic or advisor or who in any other manner claims or pretends to tell fortunes, or claims or pretends to disclose mental faculties of individuals for any form of compensation. Nothing contained herein shall be construed to apply to a person pretending to act as a fortune teller in a properly licensed theater as part of any show or exhibition presented therein or as part of any play, exhibition, fair or show presented or offered in aide of any benevolent, charitable or educational purpose.

Open air entertainment establishment means a commercial establishment which provides entertainment, as defined in this section, indoors or in an enclosed courtyard or area which by its design is open to the outside, thereby enabling the entertainment to be audible outdoors.

Optical *establishment* means the retail sale of glasses and contact lenses.

Outdoor entertainment establishment means a commercial establishment which provides outdoor entertainment as defined in this section.

Package store means any store primarily engaged in the business of selling alcoholic beverages for off-premises consumption and that has a license for package sales from the State Division of Beverages and Tobacco in the classification of 1-APS, 2-APS, or PS.

Parking lot, commercial means a parking lot where parking is offered to the general public for compensation.

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.

Personal service establishment means a licensed establishment providing non-medical services for persons, such as pedicures, manicures, hair styling, barber services, massages, facials, tailoring services, and similar person-oriented services, as determined by the planning director.

Pharmacy means a store where solely medicinal drugs are dispensed and sold. Medical cannabis cannot be sold from such stores.

Pharmacy store means a pharmacy as defined in F.S. § 465.003.

Production studio shall mean a facility that provides the physical basis for works in the fields of performing arts, new media art, film, television, radio, comics, interactive arts, photography, video games, websites, and video.

Quality restaurant means full service eating establishment with a typical duration or stay of at least one hour, at which patrons wait to be seated, are served by a waiter/waitress, order from menus, and pay for meals after they eat.

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, whose principal business is the preparation, serving, and selling of food, to the customer for consumed [consuming] on or off the premises. Food shall be continuously ready to be prepared, served, and sold during all business operational hours for a restaurant use. All restaurants shall be appropriately licensed as a restaurant or similar food service-type use by all applicable agencies.

Retail tobacco products dealer means the holder of a retail tobacco products dealer permit that is authorized to sell tobacco products.

Retail smoking devices dealer means any retail establishment that sells smoking devices.

Retail vape products dealer means any retail establishment that sells vapor-generating electronic devices and components, parts, and accessories for such products.

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.")

Souvenir and t-shirt shop means any business with direct access from the street or sidewalk in which the retail sale of T-shirts or souvenirs or both is conducted as a principal use of the business, or together with some other business activity, but which constitutes the primary, or is the major attraction to the business.

State qualified dispensing organization means a qualified dispensing organization or medical marijuana treatment center or other organization qualified to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis by the Florida Department of Health, or successor agency, pursuant to F.S. ch. 381.

Supermarket. (See "grocery store.")

Tattoo studio means any establishment, place of business, or location, other than a licensed medical facility, an office or clinic of a licensed medical professional, or a duly licensed beauty shop or barber shop, wherein adornment of any part of the human body or head, whether artistic, cosmetic or otherwise, is practiced through the use of needles, scalpels, or any other instruments designed to touch, penetrate or puncture the skin for purposes of:

a. Inserting, attaching or suspending jewelry, decorations or other foreign objects;
b. Producing an indelible mark or figure on the human body or face by scarring skin or flesh;
c. Producing an indelible mark or figure on the human body or face by inserting a pigment under or upon the skin; or
d. Permanently changing the color or other appearance of the skin.

e. This term shall not, however, include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

Tobacco/vape dealer means a commercial establishment that is a retail tobacco products dealer, retail vape products dealer, or retail smoking device dealer. This definition shall exclude a cigar/hookah bar.

Vapor lounge means a commercial establishment at which individuals consume cannabis, medical cannabis, or low-THC cannabis.

1.2.2.5 Civic

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.

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.

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.

1.2.2.6 Civil Support

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.

Hospital means a facility that provides range of health care services more extensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring medical, surgical, psychiatric, testing, and diagnostic services; and treatment for illness, injury, disease, pregnancy, etc. Also available are laboratory and x-ray services, and treatment facilities for surgery or

obstetrical care, or special services like burn treatment centers. Hospitals are licensed and surveyed by the State of Florida. Hospitals include any medical sub-use identified within this division.

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.

1.2.2.7 Educational

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.

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).

1.2.2.8 Industrial

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

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.

1.2.2.9 Specialized Uses

Addictions receiving facility means a secure, acute-care, facility operated 24 hours-per-day, seven days-per-week, designated by the department of children and families, or applicable agency to serve persons found to be substance abuse impaired as described in F.S. § 397.675, as may be amended.

Adult day care center means a facility that provides programs and services for adults who need a protective setting during the day. An adult day care center can be a freestanding program or services can be offered through a nursing home, assisted living facility, or hospital. The basic services include, but are not limited to: social activities, self-care training, nutritional meals, a place to rest, and respite care. Adult day care centers are licensed and surveyed by the State of Florida.

Adult family care home means a dwelling unit that provides full-time, family-type living in a private home for up to five elderly persons or adults with a disability, who are not related to the owner. The owner lives in the same house as the residents. The basic services include, but are not limited to: Housing and nutritional meals; help with the activities of daily living, like bathing, dressing, eating, walking, physical transfer, giving medications or helping

residents give themselves medications; supervision of residents: arrange for health care services; provide or arrange for transportation to health care services; health monitoring; and social activities. Adult family care homes are licensed and surveyed by the State of Florida.

Ambulatory surgical center (ASC) means a facility that is not part of a hospital and provides elective surgical care where the patient is admitted to and discharged from the facility within the same working day. The patient does not stay overnight. Hospitals can have outpatient surgical units, but these units would be a part of the hospital license and would riot require a separate ASC license. Ambulatory surgical centers are licensed and surveyed by the State of Florida.

Assisted living facility means a facility that provides full-time living arrangements in the least restrictive and most home-like setting where personal services are provided. Intense medical services are to be obtained off-site. The basic services include, but are not limited to: Housing and nutritional meals; help with the activities of daily living, like bathing, dressing, eating, walking, physical transfer, giving medications or helping residents give themselves medications; arrange for health care services; provide or arrange for transportation to health care services; health monitoring; respite care; and social activities. Assisted living facilities are licensed and surveyed by the State of Florida. These facilities are intended for residency of six months and a day or more.

Birth center means a facility in which births are planned to occur away from the mother's place of residence following a normal, uncomplicated, low-risk pregnancy. It is not an ambulatory surgery center, a hospital, or located within a hospital. Birth centers are licensed and surveyed by the State of Florida.

Brain and spinal cord injury. (See "transitional living facility.")

Community residential home as defined by F.S. § 419.001, as may be amended. These facilities are intended for residency of six months and a day or more.

Comprehensive outpatient rehabilitation facility means a nonresidential facility that provides diagnostic, therapeutic, and restorative services for the rehabilitation of injured, disabled, or sick persons, by or under the supervision of a physician.

Crisis stabilization unit means a facility where the purpose is to examine, stabilize, and redirect people to the most appropriate and least restrictive treatment settings for their psychiatric needs. Crisis stabilization units include:

Crisis stabilization units (adult and children) provide brief psychiatric intervention, primarily for low-income individuals with acute psychiatric conditions. Inpatient stays average three to 14 days, resulting in return to the patient's own home or placement in a long-term mental health facility or other living arrangements. Intervention means activities and strategies that are used to prevent or impede the development or progression of substance abuse problems.

Short-term residential treatment facilities provide a step-down service for adult residents (ages 18 and over) of crisis stabilization units needing a more extended, but less intensive level of active treatment for psychiatric conditions, usually with a stay of 90 days or less.

Both of these facility types are licensed by the State of Florida. It is not intended to be a residential use (not intended as a dwelling unit).

Day/night treatment with community housing means treatment that is provided on a nonresidential basis at least five hours each day and at least 25 hours each week and is intended for clients who can benefit from living independently in peer community housing while undergoing treatment.

Day/night treatment with host home means treatment that is provided on a nonresidential basis at least three hours per day and at least 12 hours each week and is intended for clients who meet the placement criteria for this level of care. This component also requires that each client reside with a host family as part of the treatment protocol.

Electrology facility means a facility where electroloqists are allowed to perform laser and light-based hair removal.

End-stage renal disease center means is a facility programs that that offer dialysis services. When patients are diagnosed with end-stage renal disease, they may receive dialysis which replaces kidney function by filtering blood to remove waste and extra fluids. The program can either be a freestanding facility or offered as an outpatient service through a hospital.

Health care clinic means a facility that provides health care services to individuals for a fee. Such facilities do not allow for overnight stays. Health care clinics are licensed and surveyed by the State of Florida.

Laboratory means a facility that performs one or more of the following services to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition. Services include examination of fluids, tissue, cells, or other materials taken from the human body.

Health care services pool means a health care services pool provides temporary employment of licensed, certified, or trained health care personnel to health care facilities, residential facilities, and agencies. Health care services pools are registered by the State of Florida.

Home health agency means an agency that provides services to patients in private homes, assisted living facilities, and adult family care homes. Some of the services include nursing care; physical, occupational, respiratory, and speech therapy; home health aides; homemaker and companions; and medical equipment and supplies. Along with services in the home, an agency can also provide staffing services in nursing homes and hospitals. Home health agencies are licensed and surveyed by the State of Florida.

Home medical equipment provider means a service that sells or rents medical equipment and services for use in the home. Home medical equipment includes any product as defined by the Federal Drug Administration's Drugs, Devices and Cosmetics Act; any products reimbursed under the Medicare Part B Durable Medical Equipment benefits; or any products reimbursed under the Florida Medicaid durable medical equipment program. Service includes managing the equipment and teaching consumers in its use. Home medical equipment providers are licensed and surveyed by the State of Florida.

Homemaker and companion services means a company that provides housekeeping, prepare and serve meals, help with shopping, routine household chores, companionship in the client's home, and can take the client to appointments and other outings. By law, homemakers and companions may not provide hands-on personal care, such as help with bathing, and cannot give medications. Homemaker and companion agencies are registered by the State of Florida. However, individuals who work on their own, with no other workers helping them are not required to be registered.

Homes for special services means a residential facility where specialized health care services are provided, including personal and custodial care, but not full-time nursing services. Home for special services are licensed by the State of Florida.

Home hospice service means services provided in a patient's residence for patients with a diagnosis of a terminal illness. They provide a coordinated program of professional services, including pain management and counseling for patients; nursing, physician, therapy, and social work services; counseling and support for family members and friends of the patient; and other support services. Hospices are licensed and surveyed by the State of Florida.

Hospice facility means a facility that provides services in a facility for patients with a diagnosis of a terminal illness. They provide a coordinated program of professional services, including pain management and counseling for patients; nursing, physician, therapy, and social work services: counseling and support for family members and friends of the patient; and other support services. Hospices are licensed and surveyed by the State of Florida.

Intensive inpatient treatment means includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24 hours-per-day, seven days per week in a highly structured, live-in environment.

Intensive outpatient treatment means a facility that provides services on a nonresidential basis and is intended for clients who meet the placement criteria for this component. This component provides structured services each day that may include ancillary psychiatric and medical services.

Intermediate care facility for the developmentally disabled means a residential facility that provides services by an interdisciplinary team to increase a client's independence and prevent loss of abilities. They are licensed and surveyed by the State of Florida.

Medical cannabis dispensary. (See chapter 142, division 10 and chapter 6, division 3).

Medication and methadone maintenance treatment facility means a facility that provides outpatient treatment on a nonresidential basis which utilizes methadone or other approved medication in combination with clinical services to treat persons who are dependent upon opioid drugs.

Organ and tissue procurement facility means one of three types of organ and tissue procurement organizations: Organ procurement organizations (OPOs), eye banks and tissue banks. OPOs must also be federally designated by the Secretary of the United States Department of Health and Human Services and are responsible for using the national United Network of Organ Sharing's (UNOS) registry to medically and physically match organs, such as the heart, lungs, kidneys, or liver, from a patient who has died with an individual awaiting a life-saving transplant. An eye bank is an entity involved in the recovery, processing, storage or distribution of eye tissue that will be used for transplantation. A tissue bank is an entity that is involved in the recovery, processing, storage, or distribution of human tissue, such as bone, skin, or cartilage, which will be used for transplantation. Organ and tissue procurement organizations, including those located outside of Florida that provide eye and other tissue types to Florida's transplanting physicians, are certified by the State of Florida.

Outpatient treatment means a facility that provides services on a nonresidential basis and is intended for clients who meet the placement criteria for this component.

Pain management clinics means the definition provided in F.S. § 458.3265, as may be amended.

Portable x-ray provider means a provider that gives diagnostic x-ray tests in a patient's own home, a nursing home, or a hospital that does not provide x-ray services for its patients directly but arranges for services with a portable x-ray provider. Some portable x-ray providers may need a health care clinic license.

Prescribed pediatric extended care center means a facility that provides a basic nonresidential services to three or more medically dependent or technologically dependent children with complex medical conditions that require continual care. The comprehensive care includes medical, nursing, psychosocial, and developmental therapies. These centers are licensed and surveyed by the State of Florida.

Rehabilitation agency means a facility that provides a multidisciplinary program to help improve the physical function of disabled individuals by creating a team of specialized rehabilitation staff. The rehabilitation agency provides at least physical therapy or speech-language pathology services and social or vocational adjustment services. Rehabilitation agencies are not required to be licensed by the state if they are Medicare certified. Rehabilitation agencies that are not certified under the Medicare program may require licensure as a health care clinic.

Residential treatment center for children and adolescents means a facility with 24-hour residential programs, including therapeutic group homes that provide mental health treatment and services to children under the age of 18 who have been diagnosed as having mental, emotional, or behavioral disorders. Residential treatment centers are licensed by the State of Florida. This facility is also a Level II, facility.

Residential treatment facility means a facility that provides long-term residential care with coordinated mental health services for adults (18 years or older) diagnosed with a serious and persistent major mental illness. A state license covers five levels of care that range from having full-time nurses on staff to independent apartments that receive only weekly staff contact. Residential treatment facilities are licensed and surveyed by the State of Florida.

> ***Level I*** facilities provide the highest level of care with a structured group treatment setting with 24 hours per day, seven days per week supervision for residents who have major skill deficits in activities of daily living and independent living, and need intensive staff supervision, support and assistance. Nursing supervision is provided 24 hours per day, seven days per week, however, nursing services are limited to medication administration, monitoring vital signs, first aid and individual assistance with ambulation, bathing, dressing, eating and grooming. The minimum staffing is 1:10 staff to resident ratio with never less than two staff on site at all times. This is a residential use intended for stays of over six months and a day.
>
> ***Level II*** facilities provide a structured group treatment setting with 24 hour per day, seven days per week supervision for seven or more residents who range from those who have significant deficits in independent living skills and need extensive supervision, support, and assistance, to those who have achieved a limited capacity for independent living, but who require frequent supervision, support and assistance. Level II facilities maintain a minimum of 1:15 staff to resident ratio with never less than one staff person on site when residents are present during normal waking hours. During sleeping hours, a minimum of 1:22 staff to resident ratio is required. This is a residential use intended for stays of over six months and a day.
>
> ***Level III*** facilities consist of collocated apartment units with an apartment or office for staff who provided on-site assistance 24 hours per day, seven days per week. The residents have a moderate capacity for independent living. Level III facilities maintain a minimum 1:20 staff to resident ratio with never less than

one staff on site when residents are present during normal waking hours. During normal sleeping hours, a minimum of 1:40 staff to resident ratio is required. This is a residential use intended for stays of over six months and a day.

Level IV facilities provide a semi-independent, minimally structured group setting for four or more residents who have most of the skills required for independent living and require minimal staff support. Level IV facilities may have less than 24 hours per day, seven days per week on site supervision: however, on-call staff must be available at all times. Staff is required to have a minimum of weekly on site contact with residents. This is a residential use intended for stays of over six months and a day.

Level V facilities provide the least amount of care and supervision. Level V facilities provide a semi-independent, minimally structured apartment setting for up to six residents who have adequate independent living skills and require minimal staff support. Level V facilities may have less than 24 hours per day, seven days per week on site supervision: however, on-call staff must be available at all times. Staff is required to have a minimum of weekly on site contact with residents. This is a residential use intended for stays of over six months and a day.

Skilled nursing unit means skilled nursing units are based in hospitals, either housed inside the hospital or in a separate building. They typically provide only short-term care and rehabilitation services. The skilled nursing unit does not have a separate license because it is part of the hospital license. See the hospital definition for further information.

Social worker. (See "medical office.")

Sociologist. (See "medical office.")

Therapist. (See "medical office.")

Transitional living facility means a facility that provides services to persons with a spinal cord-injury or head-injury. Specialized health care services include rehabilitative services, community reentry training, aids for independent living, counseling, and other services. This term does not include a hospital licensed under F.S. ch. 395, or any federally operated hospital or facility. A transitional living facility is licensed by the State of Florida.

Urgent care center means a facility which holds itself out to the general public as a walk-in facility, where immediate, but not emergent, care is provided. Patients shall be served solely on an outpatient basis and such services shall not include overnight stays.

Women's health clinic means a facility that primarily provides obstetrics and gynecology service or other services related to women's healthcare. This definition includes abortion clinics, which are licensed and surveyed by the State of Florida, but does not include a hospital or a doctor's office where abortions might be performed, but where this is not the primary purpose.

1.2.2.10 Other

Clubhouse shall mean one or more buildings owned and operated by a private golf club that house administrative offices, fitness rooms, locker rooms, lounges, restaurants, banquet facilities, pro shops and/or other facilities designed for the use of the club's members and their guests. A clubhouse building shall be utilized

primarily for the benefit of the private golf club's members and its facilities shall not be rented, leased or made available to the general public.

Neighborhood Impact Structure means new construction of structures of 50,000 square feet and over, which review shall be the first step in the process before the evaluation by any of the other land development boards.

Neighborhood Impact Lot means developments on properties greater than 20,000 square feet of lot area.

1.2.3 CONCURRENCY MANAGEMENT AND MOBILITY DEFINITIONS

Applicable review department means the department or agency that is charged with reviewing a particular level of service for the purposes of concurrency review and mitigation calculation or the calculation and collection of mobility fees.

Available capacity means public facility capacity less capacity used by existing development, final reservations of capacity made in connection with the payment of applicable fees, and issuance of certificates of occupancy and short-term reservations of capacity made in connection with the issuance of approved development orders.

Capacity credit means a credit for certain existing or demolished improvements toward concurrency requirements for future development.

Densities and intensities of development means a numerical measurement of the size and scope of a proposed development based on the following units of measurement:

a. ***Nonresidential*** *developments:* The number of square feet of gross floor area or seats, as applicable;
b. ***Residential developments:*** The number of dwelling units, or the number of square feet of floor area, as applicable;
c. ***Hospitals and clinics:*** The number of beds, and/or the number of square feet of gross floor area, as applicable;
d. ***Educational facilities:*** The number of students, or floor area, as applicable;
e. ***Hotels and motels:*** The number of rooms; and
f. ***Service stations:*** The number of gasoline dispensing pumps and size of mini-mart.

Development order means any order, unless otherwise exempt from the provisions of this chapter, granting, denying, or granting with conditions an application for zoning approval, building permit, division of land/lot split, rezoning, conditional use, design review, certificate of appropriateness, variance, sidewalk café permit, certificate of use, business tax receipt, other design approval, or any other official action having the effect of permitting the development of land which exceeds the density and/or intensity of development which exists on the subject property at the time of application.

Estimate of concurrency mitigation and mobility fee means an estimate of required concurrency mitigation or payment of mobility fees that is required prior to the approval of a development order.

Micro unit: The minimum unit size may be 275 square feet, provided that a minimum of 20 percent (20%) of the gross floor area consists of Amenity Space on the same unified development site.

Mitigation program means an undertaking to provide, or cause to be provided, required public improvements, which undertaking is legally enforceable by the city and which ensures that needed public improvements will be timely constructed or that the adverse impacts of a diminution in level of service are substantially mitigated.

Mobility fee means an impact fee on new development and increases in density and/or intensity, based on the calculation of predicted vehicles miles traveled (VMT).

Multimodal transportation means surface transportation system that includes all motorized and non-motorized manners of travel.

Origin and destination adjustment factor means a factor of 0.5. Trip generation rates represent trip-ends at the site of a land use. Thus, a single-origin trip from a residence to a workplace counts as one trip-end for the residence and one trip-end for the workplace, for a total of two trip-ends. To avoid double-counting of trips, the PMT for each land use shall be multiplied by 0.5. This distributes the impact of travel equally between the origin and destination of the trip, and eliminates double charging for trips.

Person miles of travel (PMT) means the number of miles traveled by each person on a trip.

Person miles of travel rate means the unit cost per additional person-mile of travel used in developing the mobility fee schedule.

Person trips means a calculation of vehicle trips, as multiplied by an average vehicle occupancy.

Public facilities means the facilities for which the city has adopted levels of service, including potable water, sanitary sewer, solid waste, flood protection, stormwater management, and parks and recreational facilities.

Trip generation means the maximum number of daily trips generated for an applicable land use type.

Vehicle miles of travel (VMT) means the movement of one privately operated vehicle for one mile, regardless of the number of people in the vehicle.

1.2.4 LANDSCAPE DEFINITIONS

The definitions section within chapter 46, environment, of the Code of the City of Miami Beach, forms part of this regulation. For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

American National Standards Institute A-300 Tree Care Standards Manual ("ANSI A-300 Standards") *means* tree manual which establishes performance standards for the care and maintenance of trees, shrubs, and other woody plants.

Applicant *means a* person who is the owner, authorized agent of the owner, or lessee of a property under a written lease authorized to apply for a building permit.

Base plan *means* plan of the project site, drawn to scale that shows all proposed ground floor improvements and clearly defines all landscape areas. This plan is used as a base for the required plans in this ordinance [chapter].

Buildable area means the portion of the site exclusive of the required yard areas as defined by the zoning ordinance of the city and its successors.

Clear wood/clear trunk means a measurement of the woody trunk taken from grade to the beginning of the fronds or branches used to determine the sizes of certain palms and trees.

Controlled tree species are those tree species listed in the Miami-Dade County Landscape Manual and included within subsection 24-49(f)I and II of the Miami-Dade County Code 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.

Crown* or *canopy means the upper part of a tree, measured from the lowest branch, including all branches and foliage.

Energy conservation zone means the areas close to buildings that are planted with trees, palms, and shrubs, in order to provide optimal shading patterns on absorbing surfaces within 20 feet of the building, walls, windows, and the immediately adjacent ground.

Environment and sustainability department means the agency of the city charged with implementing specific tree protection standards, or a successor division or department as determined by the city manager or his/her designee.

Exotic tree species means a plant species that has been introduced from other regions, and is not native to the region to which it is introduced.

Forbs means a broad-leaved herb other than a grass, especially one growing in a field or meadow.

Grass, artificial means a grass mat manufactured with manmade materials such as polypropylene, polyethylene and installed as a pervious system on a finely graded sand layer over filter fabric on gravel, drainfield rock and on a compacted subgrade.

Grass means any natural variation of grasses (such as St. Augustine, Zoysia, Bermuda) grown to form a dense surface layer. This definition shall also apply to sod.

Grey wood means a measurement used to determine the sizes of Royal Palms taken from grade to the smooth green five-foot-high region above the trunk called the "crownshaft."

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. The landscape manual, as amended from time to time, is adopted by reference by the city and deemed incorporated by reference as if set forth herein. If a conflict arises between the landscape manual and this chapter, the latter shall prevail.

Large shrubs or ***small trees*** means mid-level woody plants, trees, and palms, that comply with the minimum size requirements described in this chapter, planted as an understory to large canopy trees, palms, and planted with smaller shrubs and groundcover plantings, in order to achieve a layering of plants.

Native tree species means 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 Miami-Dade County Landscape Manual, are considered native plant species within the meaning of this definition.

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

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 whatsoever in the property. Owner shall include any purchaser, assignee, successor, or transferee of any interest whatsoever in the property regarding any provisions of this chapter.

Roots/root systems means the tree part containing the organs used for extracting water, gases and nutrients from the soil and atmosphere.

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. Non-traditional 'shrub' plant material that can be used for screening, such as Monstera, Silver Saw Palmetto or similar may count as a shrub. Ornamental grasses shall not count as a shrub. Shrub plant material shall be subject to the rev8iew and approval of the planning department

Site plan means a drawing illustrating a proposed development drawn to scale indicating site elevations, roadways and location of all relevant site improvements including structures, parking, other paved areas, ingress and egress drives, landscaped open space and signage.

Sound nursery practices means the procedures of landscape nursery work that comply with the standards set by the state department of agriculture and consumer services.

Spread means the average diameter of the crown of a tree.

Substantial rehabilitation means buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official.

Tree means any self-supporting woody plant or palm which usually has a single main axis or trunk, that comply with the minimum size requirements described in this chapter. This definition excludes plants which are defined as shrubs, hedges, vines, or ground covers.

Tree trust fund means The City of Miami Beach Tree Preservation Trust Fund established in chapter 46, section 46-65 of the Code of the City of Miami Beach.

Viable tree means a tree, which in the judgment of the City of Miami Beach Urban Forester is capable of sustaining its own life processes, unaided by man for a reasonable period of time.

1.2.5 SIGNS DEFINITIONS

Artistic mural means a one-of-a-kind, two-dimensional work of art commissioned or approved prior to its creation by a property owner or occupant, where the primary purpose is to aesthetically enhance the surface it covers.

Cultural institution means an institution that engages in the performing arts (including, but not limited to, music, dance and theater), or visual arts (including, but not limited to, painting, sculpture, and photography), or engages in cultural activities, serves the general public, has a permanent presence in the city, and is designated by the Internal Revenue Service as tax exempt pursuant to section 501(c)(3) or (4) of the Internal Revenue Code.

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

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 or roller curtain.

Sign, balloon means hot or cold air balloons or other gas filled figures or similar type sign.

Sign, banner means a sign made of cloth, fabric, paper, plastic or other flexible material. Banners may contain text, numbers, graphic images or symbols. Pennants and flags are not considered banners.

Sign, building identification means a sign containing the name of the building, institution or the activity carried on in the building.

Sign, business identification means a sign used to identify an establishment within a structure or its premises.

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, directory means a sign listing the names of all the licensed uses in a building.

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, election/free speech means a temporary sign in support of a political candidate or expressing a political opinion.

Sign, establishment service-identification means a sign which pertains only to the use of a premises and which contains any or all of the following information:

a. The names of the owner, operator, and/or management of the use.
b. 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, garage sale means a sign advertising a garage sale.

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, hanging means a sign hanging from the underside of an awning or canopy.

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, pennant means a sign made of cloth, fabric, paper, plastic or other flexible material that does not contain text, numbers, images or symbols.

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.

Sign, temporary means a sign identifying a particular activity, service, product, sale, or lease, of limited duration, or announcing political candidates seeking public office, or advocating positions related to ballot issues, or exercising freedom of speech.

Sign, wall means a 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.

Streamer means a piece of cloth, fabric, paper or other flexible plastic or material designed to draw attention by fluttering in the wind.

Temporary business means a business operating with a temporary BTR or pop-up special event permit.

Vacant storefront means any ground floor business establishment that is unoccupied.

Vertical retail center means a commercial building with a minimum of 50,000 square feet of floor area for retail, restaurant, food market, or personal fitness center uses, exclusive of parking. This definition shall not include buildings that are predominantly office or nonretail uses.

1.2.6 RESILIENCE AND ADAPTATION DEFINITIONS

Construction means any project associated with the creation, development, or erection of any structure required to comply with this chapter.

Enhanced stormwater quality and quantity improvements means projects that augment water quality and quantity by: Reducing polluted runoff; advancing groundwater recharge, soil infiltration and erosion control; and restoring habitat.

Environmental monitoring means periodic or continuous surveillance or testing to determine the level of compliance required by the Environmental Protection Agency (EPA), Florida Department of Environmental Protection (DEP), or Miami-Dade County Department of Regulatory and Environmental Resources (RER) and/or pollutant levels in various media (air, soil, water) or biota, as well as to derive knowledge from this process. Examples of environmental monitoring include, but are not limited to: Water quality sampling and monitoring, groundwater testing and monitoring, and habitat monitoring.

Environmental remediation means clean-up of, or mitigation for, air, soil or water contamination for which the city is legally responsible for environmental clean-up or mitigation.

Environmental restoration means the return of an ecosystem to a close approximation of its condition prior to disturbance.

Green infrastructure means both the natural environment and engineered systems to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife. Green infrastructure uses vegetation, soils, and natural processes to manage natural resources and create healthier urban environments. Examples of green infrastructure practices include, but are not limited to: Right-of-way bio-swales, green roofs, blue roofs, rain gardens, permeable pavements, infiltration planters, trees and tree boxes, rainwater harvesting systems.

Green building means generally the resource efficient design, construction, and operation of buildings by employing environmentally sensible construction practices, systems and materials.

Green building certification agency means the United States Green Building Code (USGBC) or the International Living Future Institute, as may be selected by the eligible participants.

International Living Future Institute means a non-profit organization that created an international sustainable building certification program called The Living Building Challenge. Certification types include living building certification, petals certification and net zero energy building certification.

LEED means an effective edition of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System for Building Design and Construction or Homes, as applicable, of the United States Green Building Council (USGBC).

Project means any construction associated with the creation, development or erection of any building required to comply with this chapter.

Scorecard means a guide provided by the green building certification agency to assist in determining the total project score and achievable credits and level of certification at the inception of a green building, as provided under this chapter.

USGBC means the United States Green Building Council.

ARTICLE III – INTERPRETATION AND ENFORCEMENT

1.3.1 INTERPRETATION, PURPOSE AND CONFLICT

a. Words and terms not defined in Chapter 1, Article II shall be interpreted in accord with their normal dictionary meaning and customary usage, except for technical standards or words of art used by a particular profession, which shall be interpreted by the planning director as provided in section 1.3.6 of these land development regulations.

b. In interpreting and applying the provisions of the land development regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these land development regulations to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, or to repeal any provisions of the City Code. Where the regulations imposed by these land development regulations are more restrictive than those imposed by any other ordinances, rules, regulations, easements, covenants or agreements, then these land development regulations shall supersede them; however, when any of the above are more restrictive than this subpart, then the more restrictive provision shall govern to the extent necessary to give effect to its provisions. When there are different regulations, one general and one more specific, both of which may apply to a given subject, the more specific one shall govern, regardless of whether it be part of the City Code or this subpart and regardless of the date of enactment.

c. If, because of error or omission in the zoning district map, any property in the city is not shown as being in a zoning district, the classification of such property shall be classified RS-1 single-family residential district, until changed by amendment.

1.3.2 RELATIONSHIP TO THE COMPREHENSIVE PLAN

a. All regulations contained in these land development regulations and the maps attached thereto, which are on file in the city clerk's office, shall be amended, supplemented or changed only in compliance with F.S. ch. 163 as pertains to comprehensive planning activities. Neighborhood plans shall not be considered as part of the comprehensive plan unless the city commission adopts the neighborhood plan as part of the comprehensive plan.

1.3.3 COMPLIANCE WITH REGULATIONS REQUIRED

a. Except as provided in these land development regulations:
    i. No land or water area may be used except for a purpose permitted in the district in which it is located.
    ii. No land or water area may be used without an approved certificate of use.

iii. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or part thereof, be used except for a use permitted in the district in which the building is located.

iv. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with ~~height limits~~ all applicable regulations established for the district in which the building is located.

~~v. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the area regulations of the district in which the building is located.~~

~~vi. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, except in conformity with the off-street parking and loading regulations of the district in which the building is located.~~

vii. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area ratio~~, minimum unit sizes or open space ratio~~ regulations of the district in which it is located. However, in accordance with section 118-5, the maximum floor area ratio (FAR), inclusive of bonus FAR, for a unified development site may be located over multiple zoning districts.

viii. No building shall be erected or moved except in conformity with the established flood criteria applicable to the site on which the building is to be located.

ix. A building containing hotel suite units as specified in section 142-1105 shall not be converted to apartment units unless the minimum unit size requirements are met.

x. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered without obtaining a building permit ~~approval of the planning and zoning director and the building official~~.

xi. No building permit shall be issued for any lot or site that does not meet the requirements of the definition of lot as stated in this subpart.

xii. No building permit or board order shall be issued for any lot or site with a building permit valued at $250,000.00 or more without a Construction Management Plan approved by the Parking Director pursuant to Chapter 106, Article II, Division 3, entitled "Construction Parking and Traffic Management Plan."

1.3.4 PERMITS AND PLOT PLANS

a. A building permit shall not be issued for any building or structure to be erected, constructed, altered, moved, converted, extended, enlarged or used, or for any land or water to be used, except in conformity with the provisions of these land development regulations.

b. A license or permit shall not be issued by any department, agency or official of the city for the use of any premises or the operation of any business, enterprise, occupation, trade, profession or activity which would be in violation of any of the provisions of these land development regulations.

1.3.5 OUTSTANDING BUILDING PERMITS AND PROJECTS WHICH HAVE RECEIVED ZONING APPROVAL

Any building or structure for which a building permit has been issued or for which the planning and zoning director has approved plans for zoning compliance with the land development regulations in effect as of the adoption of Ordinance No. xxx, may be built or processed to obtain a building permit in accordance with the zoning regulations in effect at the time of the adoption of Ordinance No. xxx. However, the building permit shall be valid for the period of time as specified in the South Florida Building Code. The plans approved by the planning director shall be valid for a period of time not to exceed 60 days from the effective date of these land development regulations or in those instances where a development requires additional review or approval from the county the plans shall be valid for a period of time not to exceed 120 days from the effective date of these land development regulations in which time a building permit for the entire building shall be obtained with due diligence. If a building permit for the entire building is not applied for within the 60-day period, then the development shall conform to the regulations as contained in these land development regulations. All work not associated with that which was allowed on the building permit or on plans approved by the planning director shall be in accordance with these land development regulations.

1.3.6 ADMINISTRATION OF REGULATIONS

a. It shall be the duty of the planning director to interpret all provisions of these land development regulations. Where a question arises as to the meaning or intent of a section or subsection of these land development regulations, the director may render written decisions of an administrative nature concerning items such as, but not limited to:
    i. The proper zoning classification for a use not specifically addressed;
    ii. The interpretation of zoning district boundaries;
    iii. The manner in which the particular land development regulation is to be applied; and
    iv. The procedure to be followed in unusual circumstances.
b. Standards for Administrative Interpretation
c. The planning director shall interpret these land development regulations based on the plain meaning of the regulation, or if the director determines that there is ambiguity regarding the regulatory provision, then the history and intent of the City Commission in enacting the provision shall be considered. If the regulatory provision refers to or is based on text that requires reference to technical standards or words of art used by a particular profession, then the director shall consult with those knowledgeable in the applicable profession.
d. In the event an applicable party disagrees with a decision of the planning director regarding any provisions of the land development regulations, such party may file an appeal of the planning director's decision to the Board of Adjustment, in accordance with the provisions set forth in Chapter 2. Any decision of the planning director pertaining to the interpretation of the land development regulations may only be reversed or modified by the board of adjustment.

1.3.7 ENFORCEMENT

a. It shall be the duty of the ~~planning, design and historic preservation division~~ planning director 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.

1.3.8 VARIATIONS AND PENALTIES

e. Any person, firm or corporation who shall violate or fail to comply with any of the provisions of these land development regulations or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, shall be subject to enforcement procedures as set forth in the City Code. The special magistrate may assess fines and impose liens as provided in chapter 30 and F.S. ch. 162. The owner or owners of any building or premises, or part thereof, where anything in violation of these regulations shall be placed or shall exist, and any agent, person, or corporation employed in connection therewith and who has assisted in the commission of any such violation may be guilty of a separate offense, and may be fined as hereinbefore provided.

Chapter 2 Administration and Review Procedures

Article I. Land Use Boards

2.1.1 Generally

2.1.1.1 Disclosure requirement

Each person or entity requesting approval, relief or other action from the planning board, design review board, historic preservation board (including the joint design review board/historic preservation board), or the board of adjustment shall disclose, at the commencement (or continuance) of the public hearing(s), any consideration provided or committed, directly or on its behalf, for an agreement to support or withhold objection to the requested approval, relief or action, excluding from this requirement consideration for legal or design professional services rendered or to be rendered. The disclosure shall

(a) be in writing,

(b) indicate to whom the consideration has been provided or committed,

(c) generally describe the nature of the consideration, and

(d) be read into the record by the requesting person or entity prior to submission to the secretary/clerk of the respective board.

Upon determination by the applicable board that the foregoing disclosure requirement was not timely satisfied by the person or entity requesting approval, relief or other action as provided above, then

(a) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and

(b) no application from said person or entity for the subject property shall be reviewed or considered by the applicable board(s) until expiration of a period of one year after the nullification of the application or order.

It shall be unlawful to employ any device, scheme or artifice to circumvent the disclosure requirements of this section and such circumvention shall be deemed a violation of the disclosure requirements of this section.

2.1.1.2 Application requirement for land use boards

No person shall be appointed to the planning board, design review board, historic preservation board, or the board of adjustment unless he has filed an application with the city clerk on the form prescribed, not less than ten days before the date of appointment. The city commission may waive this requirement by a five-sevenths vote, provided such waiver shall only be granted one time per board, per meeting, provided further that any applicant granted such a waiver must file his application prior to being sworn in as a member of these boards.

2.1.1.3 Terms of Office

The term of office on a land use board shall be two years.

2.1.1.4 Quorum and voting

(a) For each land use board, a quorum shall constitute four regular members, except quorum of five regular members of the Planning Board is required for conditional

uses and any matter that does not require city commission approval. 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.

(b) A majority vote of the members present shall be necessary to approve all requests or to decide all issues coming before the board with the following exceptions:

(1) An affirmative vote of five regular members of the Planning Board shall be required to approve a conditional use request or matter that does not require city commission approval. An affirmative vote of four regular members of the Planning Board shall be required to approve the sale, exchange, conveyance or lease of ten years or longer of certain city-owned property, as provided in City Charter, subsection 1.03(b)4, entitled, "Disposition of city property." An affirmative vote of four regular members shall be required to approve an application for design review.

(2) An affirmative vote of five regular members of the Design Review Board shall be necessary to approve any variance request.

(3) An affirmative vote of five regular members of the Historic Preservation Board shall be necessary to approve any variance request. An affirmative vote of five regular members of the Historic Preservation Board shall be necessary to approve any certificate of appropriateness (i) for demolition, recommendations for historic designation and reclassification of properties listed as "historic" in the historic properties database; and (ii) pertaining to revisions to any application for a property where a certificate of appropriateness for demolition was previously issued, including an after-the-fact certificate of appropriateness for demolition.

(4) An affirmative vote of four regular members of the Historic Preservation Board shall be necessary to approve the issuance of a certificate of appropriateness pertaining to any application for new construction, renovation or rehabilitation, except as otherwise provided in this section.

(5) An affirmative vote of five regular members of the Board of Adjustment shall be necessary to approve any variance request.

(c) In the event of a tie vote on a motion on all requests or issues coming before a land use board, the motion shall be deemed denied.

2.1.1.5 Conflict of Interest

Members of the land use boards shall abide by the applicable provisions of Section 112.311 et seq., Florida Statutes, Dade County Code section 2-11.1 and section 2-446 et seq. of this Code, regarding voting conflicts and disclosures of financial interests and shall be subject to removal from office for the violation of the terms thereof.

2.1.1.6 Meetings

Unless appointed by the city commission, each land use board shall by majority vote select a chairperson and vice chairperson. Meetings of each land use board shall be held within a reasonable time upon receipt of an application, or at such other times as the board may determine, or upon call of the chairperson or the planning director. Each land use board shall follow Robert's Rules of Order, subject to the limitations of the city's Charter and ordinances, and shall keep minutes of its proceedings showing its action on each question considered. All meetings shall be open to the public. Members of the public at the meeting shall have the right to address the land use board and to present evidence.

2.1.1.7 Removal

Removal of a land use board member shall be mandatory when that member:

(a) Fails to attend three of the regularly scheduled meetings per calendar year; or

(b) Abstains from voting due to a conflict of interest on four different applications within a calendar year. However, abstentions by a Historic Preservation Board member for reason of conflict for matters relating to amendment of the historic properties database shall not be counted for this purpose.

For purposes of this section, an absence from a meeting shall be defined as missing 50 percent of the scheduled matters unless the member attended 70 percent of the duration of time of that meeting's agenda. A member who is removed shall not be reappointed to membership on the board for at least one year from the date of removal. Any absences or abstentions due to conflict of interest prior to the effective date of these land development regulations shall not apply for purposes of removal from board membership.

2.1.1.8 Temporary Emergency Relief Procedures

2.1.1.8.1 Purpose and Intent.

It is the purpose and objective of this section to establish reasonable and uniform regulations to protect the public health, safety, and welfare, and to provide for streamlined review of applications for temporary uses and other land use approvals following a catastrophic event, including, but not limited to, a fire, tornado, flood, tropical storm, hurricane, or other natural disaster or act of God.

2.1.1.8.2 Approval of temporary emergency uses.

During a state of emergency declared by the city in response to a natural disaster or other catastrophic event, including, but not limited to, a fire, tornado, flood, tropical storm, hurricane, or other natural disaster or act of God, the city manager shall have the authority to approve temporary emergency use permits for a duration of up to 120 days on any lot, regardless of the underlying zoning district, for any temporary use which, as determined by the city manager, will aid in the reconstruction or recovery of an area adversely impacted by the natural disaster or catastrophic event, subject to the following conditions:

(a) Prior to approving the location of a temporary emergency use, the city manager must find that the use will not have a significant effect on adjoining properties or on the immediate surrounding neighborhood.

(b) The temporary emergency use shall not be subject to the requirements of chapters 3 through 7 of these land development regulations, unless the city manager determines that it is necessary to enforce a land development regulation against the use in order to protect the peaceful and quiet enjoyment of adjoining properties, or that enforcement of the land development regulation is required pursuant to the City Charter or state law.

(c) The city manager may impose additional conditions that may be necessary to protect the peaceful and quiet enjoyment of adjoining properties.

(d) Upon the expiration of the temporary emergency use permit, the site must be fully restored and returned to its pre-emergency state, unless a building permit is obtained to modify the site.

(e) The city manager may require the posting of a completion bond or other guarantee in an amount that, at a minimum, would cover the cost of the removal of any improvements made to a site or cleaning/restoration of the site following the expiration of the approved temporary emergency use permit.

(f) An application for a temporary emergency use permit must be made while the declaration of a state of emergency is in effect.

(g) The city manager shall have the sole and absolute discretion to revoke the temporary emergency use permit at any time.

(h) The planning department shall maintain records of all temporary emergency use permits issued pursuant to this section.

2.1.2 Planning Board

2.1.2.1 Powers and Duties

The Planning Board shall have the following powers and duties:

(a) To acquire, compile and collate all available data, materials, statistics, maps, photographs, reports and studies necessary to obtain an understanding of past conditions and present trends, which affect the city and the economic and general welfare of its residents. The board shall evaluate data and determine the past, present and future trends as they relate to population, property values, economic bases, land use, and to evolve the principles and policies required to guide the direction and type of future development and expansion of the city.

(b) To conduct such public hearings as may be helpful in gathering information and data necessary for the presentation of suitable and appropriate plans for the comprehensive and systematic development of the city and to transmit the same for consideration by the city commission.

(c) To make, cause to be made, or obtain special studies on the location, condition and adequacy of specific facilities of the city. These may include, but are not limited to, studies on single and multiple-family housing, including hotels, apartment buildings, cooperatives and condominiums, commercial and industrial conditions and facilities, beaches, parks, playgrounds and other recreational facilities, public buildings, public and private utilities, traffic, transportation and parking. The board shall be authorized to study and consider any and all studies made and published by the federal, state and county governments.

(d) To make appropriate studies of the location and extent of present and anticipated use of land, population, social and economic resources and problems, and to submit such data, with the recommendations of such board, to the city commission.

(e) To consider and to act upon any and all matters referred to it by the city commission or by the provisions of any city ordinance pertaining to land use and to submit its findings and recommendations on such matters to the city commission.

(f) In granting a request, the board may prescribe appropriate conditions and safeguards which are consistent and supportive of the city's comprehensive plan, neighborhood plan or capital improvement plan. Violation of such conditions and safeguards shall be deemed a violation of these land development regulations.

(g) To carry out its responsibilities as the local planning agency pursuant to the state and the Florida Community Planning Act (chapter 163, Florida Statutes).

(h) To ensure a high degree of aesthetics and promote quality in construction and design of buildings and structures so as to enhance the value of property and the physical environment of the city.

(i) To consider applications pertaining to conditional use permits, division of land/lot splits, amendments to these land development regulations, change of zoning district boundaries and comprehensive plan amendments and future land use map changes.

(j) To promote reduced crime and fear of crime through the use of crime prevention through environmental design guidelines and strategies.

(k) To review the sale, exchange, conveyance or lease of ten years or longer of certain city-owned property, as provided in City Charter, subsection 1.03(b)4, entitled, "Disposition of city property," which requires approval by a majority (four-sevenths) vote of all members of the planning board. In reviewing such an application, the planning board shall consider the following review criteria, when applicable:

1. Whether or not the proposed use is in keeping with city goals and objectives and conforms to the city comprehensive plan.
2. If a sale, a determination as to whether or not alternatives are available for the acquisition of private property as an alternative to the proposed disposition or sale of city-owned properties, including assembly of adjacent properties, and impact of such assemblage on the adjacent neighborhood and the city in general.
3. The impact on adjacent properties, including the potential positive or negative impacts such as diminution of open space, increased traffic, adequate parking, noise level, enhanced property values, improved development patterns, and provision of necessary services.
4. Determination as to whether or not the proposed use is in keeping with the surrounding neighborhood, blocks views or creates other environmental intrusions, and evaluation of design and aesthetic considerations of the project.
5. A traffic circulation analysis and plan that details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.
6. Determination as to whether or not the proposed use is in keeping with a public purpose and community needs, and improving the community's overall quality of life.
7. If a lease is proposed, the duration and other nonfinancial terms of the lease.

2.1.2.2. Membership and appointment

(a) The planning board shall be composed of seven regular voting members. Each regular member shall be appointed with the concurrence of at least four members of the city commission. The planning director or designee, and city attorney or designee, shall serve in an advisory capacity.

(b) All regular voting members of the board shall have considerable experience in general business, land development, land development practices or land use issues; however, the board shall at a minimum be comprised of:

(1) One architect registered in the State of Florida; or a member of the faculty of a school of architecture in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of

architecture; or a landscape architect registered in the State of Florida; or a professional practicing in the fields of architectural or urban design, or urban planning;

(2) One developer who has experience in developing real property; or an attorney in good standing licensed to practice law within the United States;

(3) One attorney licensed to practice law in the State of Florida who has considerable experience in land use and zoning issues;

(4) One person who has education or experience in historic preservation issues. For purposes of this section, the term "education or experience in historic preservation issues" shall be a person who meets one or more of the following criteria:

(a) Has earned a college degree in historic preservation;

(b) Is responsible for the preservation, revitalization or adaptive reuse of historic buildings; or

(c) Is recognized by the city commission for contributions to historic preservation, education or planning;

(5) Two persons who are citizens at-large or engaged in general business in the city; and

(6) One of the following:

(a) A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;

(b) A person licensed by the State of Florida in hydrology, water or wastewater treatment;

(c) A person with a degree from an accredited college or university in a field of study related to water resources; or

(d) A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert").

(c) No person except a resident of the city, who has resided in the city for at least one year, shall be eligible for appointment to the planning board. The residency requirement in this subsection (c) shall not apply to the water management expert appointed to the planning board pursuant to subsection (b)(6).

(d) The city commission may waive the residency requirements by a 5/7ths vote in the event a person not meeting these requirements is available to serve on the board and is exceptionally qualified by training or experience.

2.1.2.3 Procedures

In addition to all procedures otherwise authorized or required by these land development regulations, the following shall apply to the Planning Board.

(a) The board is authorized to call public hearings and to create committees and subcommittees when deemed appropriate or convenient for the performance of its duties.

(b) All requests shall be submitted to the city attorney for a determination whether the request is properly such, and does not constitute a variance of these land development regulations. The jurisdiction of the planning board shall not attach unless and until the board has before it a written certificate of the city attorney that the subject matter of the request is properly before the board. The separate written recommendations of the planning director shall be before the board prior to its consideration of any matter before it.

(c) Where required by city charter section 1.03(d) to act on proposed sale, exchange, conveyance or lease of ten years or longer of city-owned property, notice of the Planning Board hearing on the matter shall be given by publication in a newspaper of general circulation at least ten days prior to the hearing.

2.1.3. Design Review Board

2.1.3.1 Powers and duties

The Design Review Board shall have the following powers and duties:

(a) To promote excellence in urban design.

(b) To review all applications requiring design review approval for all properties not located within a designated historic district or not designated as a historic site. 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." This authority shall include review and approval of design and location within public rights-of-way outside of locally designated historic districts of all wireless communications facilities as defined in chapter 104, "telecommunications," article I, "communications rights-of-way" under the standards provided therein.

(c) To prepare and recommend adoption of design plans pertaining to neighborhood studies.

(d) To promote reduced crime and fear of crime through the use of crime prevention through environmental design guidelines and strategies, as approved by the City Commission.

(e) To hear and decide appeals of the planning director.

(f) To authorize, upon application, variances from the terms of these land development regulations, where authorized by subsection 118-351(a), pursuant to the requirements of these land development regulations, as will not be contrary to the public interest when, owning to special conditions, a literal enforcement of provisions of these land development regulations would result in unnecessary and undue hardship.

(g) To serve as the city's floodplain management board in reviewing applications for properties within the board's jurisdiction, and shall have the authority to exercise all powers and perform all duties assigned to such board pursuant to section 54-31, et seq.; Resolution No. 93-20698; and in accordance with the procedures set forth therein as such ordinance and resolution may be amended from time to time. For the purposes of determining jurisdiction, the criteria in subsection 118-351(a) for a variance shall be utilized.

2.1.3.2 Membership and appointment.

(a) The Design Review Board shall be composed of seven regular voting members. Each regular member shall be appointed with the concurrence of at least four members of the city commission. One person appointed by the city manager from an eligibility list provided by the disability access committee shall serve in an

advisory capacity with no voting authority. The planning director or designee, and city attorney or designee, shall serve in an advisory capacity.

(b) The Design Review Board shall consist of the following seven regular members:

(1) One architect registered in the United States;

(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;

(3) One landscape architect registered in the State of Florida;

(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;

(5) Two citizens at-large; and

(6) One of the following:

(i) A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;

(ii) A person licensed by the State of Florida in hydrology, water or wastewater treatment;

(iii) A person with a degree from an accredited college or university in a field of study related to water resources; or

(iv) A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert").

c) Eligibility

An eligibility list for these professional membership categories may include, but shall not be limited to, suggestions from the following professional and civic associations as listed below:

(1) American Institute of Architects, local chapter.

(2) American Society of Landscape Architects, local chapter.

(3) The Miami Design Alliance.

(4) American Planning Association, local chapter.

(5) The Miami Design Preservation League and Dade Heritage Trust.

(6) Other city civic, neighborhood and property owner associations.

All regular members shall reside in or have their primary place of business in the county, except for the water management expert appointed pursuant to subsection (b)(6), who need not reside in or have a principal place of business in the county. The two citizen-at-large members and one of the registered landscape architects, registered architects, or professionals practicing in the fields of architectural or urban design or urban planning shall be residents of the city.

2.1.3.3 Procedures

In addition to all procedures otherwise authorized or required by these land development regulations, the following shall apply to the Design Review Board.

(a) Prior to a decision of the board, the ex officio members shall submit a recommendation for each item on the agenda. In addition, the city attorney shall determine whether a request is properly before the board

2.1.4 Historic Preservation Board

2.1.4.1 Created; authority.

There is hereby created a city Historic Preservation Board for the purposes of carrying out the provisions of this division. The board shall have the authority to recommend the designation of areas, places, buildings, including the public portions of interiors of buildings, structures, landscape features, archeological sites and other improvements or physical features, as individual buildings, structures, improvements, landscape features, sites, districts, or archeological zones that are significant to the city's history, architecture, archeology, or culture or possess an integrity of location, design, setting, material or workmanship, in accordance with the goals of this division to grant certificates of appropriateness and to determine whether any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district may be altered or demolished. For purposes of Sec. 10.6 of the City Charter " Public vote required prior to enacting reduced powers and duties for Historic Preservation Board, or less stringent historic preservation standards or regulations," nothing in these land development regulations shall be interpreted or applied to authorize less stringent historic preservation standards or regulations than those existing as of November 6, 2012, unless authorized by referendum pursuant to Sec. 10.6

2.1.4.2 Powers and duties.

The Historic Preservation Board shall have the following powers and duties:

(a) Recommend to the Planning Board and City Commission, the designation of historic buildings, structures, improvements, landscape features, public interiors, and historic sites or districts.

(c) Prepare and recommend for adoption specific guidelines for each designated site or district to be used to evaluate the appropriateness and compatibility of proposed alteration or development within designated historic sites or historic districts.

(c) Issue or deny certificates of appropriateness, certificates to dig and certificates of appropriateness for demolition in accordance with procedures specified in this division, excluding certificates of appropriateness for demolition for city-owned buildings and other improvements as hereinafter specified on city-owned property and public rights-of-way, and property owned by the Miami Beach Redevelopment Agency, for which properties the historic preservation board shall serve as advisor to the city commission. This authority shall include review and approval of design and location within public rights-of-way inside of locally designated historic districts of all wireless communications facilities as defined in chapter 104, "telecommunication," article I, "communications rights-of-way" under the standards provided therein, at subsection [118-]104(6)(t).

(d) Recommend restoration of property to its prior condition as required by section 118-533 when the property has been altered in violation of this division.

(e) To authorize, upon application, such variance from the terms of these land development regulations, where authorized by section 118-351(a), pursuant to the requirements in chapter 118, article VIII, of the land development regulations, as will not be contrary to the public interest when, owning to special conditions, a literal enforcement of a provision of these land development regulations would result in an unnecessary and undue hardship.

(f) Facilitate the redevelopment of historic sites and districts by directing the planning department, and other city departments, to provide advisory and

technical assistance to property owners, applicants for certificates of appropriateness.

(g) Make and prescribe by-laws and application procedures that are reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this division. The board shall prescribe forms for use by applicants when requesting action under this division. The board may authorize any one of its members to administer oaths and to certify official documents.

(h) Award historic markers or plaques upon the recommendation of the city manager and with the consent of the City Commission.

(i) Update and revise the historic properties database.

(j) Advocate that the city administration explores and advises the historic preservation board and the building official as to alternatives available for stabilizing and preserving inadequately maintained or unsafe buildings or structures within the city's designated historic districts or on designated historic sites.

(k) Review all new construction, alterations, modifications and improvements to any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district.

(l) To review and recommend to the city commission any and all amendments to this Code affecting historic preservation issues; specifically, division 4 of article II of chapter 118 entitled "historic preservation board," and article X of chapter 118 entitled "historic preservation," pursuant to section 118-163.

(m) Serve as the city's floodplain management board for applications concerning properties within its jurisdiction, and shall have the authority to exercise all powers and perform all duties assigned to such board pursuant to section 54-31, et seq., Resolution No. 93-20698, and in accordance with the procedures set forth therein as such ordinance and resolution may be amended from time to time. For the purposes of determining jurisdiction, the criteria in section 118-351(a), for a variance shall be utilized.

2.1.4.3 Membership and appointment.

(a) The Historic Preservation Board shall be composed of the following seven members, appointed with the concurrence of at least four members of the City Commission:

(1) A representative from the Miami Design Preservation League (MDPL), selected from three names nominated by such organization.

(2) A representative from Dade Heritage Trust (DHT), selected from three names nominated by such organization.

(3) Two at-large members, who have resided in one of the city's historic districts for at least one year, and who have demonstrated interest and knowledge in architectural or urban design and the preservation of historic buildings.

(4) An architect registered in the State of Florida with practical experience in the rehabilitation of historic structures.

(5) One of the following:

(i) A licensed professional engineer, licensed professional architect, or licensed professional landscape architect with expertise in water resources;

(ii) A person licensed by the State of Florida in hydrology, water or wastewater treatment;

(iii) A person with a degree from an accredited college or university in a field of study related to water resources; or

(iv) A floodplain manager or a principal community administrator responsible for the daily implementation of flood loss reduction activities including enforcing a community's flood damage prevention ordinance, updating flood maps, plans, and policies of the community, and any of the activities related to administration of the National Flood Insurance Program (NFIP) (a "water management expert"), each of the foregoing with professional experience and demonstrated interest in historic preservation.

(6) A member of the faculty of a school of architecture in the State of Florida, with academic expertise in the field of design and historic preservation or the history of architecture, with a preference for an individual with practical experience in architecture and the preservation of historic structures.

(b) All members of the board except the architect, university faculty member, and water management expert shall be residents of the city; provided, however, that the City Commission may waive the residency requirement (if applicable) by a 5/7ths vote, in the event a person not meeting the residency requirements is available to serve on the board and is exceptionally qualified by training or experience in historic preservation matters. All appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation.

(c) Eligibility

An eligibility list solicited from, but not limited to, the organizations listed below may be considered by the City Commission in selecting board members:

(1) American Institute of Architects, local chapter.
(2) Miami Design Preservation League.
(3) Miami Beach Chamber of Commerce.
(4) Miami Beach Development Corporation.
(5) Dade Heritage Trust.
(6) Florida Engineer Society, local chapter.
(7) Any other organization deemed appropriate by the city commission.

2.1.4.4 Procedures

In addition to all procedures otherwise authorized or required by these land development regulations, the following shall apply to the Historic Preservation Board:

(a) The planning department shall provide the necessary staff to assist the board in the performance of its duties.

(b) The planning director or designee shall attend all meetings of the board and serve as a liaison between the board, the city administration, organizations interested in historic preservation and the general public.

2.1.5. Board of Adjustment

2.1.5.1 Powers and Duties

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

(a) To hear and decide appeals pursuant to the procedural requirements of Section 118-9.

(b) To authorize, upon application, such variance from the terms of these land development regulations where authorized by section 118-351(a), pursuant to the requirements of chapter 118, article VIII, of the land development regulations, as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of a provision of these land development regulations would result in unnecessary and undue hardship.

(c) To serve as the city's floodplain management board in reviewing applications for properties within its jurisdiction and shall have the authority to exercise all powers and perform all duties assigned to such board pursuant to section 54-31 et seq. and Resolution No. 93-20698, and in accordance with the procedures set forth therein as such ordinance and resolution may be amended from time to time. For the purposes of determining jurisdiction, the criteria in section 118-351(a) shall be utilized.

2.1.5.2 Membership

The Board of Adjustment shall be composed of seven voting members. Two members shall be appointed as citizens at-large and five members shall be appointed from each of the following categories (no more than one per category), namely: Law, architecture, engineering, real estate development, certified public accounting, financial consultation and general business. The members representing the professions of law, architecture, engineering and public accounting shall be duly licensed by the State of Florida; the member representing general business shall be of responsible standing in the community; the member representing the field of financial consultation shall be a certified public accountant, chartered financial analyst, certified financial planner, a chartered financial consultant or investment advisor registered with the Securities and Exchange Commission, or someone recognized as having similar credentials and duly licensed by the State of Florida. Members shall be appointed by a five-sevenths vote of the City Commission. Members of the board must be either residents of or have their principal place of business in the city.

Article II. General Development Application and Hearing Procedures

2.2 Purpose.

This article sets forth the general procedures that apply to the review of applications for development approval under these land development regulations. Additional or modified procedures may apply as described for particular development applications in these land development regulations.

2.2.1. Preapplication conference.

(a) The purposes of a pre-application conference are to provide an opportunity for the applicant to determine the submittal requirements and the procedures and standards applicable to an anticipated application for a development approval or permit; and to allow the planning director and staff to become familiar with, and offer the applicant preliminary courtesy comments about the scope, features, and impacts of the proposed development, as it relates to these land development regulations.

(b) A pre-application conference is required between the planning director and a potential applicant for applications to include, but not limited to, a comprehensive plan future land use plan amendment, rezoning, land development regulation text amendment, or conditional use application, before an application is filed. The director is authorized in his sole discretion to require a pre-application for other applications and to determine which

other city staff shall attend the pre-application conference. The director, in his sole discretion, may waive the requirement for a pre-application conference.

(1) The applicant shall request the pre-application conference in writing, and the conference shall be held at a time agreed by the applicant and director.
(2) At least 7 business days before a pre-application conference is held, the potential applicant shall submit to the planning director a narrative describing the general nature and scope of the development proposed, a conceptual plan of the proposed development (if appropriate), evidence of authorization to file an application, and any other information requested by the director.
(3) At the conference, the city staff may seek any needed clarification from the applicant regarding the proposed application, and identify any concerns, problems, or other factors the applicant should consider regarding the proposed application.
(4) Matters discussed at the pre-application conference are a courtesy, for clarification purposes and sharing information, and shall not bind the city staff to any recommendation.

2.2.2 Development Application Submission and Review

2.2.2.1 Authority to Submit

Except where a comprehensive plan amendment, zoning text amendment or zoning map amendment is initiated by the city, all development applications shall be submitted by the owner(s) of the land upon which the development is proposed, or the owner(s) authorized agent. The owner(s) shall submit with its application an owner affidavit on a form provided by the city, and an authorized agent shall submit a power of attorney affidavit on a form provided by the city. If the property that is the subject of the application is owned or leased by a corporation, partnership or limited liability company, the applicant shall list all owners and the percentage of ownership held by each. An applicant for property owned or leased by a trust shall disclose the trustees and beneficiaries of the trust, and the percentage of interest held by each. The intent of this section is to require the identity or entities having the ultimate ownership interest in the property that is subject to the application.

2.2.2.2 Required Application Content and Forms

A development application shall be submitted on the forms provided by the city planning department. For all applications, the following information shall be required, in addition to any other information required by these land development regulations or the planning director.

(a) Legal description and a certified land survey of the proposed site boundaries. The survey shall be performed in accordance with Florida Administrative Code, and dated within one year proceeding the filing date of the application, providing such survey reflects all current conditions of the subject property.
(b) Proof of authority to submit the application.
(c) Any information required for notice of a hearing before a land use board or the city commission, as applicable.
(d) Proof of any pending code enforcement action or municipal liens on the property.
(e) Payment of required fees and charges.

2.2.2.3 Site Plans

Where these land development regulations require the submittal of site plans, such site plans shall contain all of the information required by applicable laws and ordinances governing the approval of subdivisions and, in addition, shall show the following:

(a) The proposed title of the project and the name of the engineer, architect, or landscape architect, and the developer.
(b) The northpoint, scale, and date.
(c) Existing zoning and zoning district boundaries.
(d) The boundaries of the property involved, all existing easements, section lines, and property lines, existing streets, buildings waterways, watercourses, or lakes, and other existing physical features in or adjoining the project.
(e) The location and sizes of sanitary and storm sewers, water mains, culverts, and other underground structures in or near the project.
(f) Proposed changes in zoning, if any.
(g) The location, dimensions, and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas (including numbers of parking and loading spaces), outdoor lighting systems, storm drainage and sanitary facilities.
(h) The location and dimensions of proposed lots, setback lines, and easements, and proposed reservations for parks, playgrounds, open spaces, and other common areas.
(i) Location with respect to each other and to lot lines of all proposed buildings and structures, or major excavations, accessory and main.
(j) Preliminary plans and elevations of the building or buildings, as may be necessary.
(k) Location, height, and material of all fences, walls, screen planting, and landscaping.
(l) Location, character, size, and height and orientation of proposed signs, if any.
(m) A tabulation of the total number of apartment units of various types in the project and the overall project density in square feet of lot area per apartment unit, gross or net as required by district regulations.

The planning director may establish additional requirements for site plans, and in special cases, may waive a particular requirement if, in his opinion, the requirement is not essential to a proper decision on the project.

2.2.2.4 Unified Development Site

(a) Where development is proposed on a site that consists of a unified development site, the application shall be accompanied by either a unity of title or covenant in lieu of unity of title, as applicable. A "unified development site" is 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. Additionally, the following shall apply to any unified development site:

(1) All lots need not be in the same zoning district; however: the allowable floor area ratio (FAR) shall be limited to the maximum FAR for each zoning district, inclusive of bonus FAR.
(2) Only commercial or mixed-use entertainment zoning districts may be joined together to create a unified development site, provided the entire unified development site, including each separate zoning district, has the same maximum floor area ratio (FAR), inclusive of bonus FAR. Such unified development site shall only contain commercial or mixed-use entertainment districts and shall not include any residential zoning district. The instrument

creating the unified development site shall clearly delineate both the maximum FAR, inclusive of bonus FAR, and total square footage permitted.

(3) In the event a future change in zoning district classification modifies the maximum floor area ratio (FAR), inclusive of bonus FAR, for a district within a unified development site, the maximum floor area square footage recorded for the unified development site shall not be exceeded.

(4) The maximum FAR for a unified development site shall not exceed the aggregate maximum FAR of the multiple lots allowed by the underlying zoning districts, inclusive of bonus FAR. Within a locally designated historic district or locally designated historic site within the Ocean Terrace Overlay District, any platted lot(s) with a contributing building(s) that contain legal-nonconforming FAR and were previously separate and apart from other lots that comprise the unified development site, may retain their existing legal nonconforming FAR, provided no additional FAR is added to such platted lot(s).

(5) Within a unified development site within the Ocean Terrace Overlay District, passageways or other connections that are in allowable FAR exception may be permitted on lots with legal nonconforming FAR.

(b) 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.

(c) Covenant in lieu of unity of title or a declaration of restrictive covenants.

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:

(1) The unified development site shall be developed in substantial accordance with the approved site plan.

(2) 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.

(3) 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 applicable board, after public hearing. This application shall be in addition to all other required approvals necessary for the modification sought.

(i) 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 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.

(ii) 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.

(4) 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.

(5) 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:

(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 area(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, awnings, wing walls and the like;

(x) Appropriate reservation of rights to grant easements to utility companies;

(xi) Appropriate reservation of rights to road rights-of-way 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 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.

(6) The provisions or portions thereof in paragraph (5) 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.

(7) 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 planning director, acting for and on behalf of the City of Miami Beach, 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.

(8) 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.

2.2.2.5 Fees for the administration of land development regulations

(a) *Application fees, generally.* Any applicant other than the city commission, a city board or other city official applicant requesting review and approval of any land development application shall pay, upon submission, the applicable fees set forth herein. The fees set forth herein, and as outlined in appendix A, are for the purpose of defraying expenses for public notices, and administrative costs associated with processing and analyzing each request or application. These fees shall be evaluated and adjusted annually based on the consumer price index for all urban consumers (CPI-U). No application shall be considered complete until all requested information has been submitted and all applicable fees are paid. The costs associated with notices are the responsibility of the applicant. There shall be no refund or adjustment of fees. Any unpaid fees, including fees assessed for failure to appear before a board, shall become a lien against the property.

(b) *Waiver of specified fees.* The public hearing application fee relating to any of the following alternative, sustainable systems shall be waived: a renewable energy system, sustainable roofing system, solar carport, porous pavement, or cool pavement on an existing building or parking facility. If an application for any of the aforestated alternative, sustainable systems includes other requests pursuant to these land development regulations, the standard public hearing application fee shall apply to those particular portions of the application. Additionally, the filing fee associated with a variances application relating to the installation of a

renewable energy system, sustainable roofing system, solar carport, porous pavement, or cool pavement shall also be waived.

(c) *Amendment to the land use regulations, zoning map, comprehensive plan, future land use map.* Any applicant requesting a public hearing on any application for an amendment pursuant to section 118-162 shall pay, upon submission, all applicable fees in subsections (1) through (4) below:

(1) Application for public hearing (text or map amendment).

(2) Amendment pursuant to [subsection] 118-162(a) shall pay a fee for each:

(i) Amendment to permitted, conditional, or prohibited uses in a zoning category, or

(ii) Amendment to permitted, conditional, or prohibited uses in the comprehensive plan.

(3) Amendment pursuant to [subsection] 118-162(a) shall pay a fee per square foot of lot area for:

(i) Amendment of zoning map designation, or

(ii) Amendment on the future land use map of the comprehensive plan.

(4) Amendment pursuant to subsection 118-162(b) of this section shall pay a fee for each:

(i) Amendment to the land development regulations (per section), or

(ii) Amendment to the comprehensive plan (per goal, policy or objective).

(d) *Conditional use permits.* Any applicant requesting a public hearing on any application for conditional use permits, pursuant to section 118-193 shall pay upon submission all applicable fees in subsection (1) through (10) below:

(1) Application for public hearing (conditional use permit).

(2) Per bed fee for an adult congregate living facility.

(3) Application for amendment of an approved board order.

(4) Application for clarification of an approved board order.

(5) Application for extensions of time of an approved board order.

(6) Withdrawals and continuances. If an applicant withdraws or requests a continuance of an application prior to the date of the public hearing a fee to defray the costs of scheduling the new public hearing shall be assessed. Payment of a mail notice fee to notify the property owners of the cancellation of the original public hearing and establishment of the revised hearing date may be required.

(7) Deferral of public hearing. If the applicant requests a deferral of a public hearing, a fee equal to the total application fee shall be assessed. Payment of a mail notice fee to notify the property owners of the deferral of the original public hearing and establishment of the revised hearing date

shall be required. If deferment or clarification of conditions is requested by the administration or the board. There will be no additional fee.

(8) Application for after-the-fact approval shall incur triple fees, excluding advertisement, mail, and posting fees as applicable.

(9) Status report.

(10) Progress report.

(e) *Design review.* Any applicant requesting a public hearing on any application for design review board approval, pursuant to sections 118-253 and 118-254, shall pay, upon submission, all applicable fees in subsection (1) through (11) below:

(1) Application for a preliminary evaluation of a project before the design review board.

(2) Application for public hearing (board approval).

(3) Application for design review approval fee per square foot of floor area.

(4) Application for amendment of an approved board order.

(5) Withdrawals and continuances. If an applicant withdraws or requests a continuance of an application prior to the date of the public hearing a fee to defray the costs of scheduling the new public hearing shall be assessed. Payment of a mail notice fee to notify the property owners of the cancellation of the original public hearing and establishment of the revised hearing date may be required.

(6) Deferral of public hearing. If the applicant requests a deferral of a public hearing, a fee equal to the total application fee shall be assessed. Payment of a mail notice fee to notify the property owners of the deferral of the original public hearing and establishment of the revised hearing date shall be required. If deferment or clarification of conditions is requested by the administration or the board, there will be no additional fee.

(7) Application for clarification of an approved board order.

(8) Application for extensions of time of an approved board order.

(9) Application for after-the-fact approval shall incur triple fees, excluding advertisement, mail, and posting fees as applicable.

(10) Status report.

(11) Progress report.

(f) *Land/lot split.* Any applicant requesting a public hearing on any application for a lot split pursuant to section 118-321 shall pay, upon submission, all applicable fees in subsection (1) through (10) below:

(1) Application for public hearing.

(2) Application for amendment of an approved board order.

(3) Withdrawals and continuances. If an applicant withdraws or requests a continuance of an application prior to the date of the public hearing a fee to defray the costs of scheduling the new public hearing shall be assessed.

Payment of a mail notice fee to notify the property owners of the cancellation of the original public hearing and establishment of the revised hearing date may be required.

(4) Deferral of public hearing. If the applicant requests a deferral of a public hearing, a fee equal to the total application fee shall be assessed. Payment of a mail notice fee to notify the property owners of the deferral of the original public hearing and establishment of the revised hearing date shall be required. If deferment or clarification of conditions is requested by the administration or the board, there will be no additional fee.

(5) Application for clarification of an approved board order.

(6) Application for extensions of time of an approved board order.

(7) Application for after-the-fact approval shall incur triple fees, excluding advertisement, mail, and posting fees as applicable.

(9) Status report.

(10) Progress report.

(g) *Variances.* Any applicant requesting a public hearing on any application pursuant to section 118-353 shall pay, upon submission, the applicable fees in subsection (1) through (11) below:

(1) Application for public hearing.

(2) Fee per variance requested.

(3) Application for amendment of an approved board order.

(4) Withdrawals and continuances. If an applicant withdraws or requests a continuance of an application prior to the date of the public hearing a fee to defray the costs of scheduling the new public hearing shall be assessed. Payment of a mail notice fee to notify the property owners of the cancellation of the original public hearing and establishment of the revised hearing date may be required.

(5) Deferral of public hearing. If the applicant requests a deferral of a public hearing, a fee equal to the total application fee shall be assessed. Payment of a mail notice fee to notify the property owners of the deferral of the original public hearing and establishment of the revised hearing date shall be required. If deferment or clarification of conditions is requested by the administration or the board, there will be no additional fee.

(6) Application for clarification of an approved board order.

(7) Application for extensions of time of an approved board order.

(8) Application for after-the-fact approval shall incur triple fees, excluding advertisement, mail, and posting fees as applicable.

(9) Status report.

(10) Progress report.

(11) Applicant/homeowners requesting a variance shall pay one-half of the total fee with proof of homestead or primary occupancy of the subject property from the Miami-Dade County Property Appraiser's Office. Applicant/owner shall pay 100 percent of the required notice fee.

h) *Certificate of appropriateness.* Any applicant requesting a public hearing on any application pursuant to sections 118-562 through 118-564, shall pay, upon submission, the applicable fees in subsection (1) through (12), below:

(1) Application for a preliminary evaluation of a project before the board.

(2) Application for public hearing.

(3) Application for certificate of appropriateness fee per square foot of floor area.

(4) Application for amendment of an approved board order.

(5) Withdrawals and continuances. If an applicant withdraws or requests a continuance of an application prior to the date of the public hearing a fee to defray the costs of scheduling the new public hearing shall be assessed. Payment of a mail notice fee to notify the property owners of the cancellation of the original public hearing and establishment of the revised hearing date may be required.

(6) Deferral of public hearing. If the applicant requests a deferral of a public hearing, a fee equal to the total application fee shall be assessed. Payment of a mail notice fee to notify the property owners of the deferral of the original public hearing and establishment of the revised hearing date shall be required. If deferment or clarification of conditions is requested by the administration or the board, there will be no additional fee.

(7) Application for clarification of an approved board order.

(8) Application for extensions of time of an approved board order.

(9) Application for after-the-fact approval shall incur triple fees, excluding advertisement, mail, and posting fees as applicable.

(10) Structural engineering reports or reviews as required.

(11) Status reports.

(12) Progress reports.

(i) *Historic designation.* Any applicant requesting a public hearing on any application pursuant to section 118-591, shall pay, upon submission, the applicable fees in subsection (1) through (9) below:

(1) Application for public hearing.

(2) Applications for district designation per platted lot fee.

(3) Application for amendment of an approved board order.

(4) Withdrawals and continuances. If an applicant withdraws or requests a continuance of an application prior to the date of the public hearing a fee to defray the costs of scheduling the new public hearing shall be assessed.

Payment of a mail notice fee to notify the property owners of the cancellation of the original public hearing and establishment of the revised hearing date may be required.

(5) Deferral of public hearing. If the applicant requests a deferral of a public hearing, a fee equal to the total application fee shall be assessed. Payment of a mail notice fee to notify the property owners of the deferral of the original public hearing and establishment of the revised hearing date shall be required. If deferment or clarification of conditions is requested by the administration or the board, there will be no additional fee.

(6) Application for clarification of an approved board order.

(7) Structural engineering reports or reviews as required.

(8) Status reports.

(9) Progress reports.

An application for the individual designation of a single-family home shall not require a fee.

(j) *Determination of architectural significance.* Any applicant requesting a determination of architectural significance, by the planning director, pursuant to section 142-108, shall pay, upon submission, all applicable fees.

(k) *Staff review and miscellaneous fees.* In the course of the administration of the land development regulations the department shall impose a fee for services and items outlined below:

(1) Board order recording.

(2) Zoning verification letters.

(3) Zoning interpretation letters.

(4) Courier.

(5) Research.

(6) Excessive review.

(7) Review of covenants and easements.

(8) Failure to appear before a board for status or progress report.

(9) Permits for work not identified in appendix A. If it is determined that no specific fee category directly matches a permit application request, the planning director may identify a category that closely matches the level of effort or determine what the work will be charged based on the time dedicated for plans review and inspection. The department director may require an upfront fee and a deposit to cover the estimated cost of the services to be provided.

(10) Modification or release of covenant or easement.

(11) Recording fee per page.

(12) Paint permit (non-online applications).

(13) Signs (not requiring a building permit).

(14) Submittal conversion to electronic format.

(l) *Fee in lieu of providing required parking.*

(1) One-time fee in lieu of providing required parking.

(2) Yearly payment fee in lieu of providing required parking.

2.2.2.6 Use of, and cost recovery for, consultants for applications for development approval.

(a) The purpose of this section is to provide for the creation and maintenance of an approved list of qualified consultants to provide impartial expertise for preparation or review of studies and reports required for assessment of impacts of applications for development approval.

(b) The city's procurement division shall maintain a list of approved consultants of various specialties available to prepare or review studies and reports required for applications for development approval.

(c) This section shall apply to any application for approval by a city land use board.

(d) Prior to the submittal of an application for development approval, the applicant shall meet with city staff to determine the types of studies or reports required for the proposed project, as well as the methodology to be followed as part of the production of the study.

(1) When as part of an application for development approval, an applicant is required to submit a traffic or any other technical study or report, the applicant shall prepare the required study/report using its own consultant.

(2) The city shall review the study/report, and shall retain a consultant from the city's approved list having the necessary expertise to perform such review. The applicant shall be responsible for all costs associated with the city's consultant review, and shall pay for the costs associated with the city's consultant review prior to proceeding to the hearing on the application by the applicable land use board.

(e) In no event shall the city be held liable, whether to applicants or third parties, for any work or services rendered by any consultant on the city's approved list, or otherwise in connection with a consultant's preparation or review of any study or report contemplated herein.

(f) *Expert reports and appearances.*

(1) All required consultant or expert studies or reports, including those requested by a land use board, shall be provided to the city in written form, supplemented with digital format when available.

(2) Applicant's reports or studies shall be submitted to the planning department a minimum of 60 days prior to the board or commission hearing. Rebuttal reports submitted by opponent's consultants shall be submitted to the city no less than 30 working days before the public hearing. Failure to meet these deadlines shall result in the subject report or study being deemed inadmissible for that public hearing, subject to a waiver of this inadmissibility by a five-sevenths vote of the applicable

board. No new expert testimony may be considered by the board or commission after the deadlines for submittal.

(3) Consultants or experts submitting reports or studies for consideration at public hearings must appear at the public hearing in order to allow for questions from the board or cross-examination. This provision may be waived by a five-sevenths vote of the applicable board, authorizing the report

2.2.2.7 Completeness Determination

(a) Upon receipt of an application, the Planning Director shall determine if the application is complete for review. The applicant must ensure that an application is accurate and complete. Any additional expenses necessitated because of inaccurate or incomplete information will be borne by the applicant. A complete application is one that:

(1) Contains all content required for the particular type of application in accordance with these land development regulations.

(2) Is in the form required for the particular type of application, as determined by the Planning Director.

(3) Includes information in sufficient detail to allow an evaluation of the application to determine whether it complies with the applicable review standards of these land development regulations.

(4) Is accompanied by the fee established for the particular type of application in accordance with Sec. 2.2.2.5 and Sec. 2.2.2.6.

(b) *Application Incomplete.* If the Planning Director determines that the application is incomplete, the Director shall send written notice to the applicant of the application's deficiencies electronically or by mail within 30 days of receipt of the application, and review of the application shall not proceed. The applicant within 30 days may correct the deficiencies and resubmit the application for completeness determination. If the applicant fails to correct the deficiencies within 30 days, the application will be deemed to be withdrawn, unless prior to the 30 days the applicant requests an extension and the Planning Director subsequently agrees to an extension.

(c) *Application Complete*. If the application is determined to be complete, it shall be reviewed in accordance with the applicable procedures and standards in these land development regulations. Any established time frame for review of the application shall start on the date the application is determined to be complete. The applicant and the Planning Director may agree to an extension of time if requested prior to the expiration of any time frame.

(d) *Simultaneous Processing of Applications.* Whenever two or more forms of review and approval are required under these land development regulations, the applications for those development approvals or permits may, at the discretion of the Planning Director, be processed simultaneously, so long as all applicable City requirements are satisfied. Simultaneous processing of applications may result in additional fees to the applicant.

2.2.2.8. Review and Hearing

(a) Upon the Planning Director's determination of completeness, the Director shall distribute the application to all appropriate City staff and departments, and other review agencies for review and comment. The Planning Director shall review the application, any relevant support material, and any comments or recommendations from the appropriate City staff and departments, and other review agencies. If deficiencies in complying with the applicable standards of these land development regulations are identified, the Planning Department authorized decision-maker shall notify the applicant of such deficiencies and provide the applicant an opportunity to remedy the deficiencies, pursuant to Section 166.033, Florida Statutes, as may be subsequently amended.

(b) After completion of the staff review, the Planning Director shall transmit the application and staff report with recommendations to the appropriate land use board for hearing. Within 120 days after the Director has deemed the application complete, or 180 days for applications that require final action by a land use board, or the city commission, an application for development approval shall be approved, approved with conditions, or denied, unless an extension is agreed to by the applicant and appropriate city authority.

(c) If an application is subject to a final decision by the Planning Director, following completion of authorized staff review, the Director shall provide written notice of decision to the applicant. The decision shall be made within 120 days of the determination that the application is complete, unless the applicant and the Director agree to extend the timeframe beyond 120 days. An approval, approval with conditions, or denial of the application must include written findings supporting the decision.

2.2.3. Public Hearing

2.2.3.1 Public Notification

Hearings before a land use board on an application for development approval shall be noticed to the public in accordance with the following provisions, unless otherwise more specifically provided for in these land development regulations, and the applicant shall pay a fee for such notices pursuant to section 2.2.2.5.

(a) *Advertisement.* At least 30 days prior to the public hearing date, a description of the request, and the date, start time of the meeting and location of the hearing shall be noticed in a newspaper of general circulation.

(b) *Mail notice.* At least 30 days prior to the public hearing date, a description of the request, and the date, start time of the meeting, and location of the hearing shall be given by mail to the owners of record of land lying within 375 feet of the property subject to the application. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the planning department. Additionally, courtesy notice shall also be given to any Florida nonprofit community organization which has requested of the Planning Director in writing to be notified of board hearings.

(c) *Posting.* At least 30 days prior to the public hearing date, a description of the request, and the date, time, and place of such hearing shall be posted on the property. Such posting shall be a minimum dimension of 11 inches by 17 inches, and located in a visible location at the front of the property, and shall not be posted on a fence or wall that would be obstructed by the operation of a gate.

2.2.3.2. General Hearing Procedures

The planning director shall provide the applicant with advance notice of the applicable land use board hearing date and time, including a copy of the agenda and the recommendation of the planning department. At the board hearing, the applicant and interested persons shall have an opportunity to address the board in accordance with the board's adopted rules and procedures. Any development application requiring a quasi-judicial hearing, as determined by the city attorney, shall also comply at a minimum with the standards of section 2.2.3.3. In addition, the city attorney shall determine whether a request is properly before the board. Any decision must take the form of an approval, approval with conditions, or denial, and must include written findings supporting the decision. If the decision is a denial, the city shall include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the application. Any decision of denial is with prejudice unless otherwise specified by the land use board.

2.2.3.3. Quasi-Judicial Hearing Procedures

In cases that the city attorney determines that the hearing shall be conducted as a quasi-judicial hearing, the following shall apply in addition to provisions in chapter 2, article VIII of the City Code, except that the order of proceedings of this subsection shall govern the hearings.

(a) All persons testifying before the land use board in a quasi-judicial matter must be sworn in with the following oath by any person duly authorized under the laws of the state to administer oaths:

"I, _____, do hereby swear, under oath, that any and all testimony to be given by me in this proceeding is the truth, the whole truth and nothing but the truth, so help me God."

(b) The applicant, members of the board and any affected person shall be given the opportunity to question or cross examine any witnesses. Each person, other than the salaried members of city staff, who addresses board shall state their name and address on the record.

(c) Evidence.

(1) All evidence relied upon by reasonably prudent persons in the conduct of their business shall be admissible whether or not such evidence would be admissible in a court of law. However, immaterial or unduly repetitious evidence shall be excluded.

(2) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding.

(3) Documentary evidence may be presented in the form of a copy or the original, if available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(4) A party shall be entitled to conduct cross-examination when testimony is provided or documents are made a part of the record.

(5) The office of the city attorney shall represent the board and advise as to the propriety and admissibility of evidence presented at the proceeding.

(6) The office of the city clerk shall retain all of the evidence and documents presented at the proceeding, except for large scale exhibits that shall be retained by the planning department, all of which become a part of the public record of the proceeding. Resumes of staff members who testify during a quasi-judicial proceeding will be automatically be entered into the record of the proceeding.

(d) The proceedings shall be conducted in an informal manner. Each party shall have the right to call and examine witnesses; introduce exhibits; cross examine opposing witnesses on any relevant matter; and rebut evidence.

(e) To the extent possible, the order of the proceedings shall proceed as follows;

(1) Call to order
(2) Administration of oath to persons intending to provide testimony
(3) Staff presentation
(4) Applicant presentation
(5) Presentation by other interested persons
(6) Rebuttal by applicant
(7) Response by staff
(8) Board deliberation

(f) After each witness testifies or documents are made a part of the record, a party shall be permitted to question the witness. The questioning party is not permitted to make any statements, only to ask questions that are directly related to the testimony presented.

(d) The board members may ask questions of the witnesses, the applicant or the staff as determined by the chairperson of the board.

2.2.3.4 Withdrawal of Application.

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 for development approval, 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.

2.2.3.5 Deferral or Continuance.

(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 and the applicant shall pay a deferral fee as provided in section 2.2.2.5. In the event that the application is not presented to the land use 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 section 2.2.3.1, 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 land use board 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 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.

2.2.3.6 Post Decision-making

(a) Within 14 calendar days after a final decision on an application, the Director shall provide the applicant written notice of the decision and make a copy of the decision available to the public.
(b) Approval of an application in accordance with these land development regulations authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application and approval. In the event that one development approval is a prerequisite to another development approval (e.g., variance approval prior to a site plan approval), development may not take place until all required approvals or permits are obtained. Approval of one development application does not guarantee approval of any subsequent development application. A development approval automatically revokes existing development approvals of the same type for the property, unless otherwise indicated in the development approval.
(c) *Timeframes to obtain a building permit.* The applicant shall have up to 18 months, or such lesser time as may be specified by the board, from the date of the land use board meeting at which a development application approval was issued 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 such lesser time as may be specified by the board, includes the time period during which an appeal of the decision of the board may be filed. If the applicant fails to obtain a full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first, within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which the development approval was granted or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the development approval 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 land use board which approved the original development approval, 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, setting forth 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.

2.2.3.7 Rehearing

The following requirements shall apply to all rehearings from a city land use board unless otherwise more specifically provided for in these land development regulations. Applicable fees and costs shall be paid to the city as required under section 2.2.2.5 and appendix A to the City Code.

(a) The types of land use board decisions eligible for a rehearing are as follows:
(1) Historic preservation board order relating to the issuance of a certificate of appropriateness, dig or demolition.
(2) Design review board final order relating to design review approval, only.
(3) Except as delineated above, rehearings are not available for any other application, or for any other land use board action without a final order. There shall only be allowed one rehearing for each final order arising from an application, although multiple persons may participate in or request the rehearing.

(b) Eligible rehearing applications shall be filed in accordance with the process as outlined in paragraphs (1) through (4) below:
(1) *Timeframe to file*. A petition for rehearing shall be submitted to the planning director on or before the 15th day after the rendition of the board order. Rendition shall be the date upon which a signed written order is executed by the board's clerk.
(2) *Eligible parties*. Parties eligible to file an application for rehearing are limited to:
(i) Original applicant(s);
(ii) The city manager on behalf of the city administration;
(iii) An affected person, which for purposes of this section shall mean either a person owning property within 375 feet of the applicant's project reviewed by the board, or a person that appeared before the board (directly or represented by counsel), and whose appearance is confirmed in the record of the board's public hearing(s) for such project;
(iv) Miami Design Preservation League; and
(v) Dade Heritage Trust.
(3) *Application requirements*. The application to the board shall be in a writing that contains all facts, law and argument, by or on behalf of an eligible party, and demonstrate the following:
(i) Newly discovered evidence which is likely to be relevant to the decision of the board, or
(ii) The board has overlooked or failed to consider something which renders the decision issued erroneous.
(4) *Notice requirements*. All land use board applications eligible to request a rehearing are subject to the same noticing requirements as an application for a public hearing, in accordance with the notice requirements of section 2.2.3.1. The rehearing applicant shall be responsible for all associated costs and fees.

(c) *Outside counsel to the planning department*. The planning director may engage the services of an attorney, or utilize a separate, independent, attorney from the city attorney's office, for the purpose of representing the administrative officer and planning staff during the rehearing.

(d) *Actions by the applicable land use board*. After the rehearing request is heard, the applicable land use board may take the actions outlined in subsections (1) through (4) below:
(1) Rehear or not rehear a case,
(2) If the decision is to rehear the application, the board may take additional testimony,
(3) Reaffirm its previous decision,
(4) Issue a new decision, or
(5) Reverse or modify the previous decision.

(e) *Stay of work*. A rehearing application to the applicable land use board stays all work on the premises and all proceedings in furtherance of the board action; however, nothing herein shall prevent the issuance of building permits or partial building permits necessary to prevent imminent peril to life, health or property, as determined by the building official.

(f) *Tolling*. See tolling provision under 2.2.3.8(f).

2.2.3.8 Appeal and court review of land use board decision

(a) Decisions of the following shall be final, and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari:

(1) Planning board.

(2) Board of adjustment.

(3) Design review board, with respect to variance decisions and administrative appeals, only.

(4) Historic preservation board, with respect to variance decisions and administrative appeals, only.

(5) Historic preservation special master.

(b) Decisions from the following may be appealed as noted:

(1) Historic preservation board.

(i) Any applicant requesting an appeal of an approved application for a certificate of appropriateness from the historic preservation board shall be made to the historic preservation special master, except that an order granting or denying a request for rehearing shall not be reviewed by the historic preservation special master.

(ii) The historic preservation special master shall meet the following requirements:

a. *Historic preservation special master qualifications.* Historic preservation special masters appointed to hear appeals pursuant to this subsection shall be attorneys who are members in good standing of the Florida Bar and have expertise in the area of historic preservation.

b. *Historic preservation special master terms*. Historic preservation special masters shall serve terms of three years, provided however, that they may be removed without cause upon a majority vote of the city commission. Compensation for historic preservation special masters shall be determined by the city commission.

(2) Design review board. Any applicant requesting an appeal of an approved application from the design review board for design review approval only shall be made to the city commission, except that an order granting or denying a request for rehearing shall not be reviewed by the city commission.

(c) Eligible appeals of the design review board or historic preservation board shall be filed in accordance with the process as outlined in subsections (1) through (4) below:

(1) *Timeframe to file*. A petition for an appeal shall be submitted to city clerk on or before the 20th day after the rendition of the board order. Rendition shall be the date upon which a signed written order is executed by the board's clerk.

(2) Eligible parties to file an application for an appeal are limited to the following:

(i) Original applicant(s);

(II) The city manager on behalf of the city administration;

(iii) An affected person, which for purposes of this section shall mean either a person owning property within 375 feet of the applicant's project reviewed by the board, or a person that appeared before the board (directly or represented by counsel) and whose appearance is confirmed in the record of the board's public hearing(s) for such project;

(iv) Miami Design Preservation League; and

(v) Dade Heritage Trust.

(3) Application requirements:

(i) The appeal shall be in writing, and include all record evidence, facts, law and arguments necessary for the appeal (this appellate document shall be called the "brief"); and

(ii) Shall include all applicable fees, as provided in appendix A of the City Code; and

(iii) Shall be by or on behalf of a named appellant(s); and

(iv) Shall state the factual bases and legal argument in support of the appeal; and

(v) A full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the party filing the petition, along with a written statement identifying those specific portions of the transcript upon which the party filing it will rely for purposes of the appeal. The verbatim transcript and written statement shall be filed no later than two weeks prior to the first scheduled public hearing to consider the appeal.

(4) Notice requirements. All applications for an appeal of the design review board or historic preservation board are subject to the same noticing requirements as an application for a public hearing, in accordance with notice requirements of section 2.2.3.1 The appeal applicant shall be responsible for all associated costs and fees.

(d) *Decision on Appeal.* In order to reverse, amend, modify, or remand amendment, modification, or rehearing the decision of the board, the city commission (for design review board appeals), and the historic preservation special master (for historic preservation board appeals of Certificates of Appropriateness, Dig or Demolition), shall find that the board did not comply with any of the following:

(1) Provide procedural due process;

(2) Observe essential requirements of law; and

(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. In order to reverse, or remand, a five-sevenths

vote of the city commission is required for appeals of the design review board to the city commission.

(e) *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:

(1) 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;

(2) As applicable only to an appeal arising from the planning board's approval of a conditional use permit, the city may accept, for review purposes only, a building permit application during a pending circuit court proceeding on the decision. The applicant shall be required to pay all building permit fees, which fees shall be nonrefundable. Despite the foregoing, no building permit shall issue while the circuit court proceeding is pending. Should the circuit court decision be rendered in favor of the conditional use permit applicant, the applicant may proceed with construction and operations, excluding entertainment operations, pending any further proceedings on the decision at the Third District Court of Appeal or other appropriate court, so long as the following conditions are met:

(i) The building permit may issue and shall remain active until the final resolution of all appeals to the city and all court proceedings;

(ii) No final certificate of occupancy (CO) or certificate of completion (CC) shall be issued, and no entertainment operations or entertainment business shall commence or take place, until the final resolution of all appeals to the city and all court proceedings;

(iii) The conditional use permit was appealed by a party other than (i) the city, or (ii) an applicant appealing a denial of a conditional use permit application;

(iv) The property subject to the conditional use permit is located within (i) a commercial district, and (ii) a historic district;

(v) The scope of the conditional use permit is limited to modifications to an existing structure;

(vi) The applicant shall prior to the issuance of the building permit, either: (i) place funds in escrow, or (ii) obtain a bond, either of which must be in an amount that is at least equal to or greater than 100 percent of the value of the work proposed under the building permit;

(vii) The applicant is not seeking the demolition of any portion of a contributing structure; and

(viii) In the event that the conditional use permit is reversed on appeal, the applicant must immediately amend or abandon the building permit or building permit application without any liability to the city, and a certificate or completion or certificate of occupancy shall not be issued. Additionally, no business tax receipt for entertainment shall issue.

In order for a building permit to issue pursuant to this subsection (e)(2), pending any further proceedings on the decision at the Third District Court of Appeal or other court, the applicant shall be required to comply with all of the conditions in subsections (e)(2)(i) through (viii), as well as all conditions of the conditional use

permit. The applicant shall also be required to execute a written agreement (in a form acceptable to the city attorney) holding the city harmless and indemnifying the city from any liability or loss resulting from the underlying proceedings before the court or appeal to the city, any civil actions relating to the application of this subsection (e)(2), and any proceedings resulting from the issuance of a building permit, and the non-issuance of a TCO, TCC, CC, CO or BTR for the property. Such written agreement shall also bind the applicant to all requirements of the conditional use permit, including all enforcement, modification. and revocation provisions; except that the applicant shall be ineligible to apply for any modifications to the conditional use permit or any other land use board order impacting the property, until the final resolution of all city appeals and court proceedings as certified by the city attorney. Additionally, the applicant must agree that in the event that the conditional use permit is reversed, the applicant shall be required to restore the property to its original condition. The city may utilize the bond to ensure compliance with the foregoing provisions.

(f) *Tolling during all appeals*. Notwithstanding the provisions of subsections 118-193(2), "Applications for conditional uses," 118-258(c), "Building permit application," 118-532(c), "Proceedings before the historic preservation board," or 118-564(11), "Decisions on certificates of appropriateness," in the event the original decision (board order) of the applicable board, is timely appealed or brought to the circuit court, 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 appeals to the city or all 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.

Article III. Periodic Review and Annual Zoning Cycle

2.3.1 *Periodic Review.* It shall be the duty of the planning board and the board of adjustment, in cooperation with the planning director and the city attorney to continuously review the provisions and the regulations in these land development regulations, including the district maps, and the comprehensive plan and from time to time, to offer recommendations to the city commission as to the sufficiency thereof, in accomplishing the development plans of the city.

2.3.2 *Annual Zoning Cycle*. The commission shall limit its decisions regarding amendments to these land development regulations, including amendments to the text and to rezonings, to four times per year. For each time in the annual cycle, multiple amendments may be considered at the same meeting. The commission may waive the cycle restriction in the event of an emergency, as determined by a vote of five commissioners. All amendments shall be consistent and compatible with the comprehensive plan and shall be enacted in accordance with the provisions of this article.

Article IV. Amendments to Comprehensive Plan and to the Text of the Land Development Regulations

2.4.1. Generally.

(a) A request to amend the comprehensive plan or to amend the text of these land development regulations may be submitted to the planning director by the city manager; city attorney; or upon an adopted motion of the city commission, planning board, board of adjustment, or historic preservation board (with regard to the

designation of historic districts or sites, or matters that directly pertain to historic preservation); or by an owner(s) or developer(s) of the property which is the subject of the proposed change (hereinafter, a private applicant). Matters submitted by the city manager or city attorney shall first be referred to the planning board by the city commission for action on the referral.

(b) An owner applicant or his representative shall file an application pursuant to sections 2.2.2.1 and 2.2.2.2 of this chapter. The city shall not be required to file an application.

(c) Fees.

(1) Any owner applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 2.2.2.5, 2.2.2.6, and appendix A to the City Code. No application shall be considered complete, nor heard by the planning board or city commission until all requested information has been submitted and all applicable fees paid.

(2) The fees and costs associated with an application filed pursuant to this section may be waived by a five-sevenths vote of the city commission, based upon one or more of the following circumstances:

(i) The city manager determines, in writing, that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning;

(ii) Upon written recommendation of the city manager acknowledging a documented financial hardship of a property owner(s) or developer(s); or

(iii) If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

(d) Upon receipt of a completed application, the planning director shall transmit the application, along with the planning director's analysis and recommendations regarding the proposed amendment, to the planning board for review.

(e) Review by Planning Board

(1) The Planning Board shall review the following requests at a public hearing and provide the city commission with a recommendation as to whether the proposed amendment should be approved or denied. In reviewing the application, the planning board may propose an alternative ordinance on the same subject for consideration by the city commission.

(i) Amendment to the actual list of permitted, conditional or prohibited uses in a zoning category or categories;
(ii) Amendment otherwise to the text of these land development regulations; and
(iii) Amendment to the Comprehensive Plan.

(2) Notice.

(i) Notices of any public hearing regarding proposed amendments to the city's comprehensive plan shall be in accordance with the applicable requirements of chapter 163, Florida Statutes, and the public participation procedures set forth in the city's comprehensive plan as they may be amended from time to time.

(ii) Notices of any public hearing before the Planning Board regarding an amendment to the text of these land development regulations, including an amendment to the actual list of permitted, conditional or prohibited uses in a

zoning category, shall be by publication in a newspaper of general circulation in the city at least ten days prior to the hearing. The notice of the hearing shall state the date, time and place of the meeting; the title or titles of proposed ordinances; and the place or places within the city where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the hearing and be heard with respect to the proposed ordinance.

(3) Procedures

(i) Within 60 days of receiving an application the board shall hold a public hearing. Within 30 days from the close of the public hearing the planning director shall submit a report of the board's recommendations on the proposal to the city commission.

(ii) The following applications may be withdrawn by the owner applicant at any time before a decision of the planning board:

a. An application for a change in the actual list of permitted, conditional or prohibited uses in zoning categories;

b. An application for any other amendment to these land development regulations; or

c. An application for an amendment to the comprehensive plan

(iii) If the application is withdrawn after advertisement for a public hearing, the same or a substantially similar petition covering the same property shall not be resubmitted except by an official of the city or the city commission for at least one year after the date established for the prior hearing. Filing fees shall not be refunded once the public hearing has been advertised.

(f) Review by city commission.

(1) Within 60 days of transmission of the recommendation of the planning board to the city commission, the commission shall consider the proposed amendment at a public hearing(s) and adopt, adopt with changes, or deny the application. Notice of the public hearing(s) shall be provided as set forth in subsection 2.4.2.(d) for changes to the text of the land development regulations; and notice of the public hearing regarding proposed amendments to the city's comprehensive plan shall be in accordance with the applicable requirements of chapter 163, Florida Statutes and the public participation procedures set forth in the city's comprehensive plan as they may be amended from time to time.

(2) The following applications may be withdrawn by the owner applicant at any time before a decision of the city commission:

(i) An application for a change in the actual list of permitted, conditional or prohibited uses in zoning categories;

(ii) An application for any other amendment to these land development regulations; or

(iii) An application for an amendment to the comprehensive plan.

(3) If the application is withdrawn after advertisement for a public hearing, the same or a substantially similar petition covering the same property shall not be resubmitted except by an official of the city or the city commission for at least one year after the date established for the prior hearing. Filing fees shall not be refunded once the public hearing has been advertised.

2.4.2 Amendment to the text of land development regulations

(a) *Oath.* Any person appearing before the planning board or the city commission at a public hearing in regard to an application for any amendment to these land

development regulations shall be administered the following oath by any person duly authorized under the laws of the state to administer oaths:
"I, _____, do hereby swear, under oath, that any and all testimony to be given by me in this proceeding is the truth, the whole truth and nothing but the truth, so help me God."

(b) Any person giving false testimony before the planning board or city commission at a public hearing in regard to an application for any amendment to these land development regulations shall be subject to the maximum penalty provided by law.

(c) *Planning Board review criteria*. In reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:
(1) Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.
(2) Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.
(3) Whether the change suggested is out of scale with the needs of the neighborhood or the city.
(4) Whether the proposed change would tax the existing load on public facilities and infrastructure.
(5) Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.
(6) Whether changed or changing conditions make the passage of the proposed change necessary.
(7) Whether the proposed change will adversely influence living conditions in the neighborhood.
(8) Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.
(9) Whether the proposed change will seriously reduce light and air to adjacent areas.
(10) Whether the proposed change will adversely affect property values in the adjacent area.
(11) Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.
(12) Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.
(13) Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.
(14) Whether the proposed change is consistent with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

(d) *Action by city commission;* notice and hearings.
(1) In all cases in which the proposed amendment changes the actual list of permitted, conditional or prohibited uses in a zoning category or the proposed amendment involves less than ten contiguous acres, the city commission shall direct the clerk of the city to notify by mail each real property owner whose land the city will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. Provided further, notice shall be given by mail to the owners of record of land lying within 375 feet of the land, which is to be changes by the proposed permitted, conditional or prohibited use change. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set

for the public hearing, and a copy of such notice shall be kept available for public inspection during the regular business hours of the office of the city clerk. The city commission shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

(2) In all cases in which the proposed amendment changes the actual list of permitted, conditional or prohibited uses within a zoning category regardless of the acreage of the area affected acres or more, the city commission shall provide for public notice and hearings as follows:

(i) The city commission shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5:00 p.m. on a weekday, unless the city commission, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least seven days after the day that the first advertisement is published. The second public hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing.

(ii) The required advertisements shall be no less than two columns wide by ten inches long in a standard size or tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 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 city and of general interest and readership in the city, not one of limited subject matter, pursuant chapter 50, Florida Statutes. Whenever possible, the advertisement shall appear in a newspaper that is published at least five days a week unless the only newspaper in the city is published less than five days a week. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The City of Miami Beach proposes to adopt the following ordinance: (title of ordinance)

A public hearing on the ordinance will be held on (date and time) at (meeting place).

In lieu of or in addition to publishing the advertisement set forth in subsection (2)(ii) of this section, the city may mail a notice to each person owning real property within 375 feet of the area covered by the proposed amendment and to persons owning real property within the area that is the subject of the proposed amendment. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place and location of both public hearings on the proposed ordinance.

(3) When a request to amend the text of these land development regulations does not change the actual list of permitted, conditional or prohibited uses in a zoning category, the following procedures shall apply in addition to the applicable procedures in subsections (1) and (2) of this section:

(i) A proposed ordinance may be read by title or in full on at least two separate days and shall, at least ten days prior to adoption, be noticed once in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time and place of the meeting; the title or titles of proposed ordinances; and the place or places within the city where such proposed ordinances may be inspected by the public. The notice shall also

advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(ii) Immediately following the public hearing at the second reading, the city commission may adopt the ordinance.

(4) An affirmative vote of five-sevenths of all members of the city commission shall be necessary in order to enact any amendment to these land development regulations.

2.4.3 Proposed land development regulation amendments; application of equitable estoppel to permits and approvals.

(a) Amendments to these land development regulations shall be enforced against all applications or requests for project approval upon the earlier of the favorable recommendation by the planning board or the applicable effective date of the land development regulation amendment, as more particularly provided below. After submission of a completed application for a project approval, to the extent a proposed amendment to these land development regulations would, upon adoption, render the application nonconforming, then the following procedure shall apply to all applications considered by the city or any appropriate city board:

(1) In the event the applicant:

(i) Obtains the following approvals: (i) a design review approval, (ii) a certificate of appropriateness, (iii) a variance approval where no design review approval or certificate of appropriateness is required, (iv) Planning Board approval, or (v) a full building permit as defined in chapter 1 where no design review approval, certificate of appropriateness or variance approval is required; and

(ii) Satisfies subsection (i) above, prior to a favorable recommendation by the planning board with respect to any land development regulation amendment that is adopted by the city commission within 150 days of the planning board's recommendation,

then the project approval shall be presumed to have received a favorable determination that equitable estoppel applies and the subject land development regulation amendment shall not be enforced against the application hereinafter, a "favorable determination"), except as otherwise provided in subsection (b), below. If at any time before the expiration of the 150 days the proposed amendment fails before the city commission, then the application shall no longer be deemed nonconforming.

(2) In the event the applicant:

(i) Obtains (i) a design review approval, (ii) a certificate of appropriateness, (iii) a variance approval where no design review approval or certificate of appropriateness is required, (iv) Planning Board approval or (v) a full building permit as defined in chapter 1 where no design review approval, certificate of appropriateness or variance approval is required; and

(ii) Satisfies subsection (i), above, prior to the effective date of any land development regulation amendment where there was an unfavorable recommendation by the planning board with respect to the land development regulation amendment, or when the planning board recommends favorably, but the city commission fails to adopt the amendment within the specified 150-day period,

then the application shall be presumed to have received a favorable determination and the subject land development regulation amendment shall not be enforced against such application, except as otherwise provided in subsection (b), below.

(3) In the event an applicant does not qualify under subsections (1) or (2) of this subsection (a) for a presumption of a favorable determination to avoid enforcement of adopted amendments against an application, then the applicant may seek a determination from a court of competent jurisdiction as to whether equitable estoppel otherwise exists. If, however, an applicant fails to seek a determination from the court, or if the court has made a determination unfavorable to the applicant, and such determination is not reversed on appeal, then the city shall fully enforce the adopted land development regulation amendment(s) against the applicant's application.

(4) Any presumption of a favorable determination under subsections (1) and (2) of this subsection (a), or any favorable determination under subsection (3) of this subsection (a), shall lapse contemporaneously with the failure, denial, expiration, withdrawal, or substantial amendment of the application, approval, or permit relative to the project or application to which the favorable determination is applied.

(5) For purposes of this subsection (a), all references to obtaining design review approval, Planning Board approval, a certificate of appropriateness or variance approval, shall mean the meeting date at which the respective board approved such application or approved such application with conditions. For purposes of this subsection (a), "substantial amendment" shall mean an amendment or modification (or a proposed amendment or modification) to an application, approval or permit which, in the determination of the planning director, is sufficiently different from the original application or request that the amendment would require the submission of a new application/request for approval of same. All references to obtaining a building permit shall mean the date of issuance of the permit.

(6) After submission of a completed application for a project approval, to the extent a proposed amendment to the land development regulations would, upon adoption, render the application nonconforming, then the city or any appropriate city board shall not approve, process or consider an application unless and until (i) the project has cured the nonconformity or the applicant acknowledges that the city shall fully enforce the adopted land development regulation amendment(s) against the applicant's application or project; (ii) the project qualifies under subsections (1) or (2), and subject to subsection (4), of this subsection (a), above; or (iii) a favorable determination has been made by a court. Except as otherwise provided herein, any proceeding or determination by any city employee, department, agency or board after a project becomes nonconforming shall not be deemed a waiver of the city's right to enforce any adopted land development regulation amendments.

(b) Subsection 2.4.3(a) shall not apply to proposed amendments to these land development regulations which would designate specific properties or districts as historic. The estoppel provisions applicable to such proposed amendments are set forth in subsection 2.13.9.

2.4.4 Amendment to the Comprehensive Plan

(a) Notices of any public hearing regarding proposed amendments to the city's comprehensive plan shall be in accordance with the applicable requirements of chapter 163, Florida Statutes and the public participation procedures set forth in the city's comprehensive plan as they may be amended from time to time.

(b) In reviewing a request for an amendment to the comprehensive plan, the board shall consider whether the amendment meets the criteria for compliance with chapter 163, Florida Statutes.

Article V. Rezonings and Development Approvals

2.5.1 Change to zoning district boundaries (rezoning)

(a) Procedures. Except as other provided by the general procedures of subsection 2.1 and 2.2, the following shall apply to a land development application for a change to the zoning district boundaries (rezoning) of a parcel or parcels of land.

(1) An application for rezoning may be submitted to the planning director by the city manager; city attorney; or upon an adopted motion of the city commission, planning board, board of adjustment, or historic preservation board (with regard to the designation of historic districts or sites, or matters that directly pertain to historic preservation); or by an owner(s) or developer(s) of the property which is the subject of the proposed change (hereinafter, a private applicant). Matters submitted by the city manager or city attorney shall first be referred to the planning board by the city commission.

(2) Fees for the application shall not be required for applications by the city. The fees and costs associated with an application filed pursuant to this section may be waived by a five-sevenths vote of the city commission, based upon one or more of the following circumstances:

(i) The city manager determines, in writing, that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning;

(ii) Upon written recommendation of the city manager acknowledging a documented financial hardship of a property owner(s) or developer(s); or

(iii) If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

(3) *Review by planning board*. Before the city commission takes any action on a proposed rezoning, the planning board shall review the request and provide the city commission with a recommendation as to whether the proposed amendment should be approved or denied.

(i) Notice of the planning board meeting shall be by publication in a newspaper of general circulation in the city at least ten days prior to the hearing. The notice of the hearing shall state the date, time and place of the meeting; the title or titles of proposed ordinances; and the place or places within the city where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the hearing and be heard with respect to the proposed ordinance.

(ii) In reviewing a request for a rezoning, the board shall consider the following, when applicable:

a. Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.

b. Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.

c. Whether the change suggested is out of scale with the needs of the neighborhood or the city.

d. Whether the proposed change would tax the existing load on public facilities and infrastructure.

e. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

f. Whether changed or changing conditions make the passage of the proposed change necessary.

g. Whether the proposed change will adversely influence living conditions in the neighborhood.

h. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.

i. Whether the proposed change will seriously reduce light and air to adjacent areas.

j. Whether the proposed change will adversely affect property values in the adjacent area.

k. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

l. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

m. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

n. Whether the proposed change is consistent with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

(iii) An application for a rezoning may be withdrawn by a request from the applicant at any time before a decision of the planning board. If the application is withdrawn after advertisement for a public hearing or posting of the property, the same or a substantially similar petition covering the same property shall not be resubmitted except by an official of the city or the city commission for at least one year after the date established for the prior hearing. Filing fees shall not be refunded once the public hearing has been advertised.

(iv) Any person appearing before the planning board or the city commission shall be administered the oath set forth in subsection 2.4.2 (a) and shall be subject to penalty for giving false testimony as provided in 2.4.2 (b). The city attorney shall advise the planning board and the city commission as to whether the hearings should be conducted as quasi-judicial hearings.

(4) *Review by city commission*.

(a) Notice.

(i) When a request to change the actual zoning map designation of a parcel or parcels of land is initiated by an applicant other than the city, the following procedures shall apply in addition to the applicable procedures in subsections (5)(a) (ii) and (iii) of this section. A proposed ordinance may be read by title or in full on at least two separate days and shall, at least ten days prior to adoption, be noticed once in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time and place of the meeting; the title or titles of proposed ordinances; and the place or places within the city where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Immediately

following the public hearing at the second reading, the city commission may adopt the ordinance.

(ii) In all cases in which the rezoning is initiated by the city and involves less than ten contiguous acres, the city commission shall direct the clerk of the city to notify by mail each real property owner whose land the city will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. Provided further, notice shall be given by mail to the owners of record of land lying within 375 feet of the land, which is to be changes by the proposed rezoning. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of such notice shall be kept available for public inspection during the regular business hours of the office of the city clerk. The city commission shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

(iii) In all cases in which the proposed rezoning is initiated by the city and changes the zoning designation of a parcel or parcels of land involving ten acres or more, the city commission shall provide for public notice and hearings as follows:

a. The city commission shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5:00 p.m. on a weekday, unless the city commission, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least seven days after the day that the first advertisement is published. The second public hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing.

b. The required advertisements shall be no less than two columns wide by ten inches long in a standard size or tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 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 city and of general interest and readership in the city, not one of limited subject matter, pursuant chapter 50, Florida Statutes. Whenever possible, the advertisement shall appear in a newspaper that is published at least five days a week unless the only newspaper in the city is published less than five days a week. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The City of Miami Beach proposes to adopt the following ordinance: (title of ordinance)

A public hearing on the ordinance will be held on (date and time) at (meeting place).

The advertisement shall contain a geographical location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area.

In lieu of or in addition to publishing the advertisement set forth in subsection (2)(ii) of this section, the city may mail a notice to each person owning real

property within 375 feet of the area covered by the proposed amendment and to persons owning real property within the area that is the subject of the proposed rezoning. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place and location of both public hearings on the proposed ordinance.

(b) Any application for a rezoning may be withdrawn by a request in writing by the applicant at any time before a decision of the city commission, but if withdrawn after advertisement for a public hearing or after posting of the property, the same rezoning application shall not be resubmitted, except by an official of the city or the city commission, sooner than one year after the date established for the prior hearing. Filing fees shall not be refunded upon any withdrawal.

(c) In reviewing a request for a rezoning, the city commission shall consider the criteria set out in subsection 2.5.1(a)(3)(ii).

(d) An affirmative vote of five-sevenths of all members of the city commission shall be necessary in order to enact any rezoning.

(e) When a proposed change in district boundaries has been acted upon by the city commission and disapproved or failed of passage, such proposed change, in the same or substantially similar form shall not be reconsidered by the city commission for a period of at least one year following the date of such action.

(f) The application of equitable estoppel to permits and approvals shall apply in the case of a proposed rezoning under the same procedures set forth in subsection 2.4.3.

2.5.2 Conditional Use

2.5.2.1 Purpose

The purpose of this subsection is to establish a process and standards to determine if certain uses, referred to as conditional uses, 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.

2.5.2.2 Standards for approval

A conditional use may be approved if planning board finds that it meets the following general and supplemental standards for approval:

(a) General standards. The following general standards shall be met by all conditional uses.

(1) The use shall be 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 shall 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 shall be consistent with these land development regulations.

(4) The public health, safety, morals, and general welfare shall 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 shall not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses should be discouraged.

(8) The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

(b) Supplemental standards for new structures 50,000 square feet or larger.

(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 the use is proposed to be 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) Standards for assembly uses. In reviewing an application for an assembly use, 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 circulation plan for the occupants of the use 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.

2.5.2.2 Application and review. Applications for conditional uses shall follow the applicable procedures set forth in section 2.2. Each application shall be accompanied by a site plan meeting the requirements of subsection 2.2.2.3, 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.

2.5.2.3 *Planning Board.* The planning board shall review and make a decision on the application.

(a) Deferrals and continuances shall be allowed pursuant to subsection 2.2.3.5.

(b) Expiration of orders of the planning board.

(1) The applicant shall obtain a building permit as provided by subsection 2.2.3.6.

(2) Timeframes in development agreements. The time period to obtain a full building permit, a certificate of occupancy, a certificate of use, or a certificate of completion set forth in subsection (b)(2) may be superseded and modified by a development agreement approved and fully executed pursuant to section 2.11 of these land development regulations, so long as the modified time period is expressly negotiated and set forth in the executed development agreement.

(3) 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.

2.5.2.4 Compliance with conditions; revocation or modification

(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 chapter 1, 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 compliance with this regulation has demonstrated.

(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 subsection 2.2.3.1 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 subsection, the applicant shall reimburse the Planning Department 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, or 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 successor in interest with respect to the issuance of occupational licenses and certificates of use), in his discretion, revoke or suspend the certificate of use for the subject property or the applicant’s occupational license applicable to the business conducted at the subject property.

2.5.2.5 Amendment of an approved conditional use.

(a) When an applicant requests an amendment to an approved conditional use, the planning director shall first determine whether the request is a substantial or minor amendment. A minor amendment may be authorized by the planning director, but no amendment to conditions may be approved. If the planning director determines that the request is a substantial amendment, the review process shall be the same as for a new application by the board. In determining whether the request is a substantial or minor amendment, the planning 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 director determines the request is a minor amendment, the applicant may submit an application for a building permit; however, the planning director shall approve the site plan prior to the issuance of a building permit.

2.5.3 Design Review

2.5.3.1 Design review criteria

Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearance, 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 design review board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and applicable design guidelines. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department.

(a) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.

(b) 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.

(c) 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.

(d) 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 identified in section 2.5.3.2.

(e) 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 historic preservation board and all pertinent master plans.

(f) The proposed structure, 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.

(g) 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.

(h) 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 safety 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.

(i) 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.

(j) Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

(k) 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.

(l) 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 corridor(s).

(m) 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 from the surrounding area and is integrated with the overall appearance of the project.

(n) The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

(o) An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

(p) 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.

(q) 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.

(r) In addition to the foregoing criteria, subsection [118-]104(6)(t) 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.

(s) The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

2.5.3.2. .*Applicability.* The design criteria in subsection 2.5.3.1 shall apply to 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, except as otherwise exempted by this section.

(a) The following shall be exempt from design review criteria, provided no new construction or additions to existing buildings are required. Notwithstanding, the design review board shall provide advisory review to the city commission per paragraph (b) below.

(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 planning 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, with the exception of exterior surface color samples and finishes, and the review and approval of all new single-family home construction in accordance with subsection 142-105(d)(7). However, all building permits for new construction, alterations or additions to existing structures shall be subject to compliance with section 142-105, and all demolition permits must be signed by the planning director, or designee.

(4) All properties located within designated historic districts and designated historic sites.

(b) *Advisory review.* The design review board shall be required to review certain specified city neighborhood projects, stormwater pump stations, and related apparatus (which are otherwise exempt from design review, in a non-binding, advisory capacity, and provide written recommendations on such projects to the city commission, subject to the following regulations:

(1) *City projects subject to advisory review.* The scope of the design review board's advisory review pursuant to this subsection 2.5.3.2(b), shall be limited to the following projects:

a. Stormwater pump stations and related apparatus;
b. The location and screening of above-ground infrastructure;
c. The design of new street lighting;
d. The above-ground design of non-standard materials for newly constructed sidewalks, streets and crosswalks;
e. The above-ground design of new roadway medians, traffic circles, and plazas;
f. Protected bike lanes;
g. Roadway elevations in excess of six inches above the existing crown of road;
h. Pedestrian bridges; and
i. Master neighborhood improvement plans which involve and integrate any of the above elements.

(2) *Exceptions*. Advisory review pursuant to this subsection (b) shall not be required for:

a. Emergency work.
b. Crosswalk projects that address compliance with the Americans with Disabilities Act and Florida Accessibility Code.
c. Lighting improvements for public safety purposes.
d. Routine maintenance and utility repair work.
e. Projects for which a notice to proceed with construction has been issued on or before September 30, 2020.

(3) *Timeframe for review.* The design review board shall review the project and provide an advisory recommendation within 35 days of the first design review board meeting at which the project is reviewed. Any recommendations of the design review board shall be transmitted to the city commission via letter to commission. Notwithstanding the foregoing, the requirement set forth in this paragraph shall be deemed to have been satisfied in the event that the design review board fails, for any reason whatsoever, to review a project or provide a recommendation to the city commission within the 35-day period following the first meeting at which the project is reviewed.

(4) *Substantial changes.* If the design of a project should change substantially, as determined by the planning director, after it has been reviewed by the design review board, the board shall be required to review the changes to the design.

(5) *Waiver.* Upon a written recommendation of the city manager, the city commission may, by majority vote, waive the advisory review required pursuant to this subsection 2.5.2.3.(b), if the city commission finds such waiver to be in the best interest of the city.

(6) *Notice.* The advisory review by the design review board shall be noticed by publication in a newspaper of general circulation at least 15 days in advance of the meeting. Additionally, for stormwater pump stations and related apparatus, notice shall be posted on the land subject to the application, and mailed to owners of record of land lying within 375 feet of the land pursuant to section 2.2.3.1.

2.5.3.3 Administrative design review

(a) The planning director 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) Façade and building alterations, renovations and restorations which are minor in nature.

(4) Modifications to storefronts or façade alterations in commercial zoning districts that support indoor/outdoor uses, which are compatible with the architecture of the building, except for vehicular drive-through facilities. Such modifications may include the installation of operable window and entry systems such as pass-through windows, take-out counters, sliding or folding panel doors, french doors, or partially-transparent overhead-door systems. Applications submitted pursuant to this subsection (4) shall comply with the following regulations:

(i) The property shall not be located within 300 feet of any residential zoning district, measured following a straight line from the proposed operable storefront of the commercial establishment to the nearest point of the property designated as RS, RM, RMPS, RPS, RO or TH on the city's zoning district map; and

(ii) The extent of demolition and alterations to the façade of the building shall not permanently alter the character of the building's architecture by removing original architectural features that cannot be easily replaced, or by compromising the integrity of the architectural design.

Should the proposed storefront modification not comply with any of the above regulations, the proposed modifications to storefronts or facade alterations shall require design review board review and approval.

(5) Modifications to storefronts or facade alterations utilizing an exterior component within the storefront or facade, which are compatible with the architecture of the building (including, without limitation, the installation of walk-up teller systems and similar 24/7 ATM-style pickup openings, dry-cleaning drop-off and pick-up kiosks, and similar self service facilities; but excluding vehicular drive-through facilities). Any new openings shall be architecturally compatible with the building and minimally sized to facilitate the transfer of goods and services.

(6) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements.

(7) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage.

(8) Minor work associated with the public interiors of buildings and those interior portions of commercial structures which front a street or sidewalk.

(9) Minor work involving public improvements upon public rights-of-way and easements.

(10) 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.

(11) Applications related to exterior balcony, terrace, porch and stairway rails on existing buildings, which have become nonconforming as it pertains to applicable Florida State Codes, and which have been issued a violation by an agency or city department responsible for the enforcement of Florida Statutes associated with life safety codes. Modifications required to address compliance with applicable state life safety codes shall be consistent with the original design character of the existing rails, and may include the introduction of secondary materials such as fabric mesh, solid panels and glass panels.

(b) The director's decision shall be based upon the criteria in subsection 2.5.3.1. The applicant may appeal a decision of the planning director pursuant to the procedural requirements of Article IX “Administrative Appeals”.

2.5.3.4 Application for design review

(a) Applications for design review shall follow the applicable procedures set forth in section 2.2, in addition to the requirements of this subsection 2.5.3.4. The planning department shall be responsible for the overall coordination and administration of the design review process with other relevant city departments.

(b) Preliminary informational guidance. 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 planning director 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 for public hearings provided in section 2.2.3.1. 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) In addition to the application requirements of subsection 2.2, the application shall include such information and attached exhibits as the board and the planning director 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) Written description of proposed action with details of application request.

(2) 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.

(3) All applicable zoning information.

(4) Complete site plan.

(5) Materials containing detailed data as to architectural elevations and plans showing proposed changes and existing conditions to be preserved.

(6) Preliminary plans showing new construction in cases of demolition.

(7) All available data and historic documentation regarding the building, site or features, if required.

2.5.3.5 Design Review Board

(a) The design review board shall consider applications pursuant to the procedures of section 2.2 and those provided in this subsection. 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 identified in subsection 2.5.3.2(b).

(b) The applicant may withdraw its application pursuant to subsection 2.2.3.4 or defer or continue its application pursuant to subsection 2.2.3.5. 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.

(c) In granting design review approval, the design review board may prescribe appropriate conditions and safeguards 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.

(d) Upon approval of an application by the board, plans shall be submitted to the planning director in the format required by the planning director. 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 planning department.

(e) 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 planning director, or by the applicant.

2.5.3.6 Building permit application

(a) The applicant or his authorized agent shall make application for a building permit, in the format required by the planning director.

(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 planning director. Minor modifications, as determined by the director, to plans that have been approved by the board may be approved by the planning director. A minor modification shall not include expansion of

a building, including volume, floor area ratio, and height, unless otherwise authorized by the board order.

(c) No building permit shall be issued for any plan subject to design review except in conformity with the approved plans.

2.5.4 Division of Land/Lot Split

2.5.4.1 Approval for lot split required

(a) In order to maintain open space and neighborhood character, wherever 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 that was heretofore constructed on property containing one or more platted lots or portions thereof, such lots shall thereafter constitute only one building site and no permit shall be issued for the construction of more than one main permitted structure on the site unless the site is approved for the division or lot split by the planning board.

(b) No lot(s), plot(s) or parcel(s) of land, whether improved or unimproved or building site, as defined herein, designated by number, letter or other description in a plat of a subdivision, shall be further divided or split, for the purpose, whether immediate or future, of transfer of ownership or development, without prior review and approval by the planning board. Lots shall be divided in such a manner that all of the resulting lots are in compliance with the regulations of these land development regulations. All lot lines resulting from the division of a lot shall be straight lines and consistent with the configuration of the adjoining lots.

(c) If a main permitted structure is demolished or removed therefrom, whether voluntarily, involuntarily, by destruction or disaster, no permit shall be issued for construction of more than one main permitted structure on the building site unless the site is approved for the division or lot split by the planning board.

2.5.4.2 *Review criteria*. In reviewing an application for the division of lot and lot split, the planning board shall apply the following criteria:

(a) Whether the lots that would be created are divided in such a manner that they are in compliance with the regulations of these land development regulations.

(b) Whether the building site that would be created would be equal to or larger than the majority of the existing building sites, or the most common existing lot size, and of the same character as the surrounding area.

(c) Whether the scale of any proposed new construction is compatible with the as-built character of the surrounding area, or creates adverse impacts on the surrounding area; and if so, how the adverse impacts will be mitigated. To determine whether this criterion is satisfied, the applicant shall submit massing and scale studies reflecting structures and uses that would be permitted under the land development regulations as a result of the proposed lot split, even if the applicant presently has no specific plans for construction.

(d) Whether the building site that would be created would result in existing structures becoming nonconforming as they relate to setbacks and other applicable regulations of these land development regulations, and how the resulting nonconformities will be mitigated.

(e) Whether the building site that would be created would be free of encroachments from abutting buildable sites.

(f) Whether the proposed lot split adversely affects architecturally significant or historic homes, and if so, how the adverse effects will be mitigated. The board shall have the authority to require the full or partial retention of structures constructed prior to 1942 and determined by the planning director or designee to be architecturally significant under subsection 142-108(a).

(g) The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

2.5.4.3 Procedure for approval

(a) In addition to the requirements of subsection 2.2., all applicants shall provide as part of the application process copies of all deed restrictions, reservations or covenants applicable to the building site, lot, plot or parcel of land being considered for division or split, and an opinion of title that, as of a date not more than 120 days before the planning board's decision upon the application, none of such matters prevent or serve as exceptions to the division or split requested. No variance from this requirement shall be allowed.

(b) In granting a division of land/lot split, the planning board may prescribe appropriate conditions and safeguards, including, but not limited to, a condition restricting the size of new structures to be built on the resulting lots, based upon the application's satisfaction of and consistency with the criteria in subsection 2.5.4.2, and the board's authority under subsection 2.1.2.1. Violation of such conditions and safeguards, when made a part of the terms under which the division of land/lot split is granted, shall be deemed a violation of these land development regulations.

2.5.4.4 Revocation procedures. The board may revoke or modify a lot split approval pursuant to the following procedures:

(a) The planning director shall notify the applicant by certified mail of the failure to comply with the conditions of the approval;

(b) 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;

(c) 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 lot split applications as set forth in subsection 2.2.3 shall be applicable, with the addition of notice to the applicant;

(d) 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.

(e) All other provisions applicable to revocation procedures for conditional uses as set forth in subsection 2.5.2.4 also shall be applicable to revocation procedures pursuant to this section.

Article VI. Certificates of Occupancy and Certificates of Use

2.6.1. Certificates of occupancy

(a) No building or structure, or part thereof, or premises, which are hereafter erected or altered, or changed in occupancy, or land upon which a new or different use is established, shall be occupied or used until a certificate of occupancy shall have been applied for and issued by the city building department.

(b) Certificates of occupancy shall not be issued until the premises have been inspected and found to comply with all requirements of the City Code and of these land development regulations, and with the requirements of all other agencies having regulatory authority over the project. All applications for certificates of compliance shall provide proof of compliance from all applicable county, state and federal regulatory agencies.

(c) A record of all certificates of occupancy issued hereunder shall be kept on file in the office of the building official

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2.6.2 Certificates of Use

(a) No new building or premises or part thereof, except one-family and two-family residences. shall be occupied until a certificate of use is issued by the city. Certificates of use shall not be issued until the premises have been inspected and found to comply with all requirements of this Code.

(1) Apartment buildings, hotels and other multiple residential occupancies containing three or more units and occupied by only residential tenants shall require one certificate of use. Where these occupancies contain commercial activities in addition to residential tenants. an additional certificate of use for each commercial activity contained in the building shall be required.

(2) Industrial. office and commercial buildings being occupied by a single tenant shall require one certificate of use. If an industrial. office or commercial building contains more than one tenant. an additional certificate of use shall be required for each unit occupied therein.

(b) A record of all certificates of use issued hereunder shall be kept on file in the department of planning.

(c) Board of adjustment review. Denial of a certificate of use for lack of proper zoning shall be appealable to the board of adjustment pursuant to Article IX “Administrative Appeals”. All appeals must be submitted to the board of adjustment within 15 days of the date of the denial.

Article VII. Commission Exemption

2.7.1 The commission may grant an exemption from the application of these land development regulations to a specific development project, where the exemption improves the design of the project but does not (i) increase its floor area ratio or density from that allowed by these land development regulations; (ii) allow a use not otherwise allowed by these land development regulation; or (iii) modify by more than 25 percent the building bulk requirements of the land development regulations.

(a) The exemption shall be granted by ordinance, and the procedure for granting an exemption shall require all of the following:

(1) A review and recommendation by the planning board in accordance with the process for an amendment to the land development regulations or rezoning;

(2) A public hearing by the commission, in accordance with the process for a rezoning that amends the zoning map boundaries;

(3) An approval by the design review board or historic preservation board, as applicable, according to the adopted design review guidelines of the land development regulations, which approval shall be conditioned on the subsequent approval of the application by the commission; and

(4) A second public hearing by the commission after the design review board or historic preservation board approval, as applicable.

(b) In reviewing an application for an exemption, the commission shall consider the following criteria:

(1) Whether the proposed exception is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.

(2) Whether the proposed exception would create an isolated development unrelated to the adjacent neighborhood.

(3) Whether the proposed exception is out of scale with the needs of the neighborhood or the city.

(4) Whether the proposed exception will adversely influence living conditions in the neighborhood.
(5) Whether the proposed exception will seriously reduce light and air to adjacent areas.
(6) Whether the proposed exception is consistent with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

Article VIII. Variances

2.8.1 Determination of jurisdiction

(a) The board of adjustment shall retain jurisdiction to approve variances, except that variances associated with an application that is approved by either the design review board or the historic preservation board shall be reviewed by the respective board.
(b) All variance requests shall be submitted to the city attorney for a determination of whether the requested variance or administrative appeal is properly before the board of adjustment, design review board, or historic preservation board, and whether it constitutes a change or amendment to these land development regulations. The jurisdiction of each board shall not attach unless and until the board has before it a written opinion from the city attorney that the subject matter of the request is properly before the board. The written recommendations of the planning director shall be before the board prior to its consideration of any matter before it. Comments from other departments, including, but not limited to, the public works department and the planning department, if any, shall be incorporated into these recommendations.

2.8.2. Prohibited variances

(a) Under no circumstances shall a land use board grant a variance to permit a use not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of these land development regulations. No nonconforming use of neighboring lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

(b) An application for a variance for the following items is prohibited: Floor area ratio, required parking (except as provided for in these land development regulations), a request pertaining to the reduction of an impact fee, lot area when determining floor area ratios, maximum number of stories, or any maximum building height variance greater than three feet. Notwithstanding the foregoing:
(1) In historic districts a variance for maximum floor area ratio and parking credits for nonconforming buildings may be approved; and
(2) For purposes of effectuating a lot split for a site (i) within an historic district, and (ii) upon which there are two or more contributing buildings, variances for the limited purpose of achieving compliance with these land development regulations with respect to existing floor area ratio shall be permitted. A lot split contemplated in this subsection shall not be approved unless and until:
(i) The resulting lots each contain a contributing building;
(ii) Each contributing building has previously received certificates of appropriateness approval from the historic preservation board, for the proposed comprehensive restoration of the buildings and related work;
(iii) The applicant provides a payment and performance bond, in form approved by the city attorney's office, for the proposed comprehensive restoration and all other work contemplated in said board approvals; and
(iv) A binding covenant, enforceable against all successors in interest which shall run with the land, shall be recorded in the public records declaring and confirming that the floor area ratio of each of the resulting lots shall never

exceed the lesser of (A) the floor area ratio as of the date of approval of the lot split, or (B) the floor area ratio permitted under the Code, as amended from time to time, as of the issuance date of a full building permit for any new construction on the lot.

(b) A variance for hotels of more than 20 percent of the total amount of required parking is prohibited. Notwithstanding, should the board grant a variance pursuant to subsection 130-32(25), the parking impact fee program shall not be required.

(c) No variance may be approved from the requirements of chapter 6 of the City Code.

2.8.3 Variance Criteria

(a) Hardship criteria. Unless permitted as listed in subsection 2.8.3(b) as a practical difficulty variance, the following findings must be made by the land use board in order to authorize any variance from the terms of these land development regulations and section 6-4 and 6-41(a) and (b):

(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 special conditions and circumstances do not result from the action of the applicant;

(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;

(4) Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

(6) The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;

(7) The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan; and

(8) The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

(b) Practical difficulty variance *Reserved*

2.8.4 Application and hearing.

(a) An application for a variance and the board hearing shall follow the procedures of subsection 2.2. The planning director may require applicants to submit documentation to support the finding that the variance criteria are met prior to the scheduling of a public hearing or any time prior to the board voting on the applicant's request.

(b) In granting a variance, the board may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these land development regulations.

2.8.5 Building Permit.

(a) In the event the decision of the board, with respect to the original variance request, 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 or court proceedings to obtain a full building permit. 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.

(b) Timeframes in development agreements. The time period to obtain a full building permit set forth in subsection 2.2.3.6 or this subsection 2.8.5(a) may be superseded and modified by a development agreement approved and fully executed pursuant to section 2.11 of these land development regulations, so long as the modified time period is expressly negotiated and set forth in the executed development agreement.

(c) A building permit shall not be issued until the applicant records the final order against the property in the public records of the county.

2.8.6 Revocation or modification of variance

(a) The applicable board may revoke or modify a variance 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 variance.

(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 variance applications as set forth in section 2.2.3.1 shall be applicable, with the addition of notice to the applicant.

(4) The applicable board shall hold a public hearing to consider the issue of noncompliance and the possible revocation or modification of the variance and, based on substantial competent evidence, the board may revoke the variance, modify the conditions thereof, or impose additional or supplemental conditions.

(b) In determining whether substantial competent evidence exist to support revocation, modification or the imposition of additional or supplemental conditions to the variance, intermittent noncompliance with the conditions, as well as the frequency, degree and adverse impact of such intermittent noncompliance, may be considered by the board.

(c) In the event the board takes any of the enforcement actions authorized in this subsection, the applicant shall reimburse the planning department 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, or historic preservation board, or the design review/historic preservation board until repayment in full of all monies due and payable pursuant to this subsection (c).

(d) 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 variance, the board may recommend that the city manager or designee, in his discretion, revoke or suspend the certificate of use for the subject property or the applicant's occupational license applicable to the business conducted at the subject property.

Article IX. Administrative Appeals

2.9.1 Board of Adjustment authority

The board of adjustment shall have the exclusive authority to hear and decide all administrative appeals when it is alleged that there is error in any written planning order,

requirement, decision, or determination made by the planning director in the enforcement of these land development regulations.

2.9.2 Procedures for appeal

(a) The planning director's decision shall be published on the city's website within 30 days of the written decision, and remain on the city's website for at least 30 days. An eligible party, as defined in (b) below, shall have 30 days, from posting on the web page to appeal the administrative determination.

(b) Eligible parties to an appeal are limited to the following:

(1) Original applicant for the administrative determination, with permission of the property owner.

(2) Except for administrative appeals pursuant to sections 118-260, "Special review procedure," 118-395, "Repair or rehabilitation of nonconforming buildings and uses," 118-609, "Completion of work" and 142-108, "Provisions for the demolition of single-family homes located outside of historic districts", the following:

(i) The city manager on behalf of the city administration,

(ii) An affected person, which for purposes of this section shall mean a person owning property within 375 feet of the site or application which is the subject of the administrative appeal;

(iii) Miami Design Preservation League; or

(iv) Dade Heritage Trust.

(c) Application for appeal.

(1) The application shall be in writing and shall set forth the factual, technical, architectural, historic and legal bases for the appeal.

(2) The party filing the appeal shall be responsible for providing all plans and exhibits, subject to planning department procedures, as well as the duplication of all pertinent plans and exhibits.

(3) All administrative appeal applications are subject to the same noticing requirements as an application for a public hearing, in accordance with subsection 2.2.3.1. The hearing applicant shall be responsible for all associated costs and fees.

(4) The planning director may engage the services of an attorney, or utilize a separate, independent, attorney from the city attorney's office, for the purpose of representing the planning director who made the decision that is the subject of the appeal.

(d) Board of Adjustment hearing

(1) The party appealing the administrative decision bears burden of going forward with evidence and of persuasion at the board of adjustment administrative appeal proceeding. In the appeal, the planning director's determination is presumed to be correct.

(2) The hearing shall be conducted as a quasi-judicial hearing pursuant to subsection 2.2.3.3.

(3) The board of adjustment may, upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision, or determination. The concurring vote of five members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the planning director or to decide in favor of the applicant on any matter upon which the board of adjustment is required to pass under these land development regulations.

(e) Stay of work and proceedings on appeal. No permit shall be issued for work prior to expiration of the appeal period or final disposition of any appeal. An administrative appeal to the board of adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:

(1) The planning director shall certify to the board of adjustment that, by reason of facts stated in the certificate, 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, with notice to the officer from whom the appeal is taken and for good cause shown; or

(2) Associated land use board hearings may proceed to a final order, provided, however, (i) 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; and (ii) 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.

Article X. Public Benefit Bonuses. ***Reserved***

Article XI. Development Agreement

2.11.1 The city commission may enter into a development agreement with any person within the city's jurisdiction if:

(a) The development agreement meets all of the requirements of the Florida Local Government Development Agreement Act, Section 163.3220 et seq., Florida Statutes, as may be amended from time to time, including but not limited to notice requirements for public hearings; and

(b) Such agreement shall have been considered by the city commission after two public hearings. At the option of the city commission, one of the public hearings may be held by the city planning board and approved by the city commission after the city commission holds a second public hearing.

2.11.2 Commencing on January 1, 2019, a development agreement approved and fully executed pursuant to this section may extend the expiration date for a city land use board order beyond the time periods set out in subsection 2.2.3.6. In such cases, the expiration date set forth in the approved and executed development agreement shall control over and supersede any earlier expiration date set forth in any city land use board order.

Article XII. Nonconformities

2.12.1 Purpose; applicability.

(a) Nothing contained in this section 2.12 shall be deemed or construed to prohibit the continuation of a legally established nonconforming use, structure, or occupancy, as those terms are defined in these land development regulations. The intent of this section 2.12 is to encourage nonconformities to ultimately be brought into compliance with current regulations. This section shall govern in the event of conflicts with other regulations of this Code pertaining to legally established nonconforming uses, structures, and occupancies.

(b) The term "nonconformity" shall refer to a use, building, or lot that does not comply with the regulations of these land development regulations. Only legally established nonconformities shall have rights under this section.

(c) For purposes of this section, the term "expansion" shall mean an addition, enlargement, extension, or modification to a structure that results in an increase in the square footage of the structure, an increase in the occupancy as determined by the fire department, or an increase in the number of seats.

(d) For the purpose of this section, "legally established" shall apply to the following circumstances:

(1) A lot that does not meet the lot frontage, lot width, lot depth, or lot area requirements of the current zoning district, provided that such lot met the regulations in effect at the time of platting.
(2) A site or improvement that is rendered nonconforming through the lawful use of eminent domain, an order of a court of competent jurisdiction, or the voluntary dedication of property.
(3) An existing use which conformed to the code at the time the use was established.
(4) A building, use or site improvement that had received final approval through a public hearing pursuant to these land development regulations or through administrative site plan review and had a valid building permit.

2.12.2 Determination of nonconforming use or building.

(a) The planning director shall make a determination as to the existence of a nonconforming use or building and in so doing may make use of affidavits and investigation in addition to the data presented on the city's building card, occupational license or any other official record of the city.
(b) The question as to whether a nonconforming use or building exists shall be a question of fact and in case of doubt or challenge raised to the determination made by the planning director, the question shall be decided by appeal to the board of adjustment pursuant to the requirements of subsection 2.9. In making the determination the board may require certain improvements that are necessary to insure that the nonconforming use or building will not have a negative impact on the neighborhood.
(c) The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use and the existence of nonconforming use on a part of a lot or tract shall not be sufficient to establish a nonconforming use on the entire lot or tract.

2.12.3. Conditional Uses

A use approved as a conditional use pursuant to subsection 2.5.2 of these land development regulations shall be considered a conforming use as long as the conditions of the approval are met.

2.12.4. Nonconforming signs

Nonconforming signs shall be repaired or removed as provided in chapter 6 of these land development regulations. No permits for additional signs shall be issued for any premises on which there are any nonconforming signs

2.12.5 Nonconforming use of buildings

(a) Except as otherwise provided in these land development regulations, the lawful use of a building existing at the effective date of these land development regulations may be continued, although such use does not conform to the provisions hereof. Whenever a nonconforming use has been changed to a conforming use, the former nonconforming use shall not be permitted at a later date. A nonconforming use shall not be permitted to change to any use other than one permitted in the zoning district in which the use is located.
(b) A nonconforming use of a building shall not be permitted to extend throughout other parts of that building.
(c) For specific regulations for nonconforming uses related to medical cannabis treatment centers and pharmacy stores, see section 142-1502(d). Notwithstanding the provisions of this section 2.12, and notwithstanding the provisions of section 142-1502, a nonconforming pharmacy store or medical cannabis treatment center may be relocated

within the same building, provided that the relocated pharmacy store or medical cannabis treatment center does not exceed 2,000 square feet in size. Such relocated pharmacy store or medical cannabis treatment center shall be exempt from the minimum distance separation requirements of section 142-1502(b)(4) or (5). respectively, of these land development regulations.

2.12.6 Discontinuance of nonconforming uses.

(a) A nonconforming use may not be enlarged, extended, intensified, or changed, except for a change to a use permitted in the district in which the property is located.

(b) If there is an intentional and voluntary abandonment of a nonconforming use for a period of more than 183 consecutive days, or if a nonconforming use is changed to a conforming use, said use shall lose its nonconforming status. Thereafter, subsequent occupancy and use of the land, building, or structure shall conform to the regulations of the districts in which the property is located and any structural alterations necessary to make the structure or building conform to the regulations of the district in which the property is located shall be required. An intentional and voluntary abandonment of use includes, but is not limited to, vacancy of the building or structure in which the nonconforming use was conducted, or discontinuance of the activities consistent with or required for the operation of such nonconforming use.

(c) The planning director shall evaluate the evidence of an intentional and voluntary abandonment of a nonconforming use and determine the status of the nonconforming use. In order for a nonconforming use to retain a nonconforming status, the evidence, collectively, shall at a minimum demonstrate at least one of the following:

(1) Continual operation of the use;

(2) Continual possession of any necessary and valid state and local permits, building permits, licenses, or active/pending application(s) for approval related to prolonging the existence of the use.

(d) Evidence of an intentional and voluntary abandonment of a nonconforming use may include, but shall not be limited to:

(1) Public records, including those available through applicable City of Miami Beach, Miami-Dade County, and State of Florida agencies;

(2) Utility records, including water/sewer accounts, solid waste accounts, and electrical service accounts; or

(3) Property records, including executed lease or sales contracts.

2.12.7 Repair or rehabilitation of nonconforming uses.

If a building which contains a nonconforming use is repaired or rehabilitated at a cost exceeding 50 percent of the value of the building, as determined by the building official, it shall not be thereafter used except in conformity with the use regulations in the applicable zoning district contained in these land development regulations and all rights as a nonconforming use are terminated. The foregoing regulations shall not apply to any building or structure located on city-owned property or rights-of-way, or property owned by the Miami Beach Redevelopment Agency.

2.12.8 Repair or rehabilitation of nonconforming buildings

(a) *Up to and including 50% value of building*. Nonconforming buildings which are repaired or rehabilitated by up to and including 50 percent of the value of the building as determined by the building official shall be subject to the following conditions:

(1) The building shall have previously been issued a certificate of use, certificate of completion, certificate of occupancy or occupational license by the city to reflect its current use.

(2) Such repairs or rehabilitation shall meet the requirements of the city property maintenance standards, the applicable Florida Building Code, and the Fire Safety Code.

(3) If located within a locally designated historic district or an historic site, the repairs or rehabilitations shall comply substantially with the Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, as amended, as well as the certificate of appropriateness criteria in section 2.13 of these land development regulations. If the repair or rehabilitation of a contributing structure conflicts with any of these regulations, the property owner shall seek relief from the applicable building or fire safety code.

(4) Any new construction shall comply with the existing development regulations in the zoning district in which the property is located, provided, however, that open private balconies, including projecting balconies and balconies supported by columns, not to exceed a depth of 30 feet from an existing building wall, may be permitted as a height exception. The addition of balconies may be permitted up to the height of the highest habitable floor for a building non-conforming in height, provided such balconies meet applicable floor area ratio and setback regulations. Any addition of a balcony in a nonconforming building shall be subject to the review and approval of the design review board or historic preservation board, as may be applicable.

(b) *More than 50% of the value of building.* Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, shall be subject to the following conditions:

(1) All residential and hotel units shall meet the minimum and average unit size requirements for rehabilitated buildings as set forth in the zoning district in which the property is located.

(2) The entire building and any new construction shall meet all requirements of the city property maintenance standards, the applicable Florida Building Code and the Life Safety Code.

(3) The entire building and any new construction shall comply with the current development regulations in the zoning district in which the property is located. No new floor area may be added if the floor area ratio is presently at maximum or exceeded.

(4) Development regulations for buildings located within a designated historic district or for an historic site:

(i) The existing structure's floor area, height, setbacks and any existing parking credits may remain, if the following portions of the building remain substantially intact, and are retained, preserved and restored:

a. At least 75 percent of the front and street side walls, exclusive of window openings;

b. For structures that are set back two or more feet from interior side property lines, at least 66 percent of the remaining interior side walls, exclusive of window openings; and

c. All architecturally significant public interiors.

(ii) For the replication or restoration of contributing buildings, but not for noncontributing buildings, the historic preservation board may, at its discretion, waive the requirements of subsection 2.12.8(b)(4)(i) above, and allow for the retention of the existing structure's floor area, height, setbacks or parking credits, if at least one of the following criteria is satisfied, as determined by the historic preservation board:

a. The structure is architecturally significant in terms of design, scale, or massing;

b. The structure embodies a distinctive style that is unique to Miami Beach or the historic district in which it is located;

c. The structure is associated with the life or events of significant persons in the city;

d. The structure represents the outstanding work of a master designer, architect or builder who contributed to our historical, aesthetic or architectural heritage;

e. The structure has yielded or is likely to yield information important in prehistory or history; or

f. The structure is listed in the National Register of Historic Places.

Notwithstanding the above, for buildings over three stories in height, at least 75 percent of the front facade and 75 percent of any architecturally significant portions of the street side facades shall be retained and preserved, in order to retain any nonconforming floor area, height, setbacks or parking credits. If the historic preservation board does not waive the requirements of subsection 2.12.8(b)(4)(i) above for any reason, including the inability of a reconstructed building to meet the requirements of the applicable building code, any new structure shall be required to meet all current development regulations for the zoning district in which the property is located.

(iii) The building shall comply substantially with the secretary of interior standards for rehabilitation and guidelines for rehabilitating historic structures, as amended, as well as the certificate of appropriateness criteria in section 2.13 of these land development regulations.

(iv) If the repair or rehabilitation of a contributing structure or historic site conflicts with any of the requirements (as amended) in the applicable Florida Building Code or the Life Safety Code, the property owner shall seek relief from such code.

(v) Regardless of its classification on the Miami Beach Historic Properties database, a building may be re-classified as contributing by the historic preservation board if it meets the relevant criteria set forth in the City Code.

(vi) Contributing structures shall be subject to all requirements in section 118-503 of these land development regulations.

(vii) Existing non-contributing structures in a designated historic district or site shall be subject to the sustainability and resiliency requirements for new construction in chapter 7, article I.

(5) Development regulations for buildings not located within a locally designated historic district and not an historic site.

(i) Buildings constructed prior to 1965 and determined to be architecturally significant by the planning director, or designee, may retain the existing floor area ratio, height, setbacks and parking credits, if the following portions of the building remain substantially intact and are retained, preserved and restored:

a. At least 75 percent of the front and street side facades, exclusive of window openings;

b. At least 50 percent of all upper level floor plates; and

c. At least 50 percent of the interior side walls, exclusive of window openings.

(ii) For buildings satisfying the above criteria, the parking impact fee program may be utilized, provided that all repairs and rehabilitations, and any new additions or new construction is approved by the design review board.

(iii) Buildings constructed prior to 1965 and determined to be architecturally significant by the planning director, or designee, shall comply with the sustainability and resiliency requirements for new construction in chapter 7, article I; however, the sustainability fee for such buildings shall be valued at three percent of the total construction valuation of the building permit.

(iv) Buildings construction in 1965 or thereafter, and buildings construction prior to 1965 and determined by the planning director, or designee not to be architecturally significant, shall be subject to the sustainability and resiliency requirements for new construction in chapter 7, article I.

(v) For purposes of this subsection, the planning director shall make a determination as to whether a building is architecturally significant according to the following criteria:

a. The subject structure is characteristic of a specific architectural style constructed in the city prior to 1965, including, but not limited to, vernacular, Mediterranean revival, art deco, streamline modern, post-war modern, or variations thereof;

b. The exterior of the structure is recognizable as an example of its style or period, and its architectural design integrity has not been modified in an irreversible manner; and

c. Exterior architectural characteristics, features, or details of the subject structure remain intact.

A property owner may appeal any determination of the planning director relative to the architectural significance of a building constructed prior to 1965 to the board of adjustment, in accordance with the requirements and procedures of subsection 2.2.3.8.

(vi) Buildings constructed in 1965 or thereafter, and buildings constructed prior to 1965 and determined by the planning director, or designee not to be architecturally significant, shall be subject to the regulations set forth in subsection 2.12.8(b) (1)-(3) herein.

(6) Any new construction identified in subsections (4) and (5), above, shall comply with the existing development regulations in the zoning district in which the property is located, provided, however, that open private balconies, including projecting balconies and balconies supported by columns, not to exceed a depth of 30 feet from an existing building wall, may be permitted as a height exception. The addition of the highest habitable floor for a building nonconforming in height, provided such balconies meet applicable floor area ratio and setback regulations. Any addition of a balcony in a nonconforming building shall be subject to the review and approval of the design review board or historic preservation board, as may be applicable.

(c) Exceptions

(1) The regulations of this subsection 2.12.8 shall not apply to any building or structure located on city-owned property or rights-of-way, or property owned by the Miami Beach Redevelopment Agency.

(2) Unless superseded by the provisions in chapter 142, article II, division 2, single-family homes shall be treated the same as other buildings, in determining when an existing structures lot coverage, height and setbacks may remain.

(3) *Single-family districts.* Notwithstanding the provisions of this subsection 2.12.7, the following provisions shall apply to existing single-family structures in single-family districts:

(i) Existing single-family structures that are nonconforming as to the provisions of sections 142-105 and 142-106 may be repaired, renovated, or rehabilitated, regardless of the cost of such repair, renovation, or rehabilitation, notwithstanding the provisions of this article. Should such an existing structure constructed prior to October 1, 1971, be completely destroyed due to fire, casualty, or other catastrophic event, through no fault of the owner, such structure may be reconstructed regardless of the applicable requirements in sections 142-105 and 142-106 that are in effect at the time of the destruction of the structure.

(ii) Existing garages, carports, pergolas, cabanas, gazebos, guest/servant quarters, decks, swimming pools, spas, tennis courts, sheds, and similar accessory structures may be rebuilt consistent with existing non-conforming setbacks, unit size, and lot coverage, at a higher elevation, in accordance with the following provisions:

a. The yard elevation of the property shall be raised to a minimum of adjusted grade;

b. The structure shall be re-built in the same location as originally constructed; provided that the re-built structure has no less than a four-foot setback from all property lines; and

c. The structure shall be rebuilt to be harmonious with the primary structure.

(4) Notwithstanding the foregoing, in the event of a catastrophic event, including, but not limited to, fire, tornado, tropical storm, hurricane, or other act of God, which results in the complete demolition of a building or damage to a building that exceeds 50 percent of the value of the building as determined by the building official, such building may be reconstructed, repaired or rehabilitated, and the structure's floor area, height, setbacks and any existing parking credits may remain, if the conditions set forth in subsection 2.12.8 (a)(1)—(4) herein are met.

(5) Gasoline service stations.

(i) Notwithstanding the provisions of this subsection 2.12.8, a nonconforming gasoline service station that provides a generator or other suitable equipment that will keep the station operational, and which has been damaged, repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official pursuant to the standards set forth in the Florida Building Code may be repaired or rehabilitated, if the following conditions are met:

a. The entire building and any new addition shall meet all requirements of the city property maintenance standards, the applicable Florida Building Code and the Life Safety Code.

b. The entire building and any new addition shall comply with the current development regulations in the zoning district in which the property is located, including, but not limited to all landscape requirements. New monument-style signs shall be required. Pole signs shall be prohibited.

c. No new floor area may be added if the floor area ratio is presently at maximum or exceeded.

(ii) Necessary repairs to add an emergency electrical generator and related facilities to a nonconforming gasoline service station shall be permitted.

(iii) A nonconforming gasoline service station that provides a generator or other suitable equipment that will keep the station operational, may add new floor area (other than floor area strictly necessary to house an emergency electrical generator and related facilities), or convert existing floor area or land, to add new accessory uses, such as a convenience sales area or a car wash, subject to conditional use approval, notwithstanding the nonconforming status of the gasoline service station.

2.12.9 Building nonconforming in height, density, parking, floor area ratio or bulk.

Except as provided in this section 2.12, a nonconforming building shall not be altered or extended, unless such alteration or extension decreases the degree of nonconformity but in no instance shall the floor area requirements of any unit which is being altered or extended be less than the required floor area set forth in the applicable zoning district.

Article XIII. Historic Preservation

2.13.1 Generally

(a) Intent.

It is hereby declared by the city commission that the preservation and conservation of properties of historical, architectural and archeological merit in the city is a public policy of the city and is in the interest of the city's future prosperity.

(b) Purpose.

The general purpose of these regulations is to protect and encourage the revitalization of sites and districts within the city having special historic, architectural or archeological value to the public. This general purpose is reflected in the following specific goals:

(1) The identification of historic sites and districts;

(2) The protection of such historic sites and districts to combat urban blight, promote tourism, foster civic pride, and maintain physical evidence of the city's heritage;

(3) The encouragement and promotion of restoration, preservation, rehabilitation and reuse of historic sites and districts by providing technical assistance, investment incentives, and facilitating the development review process;

(4) The promotion of excellence in urban design by assuring the compatibility of restored, rehabilitated or replaced structures within designated historic districts; and

(5) The protection of all existing buildings and structures in the city's designated historic districts or on designated historic sites from unlawful demolition, demolition by neglect and the failure of property owners to maintain and preserve the structures.

(c) Scope, policies and exemptions.

(1) *Scope.* Unless expressly exempted by paragraph (c)(2) of this subsection, no building permits shall be issued for new construction, demolition, alteration, rehabilitation, signage or any other physical modification of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, nor shall any construction, demolition, alteration, rehabilitation, signage or any other exterior or public interior physical modification, whether temporary or permanent, without a permit, be undertaken, without the prior issuance of a certificate of appropriateness or certificate to dig by the historic preservation board, or the planning director or his designee, in accordance with the procedures specified in this section. For purposes of this article, "alteration" or "modification" shall be defined as any change affecting the external appearance and internal structural system including columns, beams, load bearing walls and floor plates and roof plates of a structure or other features of the site including, but not limited to, landscaping and relationship to other structures, by additions, reconstruction, remodeling, or maintenance involving a change in color, form, texture, signage or materials, or any such changes in the appearance of public interior spaces. The foregoing shall exclude the placement of objects in or on the exterior or public interior of a structure or site, not materially affecting its appearance or architectural integrity.

(2) *Policies.*

(i) *After-the-fact certificates of appropriateness for demolition.* In the event any demolition as described above or in paragraph (c)(2) of this subsection should take place prior to historic preservation board review, the demolition order shall be conditioned to require the property owner to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board, within 15 days of the issuance of the demolition order. No "after-the-fact" fee shall be assessed for such application. The board shall review the demolition and determine whether and how the demolished building, structure, landscape

feature or the partially or fully demolished feature of the exterior or public interior space of a structure, shall be replaced. The property owner shall also be required, to the greatest extent possible, to retain, preserve and restore any demolished feature of a structure until such time as the board reviews and acts on the "after-the-fact" application. In the event the property owner fails to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board within 15 days of the issuance of an emergency demolition order, the city may initiate enforcement proceedings including proceedings to revoke the certificate of use, occupational license, any active building permit(s) or certificate of occupancy of the subject site, whichever is appropriate. Additionally, this article may be enforced, and violations may be punished as provided in section 114-8 of this Code; or by enforcement procedures as set forth in the Charter and penalties as provided in section 1-14 of this Code.

(ii) *Replacement of existing structures.* The policy of the City of Miami Beach shall be a presumption that a contributing building demolished without obtaining a certificate of appropriateness from the historic preservation board, shall only be replaced with a new structure that incorporates the same height, massing and square footage of the previous structure on site, not to exceed the floor area ratio (FAR) of the demolished structure. and not to exceed the maximum FAR and height permitted under the City Code, with no additional square footage added. This presumption shall be applicable in the event a building permit for new construction or for repair or rehabilitation is issued, and demolition occurs for any reason, including, but not limited to, an order of the building official or the county unsafe structures board. This presumption shall also be applicable to any request for an "after- the-fact" certificate of appropriateness. This presumption may be rebutted, and the historic preservation board may allow for the addition of more square footage, where appropriate, not to exceed the maximum permitted under the City Code, if it is established to the satisfaction of the historic preservation board that the following criteria have been satisfied:

a. The proposed new structure is consistent with the context and character of the immediate area; and

b. The property owner made a reasonable effort to regularly inspect and maintain the structure free of structural deficiencies and in compliance with the minimum maintenance standards of this Code.

(iii) *Replication of demolished contributing structures.* The historic preservation board shall determine, on a case-by-case basis, whether the replication of an original, contributing, structure is warranted. For purposes of this subsection, replication shall be defined as the physical reconstruction, including all original dimensions in the original location, of a structure in totality, inclusive of the reproduction of primary facade dimensions and public area dimensions with appropriate historic materials whenever possible, original walls, window and door openings, exterior features and finishes, floor slab, floor plates, roofs and public interior spaces. The historic preservation board shall have full discretion as to the exact level of demolition and reconstruction required. If a building to be reconstructed is nonconforming, any such reconstruction shall comply with all of the requirements of section 2.13 of these land development regulations.

(c) *Exemptions.* The following permits are exempt from the regulations of this section:

(i) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment not located on exteriors or within public interior spaces, and not visible from the public right-of-way.

(ii) Any permit necessary for compliance with a lawful order of the building official, county unsafe structures board, fire marshal, or public works director when issuance of such permit on an immediate basis is necessary for the public health or safety or to prevent injury to life, limb or property. In the event that compliance includes full or partial demolition of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district an emergency meeting of the historic preservation board shall be called prior to the demolition being authorized, unless the work is of an emergency nature and must be done before a meeting could be convened. The historic preservation board may offer alternative suggestions regarding the need for manner and scope of demolition; these suggestions shall be taken into consideration by the official issuing the final determination regarding demolition. However, the final determination regarding demolition shall be made by the official issuing the order. In the event that the historic preservation board does not hold the meeting prior to the scheduled demolition, the demolition may take place as scheduled.

(iii) Any permit issued for an existing structure in a designated historic district which has been specifically excluded from the district.

2.13.2 Historic Preservation Board Review of Projects

(a) Review requests for public improvements

The historic preservation board shall review public improvements upon public rights-of-way and easements located within a historic district and materially affecting any public right-of-way, public easement, building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593. For purposes hereof, public improvements shall include, but not be limited to, structures, streetscape projects, street improvements or redesign, modifications to street lighting or signage, landscaping projects, medians, and above ground utilities; however, public improvements shall exclude routine maintenance and utility repair work.

(b) Proceedings before the historic preservation board.

(1) Oath. Any person appearing before the historic preservation board on an application for a certificate of appropriateness shall be administered the following oath by any person duly authorized under the laws of the state to administer oaths:

"I, _____, hereby swear under oath that any and all testimony to be given by me in this proceeding is the truth, the whole truth, and nothing but the truth, so help me God."

Any person giving false testimony before the historic preservation board shall be subject to the maximum penalty provided by law.

(2) Issuance of order. After the board has heard all evidence regarding a request, it shall issue a written order setting forth its decision and the findings of fact upon which the decision is based. A copy of the board's order shall be promptly mailed to the applicant.

(3) Withdrawal or final denial. Upon the withdrawal or final denial of an application for any certificate of appropriateness from the historic preservation board, a new 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 final action is made without prejudice. An application may be withdrawn without prejudice by the applicant as a matter of right if such request is signed by the applicant and filed with

the planning department prior to the matter being considered by the board; otherwise, all such requests for withdrawal shall be with prejudice. The historic preservation board may permit withdrawals without prejudice at the time the application for such certificate of appropriateness is considered by such board. No application may be withdrawn after final action has been taken.

(4) Recording of certificate of appropriateness. After a certificate of appropriateness has been ordered by the board, the city shall record in the public records of the county the order of the board. No building permit, demolition permit, certificate of occupancy, certificate of completion or licensing permit shall be issued until proof of recordation has been submitted. Only the historic preservation board is empowered to release any conditions of its recorded order.

(5) Deferrals and continuances.

(i) 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 118-563(d). In the event that the application is not presented to the historic preservation board for approval at the meeting date to which the application was deferred, the application shall be deemed null and void.

(ii) The board may continue an application to a date certain at either the request of the applicant or at its own discretion. In the event the application is so continued, not less than 15 days prior to the new public hearing date, a description of the request, and the time and place of such hearing shall be advertised in a newspaper of general circulation within the municipality at the expense of the city.

(iii) 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 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 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.

(iv) In the event that the applicant fails to timely present for distribution 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.

(v) Deferrals or continuances for a specific application shall not exceed one year cumulatively for all such deferrals, or continuances made by the board, or the application shall be deemed null and void.

(6) Timeframes.

(i) *Timeframes to obtain a building permit.* 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 a certificate of appropriateness was issued to obtain a full building permit or a c) development permit. The foregoing 18-month time period, or such lesser time as may be specified by the board, includes the time period during which an appeal of the decision of the historic preservation board may be filed. If the applicant fails to obtain a full building permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which a certificate of appropriateness was granted or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the certificate of appropriateness 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 historic preservation board, at its

sole discretion, provided the applicant submits a request in writing to the planning department no later than 90 calendar days after the expiration of the original approval, setting forth 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 section 2.2.3.8 relating to appealed orders and tolling.

ii. *Timeframes in development agreements*. The time period to obtain a full building permit set forth in subsection (6)((i)) may be superseded and modified by a development agreement approved and fully executed pursuant to Article XI of these land development regulations, so long as the modified time period is expressly negotiated and set forth in the executed development agreement.

2.13.3 Maintenance of designated properties and demolition by neglect.

(a) The owner of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, whether vacant or inhabited, shall be required to properly maintain and preserve such building or structure in accordance with standards set forth in the applicable Florida Building Code, this article and this Code. For purposes of this article, demolition by neglect is defined as any failure to comply with the minimum required maintenance standards of this section, whether deliberate or inadvertent.

(1) *Required minimum maintenance standards.* It is the intent of this section to preserve from deliberate or inadvertent neglect, the interior, exterior, structural stability and historic and architectural integrity of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with subsections 118-591, 118-592 and 118-593, or located within an historic district, whether vacant or inhabited. All such properties, buildings and structures shall be maintained according to minimum maintenance standards, preserved against decay, deterioration and demolition and shall be free from structural defects through prompt and corrective action to any physical defect which jeopardizes the building's historic, architectural and structural integrity; such defects shall include, but not be limited to, the following:

(i) Deteriorated or decayed facades or facade elements, including, but not limited to, facades which may structurally fail and collapse entirely or partially;

(ii) Deteriorated or inadequate foundations;

(iii) Defective or deteriorated flooring or floor supports or any structural members of insufficient size or strength to carry imposed loads with safety;

(iv) Deteriorated walls or other vertical structural supports, or members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;

(v) Structural members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;

(vi) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or missing windows or doors;

(vii) Defective or insufficient weather protection which jeopardizes the integrity of exterior or interior walls, roofs or foundation, including lack of paint or weathering due to lack of paint or other protective covering;

(viii) Any structure which is not properly secured and is accessible to the general public; or

(ix) Any fault or defect in the property that renders it structurally unsafe or not properly watertight;

(x) The spalling of the concrete of any portion of the interior or exterior of the building.

(2) *Notice, administrative enforcement and remedial action.* If any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, in the opinion of the historic preservation board, planning director or designee, or the city's building official or designee, falls into a state of disrepair so as to potentially jeopardize its structural stability or architectural integrity, or the safety of the public and surrounding structures, or fails to satisfy any of the required minimum maintenance standards above, the planning director or designee, or the city's building official or designee shall have right of entry onto the subject property and may inspect the subject property after 48 hours' notice to the owner of intent to inspect. In the event the property owner refuses entry of any city official onto the subject property, the city may file an appropriate action compelling the property owner to allow such officials access to the subject property for an inspection. Upon completion of the inspection of the subject property, a report delineating the findings of such inspection, as well as any remedial action required to address any violation of the required minimum maintenance standards, shall be immediately transmitted to the property owner. The city may require that the property owner retain a professional structural engineer, registered in the state, to complete a structural evaluation report to be submitted to the city. Upon receipt of such report, the property owner shall immediately take steps to effect all necessary remedial and corrective actions to restore the structure's or building's compliance with the required minimum maintenance standards herein; remedial action in this regard shall include, but not be limited to, the structural shoring, stabilization or restoration of any or all exterior walls, including their original architectural details, interior loadbearing walls, columns and beams, roof trusses and framing, the blocking of openings and securing of existing windows and door openings, as well as sealing of the roof surface against leaks, including from holes, punctures, open stairwells, elevator shafts and mechanical systems roof penetrations as necessary to preserve the building or structure in good condition. The owner shall substantially complete such remedial and corrective action within 30 days of receipt of the report, or within such time as deemed appropriate by the building official, or designee, in consultation with the planning director or designee. Such time may be extended at the discretion of the city's building official, in consultation with the planning director.

(3) *Injunction and remedial relief.* If the owner of the subject property, in the opinion of the city's building official, fails to undertake and substantially complete the required remedial and corrective action within the specified time frame, the city may, at the expense of the owner, file an action seeking an injunction ordering the property owner to take the remedial and corrective action to restore the structure's or building's compliance with the required minimum maintenance standards herein and seeking civil penalties as herein provided; Such civil action may only be initiated at the discretion of the city manager or designee. The court shall order an injunction providing such remedies if the city proves that the property owner has violated the required minimum maintenance standards or any portion of this article or this code.

(4) *Civil penalties.* Violation of this article shall be punishable by a civil penalty of up to $5,000.00 per day, for each day that the remedial and corrective action is not taken.

(b) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district which does not involve a change of design, appearance or material, and which does not require a building permit or certificate of appropriateness. Any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district that is the subject of an application for a certificate of appropriateness for demolition shall not have its architectural features removed, destroyed or modified until the certificate of appropriateness is granted. Owners of such property shall be required to maintain such properties in accordance with all applicable codes up to the time the structure is demolished.

(c) Vacant buildings and structures. The owner of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district which is proposed to be vacated and closed, or is vacated and closed for a period of four weeks or more, shall make application for certificate of appropriateness approval and a building permit to secure and seal such building or structure. The owner or the owner's designated representative, shall notify the city's building official and planning director, or their designees, in writing of the proposed date of vacating such building or structure.

(1) *Inspection of premises and sealing of property.* Upon receipt of written notification to vacate, a visual walk-through inspection of the subject premises may be required, at the discretion of the building official to ascertain the general condition of the building. Such inspection shall include, but not be limited to, a visual inspection of the structural system to the greatest extent possible, exterior and interior walls, roofs, windows, doors and special architectural features, as well as site features. Upon completion of such inspection, the building official, shall notify the owner in writing of the findings of the inspection. If the subject structure fails to comply with the required minimum maintenance standards herein, all remedial and corrective action necessary to restore the structure's or building's compliance with the required minimum maintenance standards herein shall be undertaken by the property owner, to the satisfaction of the building official and the planning director, or their respective designees, before any sealing or closing of the structure shall be permitted. The owner of such building or structure shall be required to obtain certificate of appropriateness approval and a building permit for any and all such remedial and corrective work; upon completion of the work, the building official and planning director, or their designees, may reinspect the subject building or structure to determine whether all work has been completed in compliance with the approved plans. Upon determination of completion, the owner of the subject structure shall file application for certificate of appropriateness approval and a building permit to seal and secure the building.

(2) *Reinspection of premises.* If at any time during the vacancy of the structure the building should fail to comply with the required minimum maintenance standards herein and fall into a state of disrepair constituting demolition by neglect, or is in violation of any portion of this subsection 2.13.3, such premises shall be subject to all maintenance and enforcement provisions of this subsection 2.13.3 as well as all of the city's building and property maintenance standards contained in this Code and the Florida Building Code enforceable by the city using all available means.

(3) *Enforcement and remedial action.* Failure to comply with remedial action required by the planning director or building official, or designee, may result in city action to ensure the protection of public safety and the stabilization and preservation of the architectural integrity of the building or structure. Such measures shall all be

undertaken at the expense of the owner, including, but not limited to, the city filing an action to order the property owner to take all required corrective action and seeking to impose civil penalties.

(d) Any and all liens referenced or imposed hereafter, based on the foregoing provisions, shall be treated as special assessment liens against the subject real property, and until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved; the maximum rate of interest allowable by law shall accrue to such delinquent accounts. Such liens shall be enforced by any of the methods provided in Chapter 86, Florida Statutes or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions applicable to practice, pleading and procedure for the foreclosure of mortgages on real estate set forth in Florida Statutes, or may be foreclosed per Chapter 173, Florida Statutes, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. The owner or operator shall pay all costs of collection, including reasonable attorney fees, incurred in the collection of fees, service charges, penalties and liens imposed by virtue of this section.

(e) There shall be no variances, by either the board of adjustment or the historic preservation board, from any of the provisions contained in this subsection 2.13.3.

2.13.4 Unauthorized alterations.

When the historic preservation board or planning department determines that a building, structure, improvement, landscape feature, public interior or site located within a historic district or a building, structure, improvement, site or landscape feature which has been designated "historic" pursuant to this section has been altered in violation of this section, the board or planning department staff may notify the city's department of code compliance to initiate enforcement procedures. Any such property altered without obtaining a certificate of appropriateness must make application to the historic preservation board for an "after-the-fact" certificate of appropriateness prior to any further work taking place on site. The historic preservation board shall determine whether the property shall be returned to its condition during the period of historic significance prior to the alteration. Failure to comply with this subsection shall be punished by the imposition of fines and liens of up to $250.00 per day and $500.00 per day for repeat violations as provided in chapter 30 of this Code.

2.13.5. Historic properties database

(a) Historic buildings, historic structures, historic improvements, historic landscape features, historic public interiors and contributing buildings within a historic district shall be listed as such in the city historic properties database maintained by the planning department. A building not listed or listed as "noncontributing" on the historic properties database shall not preclude its classification or review pursuant to the certificate of appropriateness process. Buildings and structures that are located in a locally designated historic district but have not been individually designated "historic" pursuant to division 4 of this article shall also be listed in the city historic properties database and classified as either contributing or noncontributing as defined in section 114-1.

(b) Except as elsewhere provided in these land development regulations, the historic properties database may be revised from time to time by the historic preservation board according to the procedures set forth in this paragraph. Prior to making any revision to the city historic properties database, the board shall hold a public hearing to consider the revision. The owner of any property considered for listing or revision of classification in the database shall receive notice of such hearing at least 15 days prior to the hearing. The hearing shall also be advertised in a newspaper of general circulation in the city at

least 15 days prior to the hearing. Notwithstanding any other provisions of this section, after May 14, 1994 properties shall not be added to the database as "historic" or reclassified as "historic" in the database unless they have been designated as "historic" pursuant to the procedures set forth in chapter 118, article X, division 4. In determining whether a property classified in the database as historic should be reclassified, the board shall utilize the designation criteria in subsection 118-592(a).

2.13.6. Variances prohibited

No variances shall be granted by the zoning board of adjustment from any of the procedural or review requirements of the historic preservation board; provided, however, the foregoing prohibition shall not limit or restrict an applicant's right to a rehearing or to appeal decisions of the historic preservation board.

2.13.7 Issuance of Certificate of Appropriateness/Certificate to Dig/Certificate of Appropriateness for Demolition

(a) General requirements

(1) A certificate of appropriateness issued under this chapter shall be required prior to the issuance of any permit for new construction, demolition, alteration, rehabilitation, renovation, restoration, signage or any other physical modification affecting any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district unless the permit applied for is exempted pursuant to subsection 118-503(b), or prior to any construction, demolition, alteration, rehabilitation, signage or any other exterior or public interior physical modification, whether temporary or permanent, without a permit, being undertaken. A certificate to dig shall be required prior to the initiation of any development involving the excavation or fill on a historic site or in a historic district designated as archaeologically significant pursuant to the provisions of this article. The procedure to obtain a certificate to dig, or to designate a historic site as archaeologically significant, shall be the same as indicated in section 118-562 for a certificate of appropriateness.

(2) Certificate of appropriateness conditions and safeguards. In granting a certificate of appropriateness, the historic preservation board and the planning department may prescribe appropriate conditions and safeguards, 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 certificate of appropriateness is granted, shall be deemed a violation of these land development regulations.

(b) Application

(1) An application for a certificate of appropriateness may be filed with the historic preservation board at the same time or in advance of the submission of an application for a building permit. Copies of all filed applications shall be made available for inspection by the general public.

(2) 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 individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district shall be on a form provided by the planning department and

shall include such information and attached exhibits as the board and the planning 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:

(i) Written description of proposed action.

(ii) Survey.

(iii) Complete site plan.

(iv) Materials containing detailed data as to architectural elevations and plans showing proposed changes and existing conditions to be preserved.

(v) Preliminary plans showing new construction in cases of demolition.

(vi) An historic resources report, containing all available data and historic documentation regarding the building, site or feature.

(vii) Any application which involves substantial structural alterations to or the substantial or full demolition of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, with the exception of non-substantial exterior structural repairs, alterations and improvements (as may be more specifically defined by the board in its by-laws and application procedures), shall be required to include a structural evaluation and corrective action report prepared by a professional (structural) engineer, licensed in the state as a part of the application at time of submission. A financial analysis or feasibility study addressing the demolition proposed shall not be required by the historic preservation board in their evaluation. For non-substantial exterior structural repairs, alterations and improvements (as may be more specifically defined by the board in its by-laws and application procedures), a signed and sealed engineering drawing shall be required. The structural evaluation and corrective action report shall include, but not be limited to, the following:

a. Review and analysis of structural conditions, based upon the engineer's direct on-site inspection and analysis of the structural condition of the subject property, as well as any and all earlier structural records and drawings, as may be available. This shall include documentation, in the form of photographs, plans, elevations, and written descriptions, of any and all areas, portions, or elements of the building or structure that shows existing or potential structural problems or concerns, in full accordance with the requirements of the building official.

b. Results of testing and analysis of structural materials and concrete core samples, taken at a sufficient number of locations in and about the building, inclusive of but not limited to foundations, columns, beams, walls, floors and roofs. The report shall professionally analyze and evaluate the compressive strength, chloride content, and overall structural condition of each and every core sample and assess the condition of all other structural elements or systems in the building or structure, regardless of material, that may be of structural concern.

c. Proposed corrective measures and monitoring of the work, including detailed plans, elevations, sections and specifications, as well as written descriptions of any and all structural corrective measures that will be undertaken for any and all areas, portions, or elements of the building or structure that may be of structural concern. These documents shall contain sufficient supporting evidence to establish that the corrective measures proposed will be adequate to restore and preserve the structural integrity of the identified areas, portions, or elements to be preserved, including a written and detailed description of the process by which the proposed corrective work will proceed, as well as the sequencing of the work. Finally, a written verification shall be included stating that all structural conditions throughout the building or structure shall be closely monitored by a special inspector, approved by the building department and employed by the applicant, during the course of all demolition, new construction, and bracing and shoring work. This provision is required in order to immediately identify any and all adverse changes in the structural integrity or stability of the subject building or structure during the course of the work, inclusive of architectural features. The special inspector shall provide expeditious direction to the contractor specific to how the observed adverse changes shall be quickly and properly stabilized and permanently corrected. This information shall be immediately conveyed to the city's planning and building departments for their review and any necessary actions.

d. Proposed methodology and process for demolition, including detailed plans, elevations, sections and specifications, as well as a written description of any and all temporary shoring and bracing measures and all measures required to protect the safety of the public and workers. These measures shall be fully implemented and in place prior to and during the course of any demolition and construction activity on the subject property. The documents shall contain sufficient supporting evidence to establish that the corrective measures proposed will be adequate to restore and preserve the structural integrity of the identified areas, portions, and elements, including a written and detailed description of the proposed process and sequencing of demolition, as well as a detailed description of the demolition methods to be utilized. Finally, a written verification shall be included stating that all work as described above shall be closely monitored during the course of work by a special inspector approved by the building department. This inspector shall be employed by the applicant.

e. A signed and sealed certification that the structural integrity and stability of the subject building(s)/structure(s), and its architectural features, shall not be compromised in any way during the course of any and all proposed work on the subject site.

(viii) The historic preservation board, for applications involving the full demolition of any contributing building, structure or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, may request the city to retain a licensed independent structural engineer, with expertise in historic structures, to perform an independent evaluation of the structure proposed to be demolished. The city commission, in its sole discretion, may review the request and appropriate

funds to cover the costs associated with the retention of such engineer. The planning department shall select the independent structural engineer from a qualified list it maintains. If it is determined by the independent structural engineer that the building, structure or site can be retained, preserved or restored, and a certificate of appropriateness is issued based upon such determination, then the property owner shall reimburse the city for all costs it paid to such engineer, and the property may be liened to assure payment. If it is determined by the independent structural engineer that the building, structure or site cannot be retained, preserved or restored, then the city shall bear the responsibility of all costs incurred by such independent structural engineer.

(ix) Commercial and mixed-use developments over 5,000 gross square feet and multifamily projects with more than four units or 15,000 gross square feet shall submit a transportation analysis and mitigation plan, prepared by a professional traffic engineer, licensed and registered in the State of Florida. The analysis and plan shall at a minimum provide the following:

a. Details on the impact of projected traffic on the adjacent corridors, intersections, and areas to be determined by the city.

b. Strategies to mitigate the impact of the proposed development on the adjacent transportation network, to the maximum extent feasible, in a manner consistent with the adopted transportation master plan and adopted mode share goals.

c. Whenever possible, driveways shall be minimized and use common access points to reduce potential turn movements and conflict points with pedestrians.

d. Applicable treatments may include, without limitation, transportation demand management strategies included in the transportation element of the comprehensive plan.

(c) Review procedure.

Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in subsection 2.2.2.5. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

(1) All quasi-judicial public hearing applications involving demolition, new construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district shall be placed on the next available agenda of the historic preservation board for its review and consideration after the date of receipt of a completed application.

(2) The historic preservation board shall decide, based upon the criteria set forth in subsection 118-564(6)(iv), whether or not to issue a certificate of appropriateness for demolition. A demolition permit shall not be issued until all of the following criteria are satisfied, except as permitted under subsection 118-564(6)(vi):

i. The issuance of a building permit process number for the new construction;

ii. The building permit application and all required plans for the new construction shall be reviewed and approved by the Planning Department;

iii. All applicable fees for the new construction shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;

iv. A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Greenspace Management Division;

v. All debris associated with the demolition of the structure shall be recycled, in accordance with the applicable requirements of the Florida Building Code.

(3) All applications for a certificate of appropriateness for the demolition or partial demolition of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district and all applications for a certificate of appropriateness for new building construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district shall only be considered by the board following a public hearing and shall comply with the notice requirements in accordance with section 2.2.3.1.

(4) Notwithstanding subsections 3.13.7(1) through (3) above, all applications for certificates of appropriateness involving minor repairs, demolition, alterations and improvements (as defined below and by additional design guidelines to be adopted by the board in consultation with the planning director) shall be reviewed by the staff of the board. The staff shall approve, approve with conditions, or deny a certificate of appropriateness or a certificate to dig after the date of receipt of a completed application. Such minor repairs, alterations and improvements include the following:

(i) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way (excluding rear alleys), any waterfront or public parks, provided such ground level additions do not require the demolition or alteration of architecturally significant portions of a building or structure. For those lots under 5,000 square feet, the floor area of the proposed addition may not exceed 30 percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 1,500 square feet. For those lots between 5,000 square feet and 10,000 square feet, the floor area of the proposed addition may not exceed 20 percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 2,000 square feet. For those lots greater than 10,000 square feet, the floor area of the proposed addition may not exceed 10 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.

(ii) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.

(iii) Facade and building restorations, recommended by staff, which are consistent with historic documentation, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.

(iv) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.

(v) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage, provided the degree of demolition proposed

is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.

(5) Any decision of the planning director regarding subsections 2.13.7(4)(i) and 2.13.7(4)(iii), may be appealed to the board of adjustment pursuant to the requirements of subsection 2.9.

(6) The approval of a certificate of appropriateness, shall not excuse the applicant from responsibility to comply with all other zoning and building laws and regulations of the city, county and state, including the receipt of applicable zoning variances, site plan approvals and building permits except as provided for in subsection 118-503(b).

(7) The historic preservation board may at its sole discretion, on an individual, case-by-case basis, allow a two-step process for approval of a certificate of appropriateness. The two-step process shall consist of, first, a binding, preliminary concept approval on the issues of urbanism, massing and siting; and second, approval of the project's design details (style, fenestration, materials, etc.). This two-step process shall be subject to the following:

(i) The historic preservation board shall have the sole discretion, on an individual, case-by-case basis, to decide which development projects may qualify for this two-step approval process for a certificate of appropriateness.

(ii) In the event the historic preservation board should authorize the two-step approval process, the applicant shall have a maximum of 120 days from the date of preliminary concept approval on the issues of urbanism, massing and sitting, to return to the board with fully developed design drawings and substantial details (style, fenestration, materials, etc.) for final approval, or the entire application shall become null and void. The applicant shall have six months from the date of preliminary concept approval on the issues of urbanism, massing and siting, to obtain final approval for the remainder of the project or the entire application shall become null and void. The board, at its sole discretion, may extend the time period to obtain final approval for the remainder of the project up to a maximum of one year from the date of the original submission of the application.

(8) 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 planning 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 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 further 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 subsection 2.13.7(c)(3). Preliminary evaluation applications shall not constitute a certificate of appropriateness approval, and therefore an applicant acquires no equitable estoppel rights or protections of any kind, type or nature based upon the filing 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 applications. Preliminary evaluations shall not entitle applicants to any of the benefits accorded to applicants who have received certificate of appropriateness 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.

(9) Notwithstanding any other provisions of this chapter, certificates of appropriateness for demolition for any building, structure, improvement, or landscape feature on a historic site or located within a historic district and located on city-owned property or rights-of-way, and property owned by the Miami Beach Redevelopment Agency, the actions of the historic preservation board shall be advisory with the right of approval or disapproval vested with the city commission.

(d) Decisions on certificates of appropriateness.

(1) Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in subsection 2.2.2.5. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

(2) A decision on an application for a certificate of appropriateness shall be based upon the following:

(i) Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable compliance with the following:

a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time; and

b. Other guidelines/policies/plans adopted or approved by resolution or ordinance by the city commission.

(ii) In determining whether a particular application is compatible with surrounding properties the historic preservation board shall consider the following:

a. Exterior architectural features.

b. General design, scale, massing and arrangement.

c. Texture and material and color.

d. The relationship of subsections a., b., c., above, to other structures and features of the district.

e. The purpose for which the district was created.

f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.

g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.

h. The original architectural design or any subsequent modifications that have acquired significance.

(iii) 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, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The historic preservation board and planning department shall review plans based upon the below stated criteria and recommendations of the planning department may include, but not be limited to, comments from the building department. The criteria referenced above are as follows:

a. 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.

b. 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.

c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

d. The proposed structure, or additions to an existing structure are appropriate to and compatible with the environment and adjacent structures, and enhance the appearance of the surrounding properties, or the purposes for which the district was created.

e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces 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 preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

f. 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 any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

g. 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 and consistent with a city master plan, where applicable.

h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

i. 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.

j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, 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 sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking

structure from the surrounding area and is integrated with the overall appearance of the project.

l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.

o. 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.

p. In addition to the foregoing criteria, subsection [118-]104(6)(t) and the requirements of chapter 104, of the City Code, shall apply to the historic preservation 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.

q. The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

(3) Where, by reason of particular site conditions and restraints or because of unusual circumstances applicable to a particular applicant's property, strict enforcement of the provisions of this article would result in an undue economic hardship to the applicant, the board shall have the power to vary or modify the provisions in this article, including adherence to the adopted evaluation guidelines. However, the board shall not have the power to vary or modify any portion of subsection 118-532(f) and subsection 118-564(f)(11) pertaining to the required timeframes to obtain a building permit or the granting of extensions of time to obtain a building permit. Any applicant wishing to assert undue hardship must furnish to the board's staff no later than 15 days prior to the board's meeting, to consider the request, ten copies of a written statement presenting the factual data establishing such economic hardship. The written statement presenting factual data shall be in the form of a sworn affidavit containing all of the following information:

(i) The amount paid for the property, the date of purchase and the party from whom purchased;

(ii) The assessed value of the land and improvements thereon according to the three most recent assessments;

(iii) Real estate taxes for the previous five years;

(iv) All appraisals obtained within the previous five years by the owner or applicant in connection with his purchase, financing or ownership of the property;

(v) Any listing of the property for sale or rent, price asked and offers received, if any;

(vi) Any consideration by the applicant as to profitable adaptive uses for the property;

(vii) With respect to income producing property only, annual gross income from the property for the previous five years, operating and maintenance expenses for the previous five years, and annual cash flow, if any, for the previous five years; and

(viii) Such additional information as may be relevant to a determination of undue economic hardship.

In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained. The fact that compliance would result in some increase in costs shall not be considered undue economic hardship if the use of the property is still economically viable.

(4) An approved certificate of appropriateness, together with any conditions or limitations imposed by the board, shall be in written form and attached to the site plan or the schematics submitted as part of the applications. Copies of the certificate shall be kept on file with the board and shall be transmitted to the building official. The applicant shall receive a copy of the certificate of appropriateness.

(5) After deciding to grant a request for a certificate of appropriateness for demolition the historic preservation board may stay for a fixed period of time, not to exceed six months, the issuance of the certificate of appropriateness for demolition. Should the board grant a stay for demolition, the length of such a stay shall be determined by the board based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. The effective date of the stay shall be from the date of the historic preservation board's public hearing. Alternatively, if an appeal to a special master is filed, upon request of the petitioner, the board may stay demolition pending the conclusion of that appeal and any subsequent court review of the matter.

(6) Certificate of appropriateness for demolition.

(i) Demolition of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district may occur in emergency situations pursuant to an order of a government agency or a court of appropriate jurisdiction or, if granted, pursuant to an application by the owner for a certificate of appropriateness for the demolition of a designated historic building, structure, improvement, landscape feature or site.

(ii) Government agencies having the authority to demolish unsafe structures shall receive notice that a building or structure considered for demolition is a building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district. The historic preservation board shall be deemed an interested party and shall be entitled to receive notice of any public hearings conducted by such government agency regarding demolition of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district. The board may make recommendations and suggestions to the government agency and the owner relative to the feasibility of and the public interest in preserving it. Prior to requesting a hearing regarding an unsafe structure which is a building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, the city's building official shall send notice

of the request to the historic preservation board. The matter shall be placed on the agenda of the next board meeting, or on the agenda of an emergency meeting of the board. However, action or inaction by the board shall not delay action of the building official.

(iii) No permit for voluntary demolition of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district shall be issued to the owner thereof until an application for a certificate of appropriateness for demolition has been submitted and approved pursuant to the procedures in these land development regulations. In determining whether any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district should be demolished the historic preservation board shall be guided by the criteria contained in subsection 2.13.7(6)(iv). After a demolition denial, or during a demolition delay period, the historic preservation board may take such steps as it deems necessary to preserve the structure concerned in accordance with the purposes and procedures of these land development regulations. Such steps may include, but shall not be limited to, consultation with civil groups, public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structure or other feature.

(iv) Evaluation criteria. The historic preservation board shall consider the following criteria in evaluating applications for a certificate of appropriateness for demolition of historic buildings, historic structures, historic improvements or historic sites, historic landscape features and all public interior spaces, structures and buildings located in a historic district or architecturally significant feature of a public area of the interior of a historic or contributing building.

a. The building, structure, improvement, or site is designated on either a national or state level, as part of a historic preservation district or as a historic architectural landmark or site, or is designated pursuant to division 4 of this article as a historic building, historic structure or historic site, historic improvement, historic landscape feature, historic interior or the structure is of such historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.

b. The building, structure, improvement, or site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty or expense.

c. The building, structure, improvement, or site is one of the last remaining examples of its kind in the neighborhood, the county, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.

d. The building, structure, improvement, or site is a contributing building, structure, improvement, site or landscape feature rather than a noncontributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1, or is an architecturally significant feature of a public area of the interior of a historic or contributing building.

e. Retention of the building, structure, improvement, landscape feature or site promotes the general welfare of the city by providing an opportunity

for study of local history, architecture, and design, or by developing an understanding of the importance and value of a particular culture and heritage.

f. If the proposed demolition is for the purpose of constructing a parking garage, the board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, or the design review guidelines for that particular district. If the district in which the property is located lists retail uses as an allowable use, then the ground floor shall contain such uses. At-grade parking lots shall not be considered under this regulation. Parking lots or garages as main permitted uses shall not be permitted on lots which have a lot line on Ocean Drive or Espanola Way.

g. In the event an applicant or property owner proposes the total demolition of a contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is approved and carried out.

h. The county unsafe structures board has ordered the demolition of a structure without option.

(v) If a certificate of appropriateness for demolition is issued, the historic preservation board may require a marker on the property which provides the historic background of the structure.

(vi) A building permit shall not be issued for the demolition of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district until the new or replacement construction for the property has been approved and until all of the following criteria are satisfied:

a. The issuance of a building permit process number for the new construction;

b. The building permit application and all required plans for the new construction shall be reviewed and approved by the planning department;

c. All applicable fees for the new construction shall be paid, including, but not limited to, building permit and impact fees, as well as applicable concurrency and parking impact fees;

d. A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the Greenspace Management Division;

e. All debris associated with the demolition of the structure shall be recycled, in accordance with the applicable requirements of the Florida Building Code.

For noncontributing structures located in one of the city's historic districts, this requirement may be waived or another permit substituted at the sole discretion of the historic preservation board.

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(vii) No building permit shall be issued by the building official which affects any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district without a certificate of appropriateness.

(viii) All work performed pursuant to the issuance of any certificate of appropriateness shall conform to the requirements of the certificate. The building official is designated as the individual to assist the board by making necessary inspections in connection with enforcement of these land development regulations and shall be empowered to issue a stop work order if performance is not in accordance with the issued certificate or these land development regulations. No work shall proceed as long as a stop work order continues in effect. Copies of inspection reports shall be furnished to the historic preservation board and copies of any stop work orders both, to the historic preservation board and the applicant. The building official shall be responsible for ensuring that any work not in accordance with an issued certificate of appropriateness shall be corrected to comply with the certificate of appropriateness prior to withdrawing the stop work order.

(ix) For the purpose of remedying emergency conditions determined to be dangerous to life, health or property, nothing contained herein shall prevent the making of any temporary construction, reconstruction or other repairs to a building or site pursuant to an order of a government agency or a court of competent jurisdiction. Provided, however, that in the event of demolition of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, an emergency meeting of the historic preservation board shall first be convened as set forth in subsection 118-503(b)(2). The owner of a building damaged by fire or natural calamity shall be permitted to stabilize the building immediately without historic preservation board approval, and to rehabilitate at a later date under the procedures as set forth in these land development regulations.

(x) *Expiration of order of board.* 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 a certificate of appropriateness for demolition was granted to obtain a full building permit. The foregoing 18-month time period or such lesser time as may be specified by the board, includes the time period during which an appeal of the decision of the historic preservation board may be filed. If the applicant fails to obtain a full building permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which a certificate of appropriateness for demolition was granted or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the certificate of appropriateness for demolition 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 historic preservation board, at its sole discretion, provided the applicant submits a request in writing to the planning department no later than 90 calendar days after the expiration of the original approval, setting forth 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 subsection 2.2.3.8 of these land development regulations relating to appealed orders, and tolling.

2.13.8 Special review procedure.

For minor exterior structural repairs, alterations and improvements, associated with single- family homes located within designated historic districts, that are visible from a public way, or work that affects the exterior of the building associated with rehabilitations and additions to existing buildings, the planning director, or designee, shall have the authority to approve, approve with conditions or deny an application on behalf of the board. The director's decision shall be based upon the criteria listed in this article. Any appeal of the decision of the planning director shall be filed pursuant to the requirements of subsection 2.9 of these land development regulations.

2.13.9 Historic Designation

(a) Historic designation procedure

(1) Requests for designation of an individual historic site or district may be made to the historic preservation board by motion of the board, the city manager, by resolution of the planning board or city commission, by any property owner in respect to his own property, by a majority of property owners of record within a proposed district, by resolution of the county historic preservation board, or by resolution of any organization whose purpose is to promote the preservation of historic sites.

(2) Proposals for designation shall include a completed application form available from the planning department.

(3) Any applicant, other than the city commission, a city board or other city official, 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.

(4) *Preliminary review*. Upon receipt of a completed application and fees, if applicable, the planning department shall prepare an evaluation and recommendation for consideration by the board. After considering the department's recommendation, a majority vote of the board shall be necessary to direct the department to prepare a designation report. The city commission shall be notified of the board's decision and the initial boundaries proposed for designation. Within 60 days of the vote of the historic preservation board to direct the planning department to prepare a designation report, the city commission may, by a five-sevenths vote, deny or modify the proposed request for designation, as well as establish specific timeframes for the completion of the evaluation and recommendation or designation report.

(5) *Requests for demolition permits.* Following a vote of the historic preservation board, after a public hearing noticed according to the requirements of subsection 2.2.3.1, to (i) instruct the planning department to prepare a request for the designation of an individual historic site or district and an evaluation and recommendation in accordance with subsection 2.13.9(a)(4), or (ii) to extend the interim procedures imposed under paragraph (7) below, no permit for demolition affecting the subject structure, or any property within the proposed designation site or district, shall be issued until one of the following occurs:

(i) The proposed historic preservation designation is approved by the city commission and a certificate of appropriateness is awarded by the board pursuant to subsection 2.13.7 this section;

(ii) The proposed historic preservation designation is denied by the city commission; or

(iii) The applicant applies for an accelerated approval of a certificate of appropriateness prior to the final enactment of the historic preservation designation for the proposed site; and such certificate of appropriateness has been issued under the provisions of subsection 2.13.7 of this section. Such request for an accelerated certificate of appropriateness shall also include a request for the approval of any new construction. The planning department shall place an application for an accelerated approval of a certificate of appropriateness upon the next available agenda of the historic preservation board. Any application pending before the design review board that includes any demolition of a contributing structure within a proposed historic district or site may not proceed until such time as an accelerated certificate of appropriateness is approved by the historic preservation board.

(6) *Timeframes for preparing designation reports.* The applicant or the planning department shall have up to one year from the date the historic preservation board votes to instruct staff to prepare either an evaluation and recommendation, or a designation report, to prepare such evaluation and recommendation, or designation report and present it to the board for consideration, unless a different timeframe is set pursuant to subsection (4) above. If either the evaluation and recommendation, or designation report is not completed within such time periods, the applicant or the planning department may request approval from the city commission for additional periods of six months or less within which to complete the evaluation and recommendation, or designation report.

(7) *Interim procedures for demolition permits*. The persons or entities listed in subsection (a)(1) above, may request the board to instruct the planning department to prepare a designation report and implement interim procedures for demolition permits. The planning director may prepare and submit to the historic preservation board an evaluation and recommendation for designation at a meeting noticed in a newspaper of general circulation at least five business days in advance of the hearing. The property owner shall be notified in writing, by regular mail sent to the address of the owner on the Miami-Dade County Property Appraiser's tax records, and postmarked at least five business days in advance of the hearing. The city commission shall also then be notified. If the historic preservation board finds that the evaluation and recommendation present a prima facie case that the property meets the criteria of the land development regulations for designation, it shall instruct the planning department to prepare a designation report, in which case the procedures for the issuance of a demolition permit set forth in subsection (5) above, shall be applicable for 60 days from the date of such vote. Within 60 days of the vote by the historic preservation board to instruct the planning department to prepare a designation report the city commission may, by a five-sevenths vote, deny or modify the proposed request for designation, as well as establish specific timeframes for the completion of the evaluation and recommendation or designation report. The interim procedures shall continue to apply after the 60 days expires only by a vote of the historic preservation board to proceed with the designation process at a public hearing with notice as provided in subsection (5) above, or by agreement in writing of the property owner. Application and fees, if applicable, shall be filed within ten days of the board's vote at

the initial public hearing, but shall not delay commencement of the interim procedures. The interim procedures herein shall not be applicable to the individual designation of single-family homes located in single-family zoning districts.

(8) *Historic preservation board public hearing and recommendation.* A quasi-judicial public hearing on a proposed site specific historic preservation designation shall be conducted by the historic preservation board after the date a designation report has been filed, and shall comply with the notice requirements in accordance with subsection 2.2.3.1. A designation of a local historic district shall be noticed in accordance with subsection 2.5.1.

(i) *Recommendation.* If the historic preservation board finds the proposed designation meets the intent and criteria set forth in this article, it shall transmit such recommendation to the planning board and the city commission, along with the designation report, and any additions or modifications deemed appropriate. If the historic preservation board finds that the proposed designation does not meet the intent and criteria set out in this article, no further board action shall be required.

(ii) *Affirmative recommendation.* Upon an affirmative recommendation by the historic preservation board, the proposed designation shall be transmitted to the planning board who shall process the proposed designation as an amendment to these land development regulations in accordance with the procedures specified in subsection 2.5.1 of these land development regulations.

(9) *City commission.* No building, structure, improvement, landscape feature, interior, site or district shall be designated as an historic building, historic structure, historic improvement, historic interior, historic site, historic landscape feature or historic district except by a five-sevenths majority vote of the city commission, with the exception of single family homes designated as individual historic structures, in accordance with subsection 2.13.9(a)(10) below, which shall not require city commission approval. A listing of such single family homes shall be kept on file in the planning department. All sites and districts designated as historic sites and districts shall be delineated on the city's zoning map, pursuant to section 142-71, as an overlay district.

(10) *Designation procedures initiated by owners of single-family homes in single-family districts.* Notwithstanding the above, the following shall apply to any request by property owners for the individual designation of their single-family homes as historic structures:

(i) *Application*. An application for the designation of a single-family home as an historic structure shall be submitted by the property owner to the planning department for recommendation to the historic preservation board. The historic preservation board will make a determination as to whether the subject structure may be designated as an historic structure based upon the requirements and criteria of subsection 2.13.9(b). The following information must be submitted with the application:

a. A current survey (no less than six months old), which is signed and sealed by a professional engineer or a professional land surveyor, and a legal description of the property.

b. An historic resources report containing all relevant and available data including, but not limited to, the building card, historic microfilm and historic photos, which delineates the historic, cultural, aesthetic or architectural significance of the subject structure.

c. Existing conditions site plan, floor plans and elevation drawings of the subject structure.
d. A detailed photographic record of the exterior of the subject structure.
e. A completed application form.

Upon receipt of a completed application package, the planning department shall prepare a designation report that shall be presented to the board at a regularly scheduled meeting.

(ii) *Decision of the board.* If, after a public hearing, the historic preservation board finds that the proposed single-family designation application meets the criteria set forth in paragraph (b) below, it shall designate the single-family home as a local historic structure. Upon the designation of a single-family home as an historic structure, the structure shall be subject to the certificate of appropriateness requirements of subsection 2.13.7, with the exception of the interior areas of the structure, which shall not be subject to such regulations.

(iii) Notwithstanding the requirements of section 2.13 of the land development regulations, the following improvements proposed for a single-family home individually designated as an historic structure may be approved by the staff of the planning department, provided such improvements are consistent with the certificate of appropriateness criteria in subsection 2.13.7 of these land development regulations:

a. Additions to single-family structures, whether attached or detached, which are not substantially visible from the public right-of-way or from the ocean front.
b. Modifications, additions, alterations and demolition to single-family structures, provided such modifications, additions, alterations and demolition are substantially in accordance with historic documentation, or consistent with the architectural scale, massing, character and style of the structure and do not result in the removal of significant architectural features, details or finishes.

(b) Criteria for designation

(1) The historic preservation board shall have the authority to recommend that properties be designated as historic buildings, historic structures, historic improvements, historic landscape features, historic interiors (architecturally significant public portions only), historic sites, or historic districts if they are significant in the historical, architectural, cultural, aesthetic or archeological heritage of the city, the county, state or nation. Such properties shall possess an integrity of location, design, setting, materials, workmanship, feeling or association and meet at least one of the following criteria:

(i) Association with events that have made a significant contribution to the history of the city, the county, state or nation.
(ii) Association with the lives of persons significant in the city's past history.
(iii) Embody the distinctive characteristics of a historical period, architectural or design style or method of construction.
(iv) Possess high artistic values.
(v) Represent the work of a master, serve as an outstanding or representative work of a master designer, architect or builder who contributed to our historical, aesthetic or architectural heritage.
(vi) Have yielded, or are likely to yield information important in pre-history or history.
(vii) Be listed in the National Register of Historic Places.
(ix) Consist of a geographically definable area that possesses a significant concentration of sites, buildings or structures united by historically significant past

events or aesthetically by plan or physical development, whose components may lack individual distinction.

(2) A building, structure (including the public portions of the interior), improvement or landscape feature may be designated historic even if it has been altered if the alteration is reversible and the most significant architectural elements are intact and repairable.

(3) The historic preservation board shall consider if the historic buildings, historic structures, historic improvements, historic landscape features, historic interiors (architecturally significant public portions only), historic sites, or historic districts comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.

(c) *Compliance with zoning regulations.* Compliance with all other zoning regulations is required when not specifically addressed in this section.

(d) *Application of equitable estoppel to permits other than demolition.* Historic preservation designations shall be enforced against all applications or requests for project approval upon the earlier of the favorable recommendation by the historic preservation board or the applicable effective date of the proposed historic designation as more particularly provided herein. After submission of a completed application for a project approval, to the extent a proposed historic designation would, upon adoption, render the application or project nonconforming or subject the application or project to additional review procedures, then the procedures set forth in subsection 2.4.3 of these land development regulations shall apply with the following exceptions:

(1) All references to recommendations by the planning board in subsection 2.4.3 shall be interpreted as meaning recommendations by the historic preservation board; and

(2) All references to adoption by the city commission within a 90-day period shall be interpreted to provide for adoption by the city commission within a 120-day period.

(e) Historic preservation sites and districts include:

(1) *Historic preservation sites (HPS).*

a. GU/HPS-1: Old City Hall, 1130 Washington Avenue Block 23, Ocean Beach Addition No. 3, as recorded in Plat Book 2 at Page 81 of the public records of the county.

b. CCC/HPS-2: 21st Street Recreation Center, 2100 Washington Avenue, beginning at intersection of west right-of-way of Washington Avenue and south boundary of Collins Canal in Section 27, Range 42 east, Township 53 South, for point of beginning, then south 510 feet; west 165 feet, north 45 degrees to west 115 feet, north 160 feet, west 140 feet, north 70 feet; northeast along south boundary of Collins Canal 435 feet to point of beginning.

c. RPS-3/HPS-3: Congregation Beth Jacob Complex, 301-317 Washington Avenue, Lots 9, 10 and 11, Block 7, Ocean Beach Subdivision, as recorded in Plat Book 7, Page 38 of the public records of the county.

d. HPS-4: Venetian Causeway Historic Preservation Site (HPS-4): The public right-of-way of the Venetian Causeway from the city limit west of San Marino Island to the east end of the bridge east of Belle Island.

e. RM-1/HPS-5: The Miami Beach Woman's Club Site, 2401 Pine Tree Drive, Flamingo Terrace Subdivision No. 1; as recorded in the Public Records of Dade County, Florida. The designated area consists of the exterior premises and

those portions of the interior described as architecturally significant in the addendum to designation report dated February 8, 1995.

f. CD-2, GU, RS-2, RS-3/HPS-6: Sunset Island Bridges #1, 2 and 4, as described below: The boundaries of Sunset Island Bridge #1 commence at the intersection of the centerline of Sunset Drive and W. 21st Street as shown on PLAT ENTITLED SUNSET LAKE EXTENSION, recorded in Plat Book 40, page 23, Public Records of Dade County, Florida; thence run South 45° 00' 00" East (assumed bearing) along the extension of the centerline of said Sunset Drive for a distance of 44.90 feet; thence South 21° 47' 10" East for a distance of 113.22 feet to the POINT OF BEGINNING of the land herein described; thence South 65° 06' 00" West for a distance of 29.35 feet to a point located on the Easterly line of Lot 1, Block 5 of said PLAT ENTITLED SUNSET LAKE EXTENSION; thence South 28° 35' 00" East for a distance of 14.49 feet; thence along the arc of a curve concave to the northwest, whose radius bears North 19° 38' 22" West feet, having a central angle of 1° 30' 50" and a radius of 310.00 feet for a distance of 8.19 feet; thence South 21° 47' 10" East for a distance of 59.23 feet; thence South 68° 12' 50" West for a distance of 2.25 feet; thence South 23° 12' 50" West for a distance of 1.50 feet; thence South 21° 47' 10" East for a distance of 3.88 feet; thence South 66° 47' 10" East for a distance of 1.50 feet; thence North 68° 12' 50" East for a distance of 2.25 feet; thence South 21° 47' 10" East, for a distance of 58.12 feet; thence along the arc of a curve, concave to the northwest whose radius bears North 21° 20' 00" West, having a central angle of 1° 03' 54" and a radius of 433.35 feet for a distance of 8.06 feet; thence South 9° 49' 50" East for a distance of 34.50 feet to a point located on the West line of Lot 21, Block 15-B, RESUBDIVISION OF LOTS 16 TO 21 INCLUSIVE BLOCK 15 OF THE AMENDED SUNSET LAKE SUBDIVISION OF MIAMI BEACH BAY SHORE COMPANY, recorded in Plat Book 9, at page 145, Public Records of Dade County, Florida; thence North 68° 12' 50" East for a distance of 66.80 feet to a point located on the East line of said Lot 21; thence North 21° 24' 02" West along the East line of said Lot 21 and its northerly extension for a distance of 36.31 feet; thence run along the arc of a curve concave to the northwest, whose radius bears North 28° 12' 06" West having a central angle of 1° 43' 58" and a radius of 433.35 feet for a distance of 13.11 feet; thence North 21° 47' 10" West, for a distance of 123.93 feet; thence along the arc of a curve concave to the northwest whose radius bears North 28° 18' 07" West, having a central angle of 2° 25' 37" and a radius of 310.00 feet for a distance of 13.10 feet; thence North 28° 35' 00" West for a distance of 14.18 feet to a point located on the southwesterly line of Lot 7, Block 4 of the above mentioned PLAT ENTITLED SUNSET LAKE EXTENSION; thence South 65° 06' 00" West for a distance of 30.78 feet to the POINT OF BEGINNING. Said land located lying and being in Section 34, Township 53 South, Range 42 East, City of Miami Beach, Dade County, Florida, and containing 7884 square feet more or less or 0.1810 acres more or less, and

Sunset Island Bridge #2 commences at the intersection of the centerlines of W. 21st Street and Sunset Drive as shown in 3rd REVISED PLAT OF SUNSET ISLANDS, recorded in Plat Book 40, at page 8, Public Records of Dade County, Florida; thence run north 45° 00' 00" west (assumed bearing), along the centerline of said Sunset Drive for a distance of 657.86 feet to the POINT OF BEGINNING of the land herein described; thence south 88° 05' 00" east, for a distance of 43.92 feet to a point located in the westerly line of Lot 1, Block 4F of the above mentioned 3rd REVISED PLAT OF SUNSET ISLANDS; thence north 45° 00' 00" west parallel to the centerline of said Sunset Drive for a distance of 12.75 feet; thence north 88° 05' 00" west for a distance of 19.09 feet; thence north 45° 00' 00" west parallel to the centerline of said Sunset Drive for a distance of 145.65 feet; thence south 89° 13' 20" east, for a

distance of 18.69 feet; thence north 45° 00' 00" west for a distance of 11.85 feet to a point located on the westerly line of Lot 26, Block 3D of said 3rd REVISED PLAT OF SUNSET ISLANDS; thence north 89° 13' 20" west for a distance of 86.03 feet to a point located on the easterly line of Lot 1, Block 3H of said 3rd REVISED PLAT OF SUNSET ISLANDS; thence south 45° 00' 00" east for a distance of 11.85 feet; thence south 89° 13' 20" east for a distance of 12.44 feet; thence south 45° 00' 00" east for a distance of 144.05 feet; thence north 88° 05' 00" west, for a distance of 12.69 feet; thence south 45° 00' 00" east for a distance of 12.75 feet to a point located on the easterly line of Lot 31, Block 4A of the above mentioned 3rd REVISED PLAT OF SUNSET ISLANDS; thence south 88° 05' 00" east for a distance of 43.92 feet to the POINT OF BEGINNING. Said land located lying and being in Section 28, Township 53 south range 42 east, City of Miami Beach, Dade County, Florida, and containing 7023 square feet more or less or 0.1612 acres more or less, and Sunset Island Bridge #4 commences at the intersection of the centerline of North Bay Road and W. 29th Street, as shown in AMENDED PLAT OF SUNSET LAKE SUBDIVISION OF THE MIAMI BEACH BAY SHORE COMPANY, recorded in Plat Book 8, at page 52, Public Records of Dade County Florida, thence due West (assumed bearing) along the centerline of said W. 29th Street for a distance of 375.50 feet to the POINT OF BEGINNING of the land herein described; thence due north for a distance of 35.00 feet to a point located on the south line of Lot 1, Block 10 of the above mentioned AMENDED PLAT OF SUNSET LAKE SUBDIVISION, thence due west parallel to the centerline of said W. 29th Street for a distance of 26.50 feet; thence due south for a distance of 13.70 feet; thence due west, parallel to the centerline of said W. 29th Street for a distance of 136.00 feet; thence, due north for a distance of 8.70 feet; thence, due west for a distance of 12.20 feet to a point located on the south line of Lot 2, Block 1A, PLAT ENTITLED SUNSET LAKE EXTENSION, recorded in Plat Book 40, at page 23, Public Records of Dade County, Florida; thence, due south for a distance of 60.00 feet to a point located on the north line of Lot 1, Block 1 of the above mentioned PLAT ENTITLED SUNSET LAKE EXTENSION; thence, due east for a distance of 12.20 feet; thence due north for a distance of 12.90 feet; thence due east parallel to the centerline of said W. 29th Street for a distance of 136.00 feet; thence due south for a distance of 17.90 feet; thence due east, parallel to the centerline of W. 29th Street for a distance of 26.50 feet to a point located on the north line of Lot 13, Block 12 of the above mentioned AMENDED PLAT OF SUNSET LAKE SUBDIVISION OF MIAMI BEACH BAY SHORE COMPANY; thence due north for a distance of 35.00 feet to the POINT OF BEGINNING. Said lands located, lying and being in Section 27, Township 53 South, Range 42 East, City of Miami Beach, Dade County, Florida, and containing 7,809.00 square feet more or less or 0.1793 acres more or less.

g. RM-2/HPS-7: The Bath Club, 5937 Collins Avenue, as more particularly described as Tract 1, THE BATH CLUB PROPERTY, according to the Plat thereof, recorded in Plat Book 40, at Page 14, of the Public Records of Miami-Dade County, Florida. Said property bounded as follows: On the East by the Erosion Control Line; on the West by the Easterly line of Collins Avenue; and on the North and South by the Northerly and Southerly Lines of Tract 1. Said lands located, lying and being in the City of Miami Beach, Florida, and containing 230,124 square feet, more or less, or 5.28 acres, more or less.

h. GU/HPS-8: Dade Boulevard Fire Station, 2300 Pinetree Drive, as more particularly described as follows: Commence at the point of intersection of the south Right-of-Way of 24th Street and the east Right-of-Way line of Pinetree

Drive, as shown in DEDICATION OF PORTION OF LIBERTY AVENUE AND WEST 24TH STREET, recorded in Plat Book 26, at Page 13, Public Records of Miami-Dade County, Florida; thence South 11° 33' 30" East, along the east Right-of-Way of Pinetree Drive for a distance of 100.00 feet; thence South 78° 26' 30" West for a distance of 100.00 feet to the POINT OF BEGINNING of the tract of land herein described; thence continue South 78° 26' 30" West for a distance of 256.02 feet; thence South 27° 42' 00" West for a distance of 172.82 feet; thence South 41° 20' 42" East for a distance of 253.53 feet to a point located on the north Right-of-Way line of Dade Boulevard; thence North 38° 39' 55" East, along the north Right-of-Way line of Dade Boulevard for a distance of 157.02 feet to a point of tangency; thence run along the arc of a concave curve to the northwest, having a central angle of 50° 13' 25" and a radius of 329.70 feet for a distance of 289.00 feet to the POINT OF BEGINNING. Said lands located, lying and being in the City of Miami Beach, Florida, and containing 80,949.47 square feet, more or less, or 1.8583 acres, more or less.

i. Public Right-of-Way/HPS-9: Pinetree Drive Historic Roadway, more particularly described as follows: A portion of the public right-of-way of Pinetree Drive, bounded on the north by the easterly extension of the centerline of W. 40th Street, as shown in ORCHARD SUBDIVISION No. 2 AND 3, Plat Book 8, Page 116, Public Records of Miami-Dade County, Florida, and bounded on the south by the easterly extension of the centerline of W. 30th Street as shown in MIAMI BEACH IMPROVEMENT CO.'S PLAT OF ORCHARD SUBDIVISION No. 1, Plat Book 6, Page 111, Public Records of Miami-Dade County, Florida. And together with: Commence at the intersection of the centerline of 40th Street and the northerly extension of the east line of Block 50, ORCHARD SUBDIVISION No. 2 & 3, Plat Book 8, Page 116, Public Records of Miami-Dade County, Florida, said point being the POINT OF BEGINNING; thence northerly, along the northerly extension of the east line of said Block 50 to the point of intersection with the north right-of-way line of 40th Street; thence deflect 30° to the right for a distance of 120.00 feet; thence northerly, along a line parallel and 60.00 feet (measured at right angles) east of the east line of Block 53 of the above mentioned ORCHARD SUBDIVISION No. 2 & 3, to the point of intersection with the south right-of-way line of 41st Street (Arthur Godfrey Road); thence run northeasterly to the point of intersection of the easterly extension of the south line of Block 3, and the southerly extension of the east line of said Block 3, as shown in the ORCHARD SUBDIVISION No. 4, Plat Book 25, Page 30, Public Record of Miami-Dade County, Florida; thence easterly, along the easterly extension of the north right-of-way of W. 41st Street (Arthur Godfrey Road) to the point of intersection with the southerly extension of the west line of Lot 1, FLAMINGO BAY SUBDIVISION No. 1, recorded in Plat Book 6, Page 101, Public Records of Miami-Dade County, Florida; thence southerly across W. 41st Street (Arthur Godfrey Road) to the point of intersection of the north and west lines of Lot 29, Block 3, FLAMINGO TERRACE SUBDIVISION, recorded in Plat Book 10, Page 3, Public Records of Miami-Dade County, Florida; thence continue southerly, along the west line of Lots 29 and 28 of said Block 3 and the northerly extension of the west line of said Lot 29, to the most southerly point of tangency of the west line of said Lot 28; thence southerly, radial to the arc forming the north boundary of Lot 12, Block 4, of said FLAMINGO TERRACE SUBDIVISION to the point of intersection of said arc; thence run west-southwest, along the arc forming the north boundary of said Lot 12 to the point of intersection with the easterly extension of the centerline of W. 40th Street; thence westerly along the easterly extension of the centerline of 40th Street to the POINT OF BEGINNING. And together with: A portion of the public right-of-way of Pinetree Drive, bounded on the south by the easterly extension of the south line of Block 3 as shown in ORCHARD SUBDIVISION

No. 4, Plat Book 25, Page 30, Public Records of Miami-Dade County, Florida, and bounded on the north by the easterly extension of the north line of Lot 4, Block D, as shown in SURPRISE LAKE SUBDIVISION, recorded in Plat Book 9, Page 114, Public Records of Miami-Dade County, Florida. Said lands located lying and being in the City of Miami Beach, County of Miami-Dade, Florida.

j. ROS/HPS-10: The Flagler Memorial and Monument Island Historic Site, more particularly described as follows; A tract of land known as "MONUMENT ISLAND," located in Section 33, Township 53 South, Range 42 East, bounded by the High Water Mark, and more particularly described as follows: Commence at the point of intersection of the west line of West Avenue and the south line of 14th Street, as shown in the PLAT OF THE SUBDIVISION OF THE NORTH 230 FEET OF LOT 1 OF THE SUBDIVISION OF BLOCK 80 OF THE ALTON BEACH REALTY COMPANY recorded in Plat Book 34, at Page 25, Public Records of Miami-Dade County, Florida; thence run South 88° 26' 30" West, along the south line of said 14th Street for a distance of 637.12 feet; thence North 1° 33' 30" West for a distance of 5.41 feet; thence North 86° 10' 02" West across Biscayne Bay for a distance of 2,552.29 feet; thence South 40° 12' 50" West for a distance of 260.10 feet; thence South 55° 56' 20" West for a distance of 211.18 feet to the POINT OF BEGINNING of the tract of land herein described; thence along the following courses; South 83° 50' 56" East for a distance of 71.15 feet, North 55° 48' 20" East for a distance of 99.61 feet; North 46° 34' 38" East for a distance of 79.90 feet; North 55° 10' 14" East for a distance of 73.47 feet; North 48° 21' 04" East for a distance of 58.45 feet; North 34° 35' 34" East for a distance of 84.93 feet; North 12° 09' 31" East for a distance of 74.10 feet; North 4° 53' 49" West for a distance of 32.15 feet; North 29° 25' 26" West for a distance of 26.28 feet; North 50° 58' 18" West for a distance of 152.34 feet; North 65° 58' 36" West for a distance of 29.55 feet; North 83° 03' 21" West for a distance of 38.13 feet; South 86° 17' 27" West for a distance of 40.84 feet; South 62° 55' 22" West for a distance of 42.88 feet; South 20° 02' 40" West for a distance of 71.04 feet; South 43° 06' 37" West for a distance of 37.11 feet; South 59° 17' 28" West for a distance of 147.67 feet; South 50° 08' 01" West for a distance of 62.59 feet; South 16° 24' 16" West for a distance of 43.27 feet; South 16° 45' 18" East for a distance of 93.91 feet; South 34° 52' 53" East for a distance of 65.54 feet; South 42° 40' 51" East for a distance of 105.03 feet to the POINT OF BEGINNING. Said lands located, lying, and being in the City of Miami Beach, Miami-Dade County, Florida, and containing 3.6723 acres (more or less), together with full riparian rights.

k. PF and ROS/HPS-11: The Historic 69th Street Fire Station, more particularly described as follows: A portion of Lots 1 through 6, Block M. CORRECTED PLAT OF ATLANTIC HEIGHTS, recorded in Plat Book 9, at Page 14, Public Records of Miami-Dade County, Florida, together with the riparian rights appurtenant and adjacent thereto, and together with a portion of Atlantic Drive (now 69th Street). Said portion of land located in the south half of Government Lot One, Section 11, Township 53 South, Range 42 East, and more particularly described as follows: Commence at the southeast corner of Lot 6, Block M, of the above mentioned CORRECTED PLAT OF ATLANTIC HEIGHTS; thence North 89° 12' 34" West, along the south line of said Lot 6 for a distance of 38.36 feet to the POINT OF BEGINNING of the tract of land herein described; then North 26° 00' 53" West along the new right-of-way line of Indian Creek Drive for a distance of 427.95 feet to the point of intersection with the southerly line of Lot 6, Block N, of said CORRECTED PLAT OF ATLANTIC HEIGHTS; thence run along the arc of a curve concave to the northwest whose radius bears North 62° 11' 32" West, having a central angle of 63° 01' 09" and a radius of 20.00 feet for a distance of 22.00 feet to a point of tangency; thence North 89° 10' 23" West, along the north right-of-way line of Atlantic Drive (now 69th Street) for a

distance of 152.47 feet; thence South 16° 52' 06" East for a distance of 74.53 feet; thence South 19° 41' 17" East for a distance of 37.33 feet to a point of tangency; thence along the arc of a curve concave to the northeast, having a central angle of 19° 13' 49" and a radius of 703.27 feet for a distance of 236.04 feet to a point of tangency; thence South 38° 55' 06" East for a distance of 53.57 feet; thence South 53° 17' 11" West for a distance of 33.97 feet; thence South 89° 12' 34" East, along the south line of the above mentioned Lot 6, Block M and its westerly extension, for a distance of 202.55 feet to the POINT OF BEGINNING. Said lands located, lying, and being in the City of Miami Beach, Miami-Dade County, Florida, and containing 1,6066 acres (more or less).

l. GU/HPS-12: The 28th Street Obelisk and Pumping Station Historic Structure, 300 West 28th Street, more particularly described as follows: A portion of land that is located in Section 27, Township 53 South, Range 42 East, and bounded by the perimeter of a circumference having a radius of 33.50 feet and an arc length of 210.49 feet. The location of the radius point of said circumference is described as follows: Commence at the point of intersection of the eastern right-of-way line of Sheridan Avenue and the northern right-of-way line of West 28th Street, as shown in SALIDOR COURT, recorded in Plat Book 35, at Page 20, Public Records of Miami-Dade County, Florida; thence South 8° 25' 08" West, along the extension of the eastern right-of-way line of Sheridan Avenue for a distance of 32.89 feet to the point of intersection with the centerline of said West 28th Street; thence North 74° 13' 22" East, along the centerline of said West 28th Street for a distance of 73.05 feet; thence South 15° 46' 38" East, at a right angle with the centerline of said West 28th Street for a distance of 102.64 feet to the radius point (center of obelisk) of the above mentioned circumference. Said lands located, lying and being in the City of Miami Beach, Miami-Dade County, Florida, and containing 3,526 square feet (more or less).

m. RM-1/HPS-13: 1600 Lenox Avenue, as more particularly described as Lot 1, in Block 46, COMMERCIAL SUBDIVISION, according to the Plat thereof, recorded in Plat Book 6, at Page 5, of the Public Records of Miami-Dade County, Florida.

n. CPS-1/HPS-14: 36 Ocean Drive, as more particularly described as Lot 4, Block 1 of Ocean Beach Fla. Subdivision, according to the plat thereof, as recorded in Plat Book 2, Page 38, of the Public Records of Miami-Dade County, Florida.

o. CD-2/HPS-15: 1700 Alton Road, as more particularly described as Lots 1 and 2, Block 17, of Commercial Subdivision 1st Addition, according to the Plat thereof, as recorded in Plat Book 6, Page 30, of the Public Records of Miami-Dade County, Florida.

(2) *Historic preservation districts (HPD).*

a. CD-2, RM-1/HPD-1: All properties fronting or abutting Espanola Way, including all of Blocks 2-A and 2-B Espanola Villas, Blocks 3-A, 3-B, 4-A, 4-B, 5-A, 5-B, 6-A, 6-B, 7-A and 7-B, First Addition to Espanola Villas, and Lots 1—4, a re-subdivision of that unnumbered tract lying west of Blocks 7-A and 7-B and Espanola Way in First Addition to Espanola Villas.

b. MXE/HPD-2: The Ocean Drive/Collins Avenue Historic District is generally bounded by the centerline of Fifth Street from the Erosion Control Line to Ocean Court; centerline of Ocean Court to Sixth Street; and the centerline of Sixth Street from Ocean Court to Collins Court on the south; Collins Court (as extended) from Sixth Street to the northern edge of Lot 7, Block 57 of Fisher's First Subdivision of Alton Beach east to the centerline of Collins Avenue; and the centerline of Collins Avenue to 22nd Street on the west; the centerline of

22nd Street on the north; and the Erosion Control Line on the east. A complete legal description is included in the designation report.

c. GU, RS-3, RS-4/HPD-3: The east side of Collins Avenue to the Erosion Control Line from 77th Street to 79th Street. (All of Blocks 5, 6, 11 and 12 of Altos Del Mar No. 1 Subdivision). Those properties which are owned by the state or the city shall retain their GU government use district zoning designation. Those properties which are privately owned shall retain their single-family zoning district classification of RS-3 or RS-4, respectively.

d. RM-3, GU/HPD-12: The boundaries of the Morris Lapidus/Mid-20th Century Historic District commence at the northwest corner of Lot 1, Block 39, AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, Plat Book 5, Page 8, Public Records of Miami-Dade County, Florida; thence run northerly, along the east right-of-way line of Collins Avenue for a distance of 75.00 feet to the POINT OF BEGINNING of the portion of land herein described; thence run easterly, parallel to the north line of the above mentioned Lot 1 and its easterly extension to the point of intersection with the Erosion Control Line of the Atlantic Ocean. Said Erosion Control Line of the Atlantic Ocean as recorded in Plat Book 105 at Page 62, Public Records of Miami-Dade County, Florida; thence run northerly, along said Erosion Control Line of the Atlantic Ocean for an approximate distance of 5,197 feet to the point of intersection with the easterly extension of the north line of Lot 24, as said Lot 24 is shown in AMENDED PLAT OF FIRST OCEAN FRONT SUBDIVISION OF THE MIAMI BEACH BAY SHORE COMPANY, Plat Book 9, at Page 78, Public Records of Miami-Dade County, Florida; thence run westerly, along the north line of said Lot 24 and its easterly and westerly extension to the bulkhead line of Indian Creek; thence run southerly, along the bulkhead line of Indian Creek to the point of intersection with the westerly extension of a line which is 75.00 feet north and parallel to the north line of the above mentioned Lot 1, Block 39; thence easterly along the last described course to the POINT OF BEGINNING. Said lands located, lying and being in Section 23, Township 53 South, Range 42 East, City of Miami Beach, Florida.

e. MXE, CD-3, GU/HPD-5: Museum Historic Preservation District, generally bounded on the south by Lincoln Lane North, the centerline of Washington Avenue on west; and Collins Canal on north; the centerline of 23rd Street, including all properties fronting on or having a property line on 23rd Street, on the north; and, the centerline of Collins Avenue on the east. (Complete legal description available on file with the designation report).

f. CSP-1, CPS-2, RPS-1, RPS-2, RPS-3, RPS-4, GU/HPD-6: The boundaries of the Ocean Beach Historic District commence at the intersection of the centerline of Fifth Street and the centerline of Ocean Court; thence run easterly, along the extension of the centerline of Fifth Street to the Erosion Control Line of the Atlantic Ocean; thence run southerly, along the Erosion Control Line to the centerline of First Street; thence run westerly, along First Street to the centerline of Collins Court; thence run southerly, along Collins Court, to the south line of Lot 18 on Block 10; thence run westerly along the extension of the south line of Lot 18 on Block 10 to the centerline of Washington Avenue; thence run northerly, along Washington Avenue to the centerline of Second Street; thence run westerly, along Second Street to the centerline of Meridian Court; then run northerly, along Meridian Court to the centerline of Third Street; thence run westerly, along Third Street to the centerline of Jefferson Court; thence run northerly, along Jefferson Court to the south line of Lot 4 on Block 82; thence run easterly along the extension of the south line of Lot 4 on Block 82 to the centerline of Jefferson Avenue; thence run northerly, along Jefferson Avenue to the centerline of Forth Street; thence run westerly, along Forth Street to the

centerline of Michigan Avenue; thence run northerly, along Michigan Avenue to the centerline of Fifth Street; thence run westerly, along Fifth Street to the centerline of Michigan Court; thence run southerly along Michigan Court to the south line of Lot 8 on Block 99; thence run westerly along the extension of the south line of Lot 8 on Block 99 to the centerline of Lenox Avenue; thence run northerly, along Lenox Avenue to the centerline of Fifth Street; thence run westerly, along Fifth Street to the centerline of Lenox Court; thence run northerly, along Lenox Court to the centerline of Sixth Street; thence run easterly along Sixth Street to the centerline of Washington Avenue; thence run southerly, along Washington Avenue to the centerline of Sixth Street, thence run easterly, along Sixth Street to the centerline of Ocean Court, thence run southerly, along Ocean Court, to the point of commencement, at the intersection of the centerlines of Fifth Street and Ocean Court.

g. CD-2, GU, GU/RS-3, GU/RS-4, MXE, RM-1/HPD-7: The boundaries of the Harding Townsite/South Altos Del Mar Historic District commence at the intersection of the centerline of Collins Court and the centerline of 76th Street; thence run easterly along the centerline of 76th Street to the intersection with the centerline of Collins Avenue; thence run northerly along the centerline of Collins Avenue to the intersection with the centerline of 77th Street; thence run easterly along the theoretical extension of the centerline of 77th Street to the intersection with the Erosion Control Line of the Atlantic Ocean; thence run southerly along the Erosion Control Line of the Atlantic Ocean to the intersection with the theoretical extension of the centerline of 73rd Street; thence run westerly along the centerline of 73rd Street to the intersection with the centerline of the theoretical extension of Collins Court; thence run northerly along the centerline of Collins Court to the point of commencement, at the intersection of the centerlines of Collins Court and 76th Street.

h. RS-4, RM-1, RM-2/HPD-8: The boundaries of the Palm View Historic District commence at the intersection of the centerline of 17th Street and Meridian Avenue, as shown in the amended plat of Golf Course Subdivision of the Alton Beach Realty Company, recorded in Plat Book 6, at page 26, public records of Miami-Dade County, Florida. Said point being the point of beginning of the tract of land herein described; thence run westerly, along the centerline of 17th Street for a distance of 1,325 feet (more or less) to the centerline of Lenox Court, as shown in Palm View Subdivision of the Alton Beach Realty Company, recorded in Plat Book 6, at page 29, public records of Miami-Dade County, Florida; thence northerly, along the centerline of Lenox Court to the point of intersection with the centerline of Dade Boulevard; thence northeasterly, along the centerline of Dade Boulevard to a point. Said point located 131 feet (more or less and calculated along the centerline of Dade Boulevard) southwesterly of the point of intersection with the centerline of Meridian Avenue; thence run southeasterly, at right angle with the centerline of Dade Boulevard for a distance of 83.50 feet to the point of intersection with the south right-of-way of Collins Canal; thence northeasterly along the south right-of-way of Collins Canal to the point of intersection with the west right-of-way of Meridian Avenue; thence southerly, along the west right-of-way of Meridian Avenue for a distance of 202 feet (more or less) to a point of tangency; thence run along the arc of a curve, concave to the northwest, having a central angle of 90°00'00" and a radius of 15.00 feet for a distance of 23.56 feet to a point. Said point located in the north right-of-way of 19th Street, as shown in the above mentioned amended plat of Golf Course Subdivision of the Alton Beach Realty Company; thence run southerly, in a 90°00'00" angle with the north right-of-way of 19th Street for a distance of 20.00 feet to a point located in the centerline of said 19th Street; thence easterly, along the centerline of 19th Street for a distance of 50.00 feet to the point of intersection with the centerline of Meridian Avenue; thence

southerly along the centerline of Meridian Avenue for a distance of 995 feet (more or less) to the point of beginning. Said lands located, lying, and being in section 34, township 53 south, range 42 east, City of Miami Beach, Miami-Dade County, Florida.

i. RM-1, CD-2/HPD-13: The boundaries of the North Shore Historic District commence at the point of intersection of the centerline of Collins Court and the centerline of 73rd Street, as shown in the HARDING TOWNSITE, recorded in Plat Book 34, at Page 4, of the Public Records of Miami-Dade County, Florida. Said point being the POINT OF BEGINNING of a tract of land herein described; thence run Northerly, along the centerline of Collins Court to a point of intersection with the Centerline of 75th Street; thence continue Northerly to a point of intersection of the Centerline of Collins Court and the Northern right-of-way line of 75th Street; thence continue Northerly along the centerline of Collins Court to a point of intersection with the centerline of 87th Street; thence run Westerly along the centerline of 87th Street to a point of intersection with the centerline of Harding Avenue; thence run Southerly along the centerline of Harding Avenue to a point of intersection with the Easterly extension of the North line of Lot 10, Block 3, as shown in BEACH BAY SUBDIVISION, as recorded in Plat Book 44, Page 25, of the Public Records of Miami-Dade County, Florida; thence run Westerly along the North line of said Lot 10 to a point. Said point being the Northwest corner of said Lot 10; thence Southerly along the West line of Lots 10, 11, and 12 of Block 3 of the aforementioned BEACH BAY SUBDIVISION to a point of intersection on the Northern right-of-way line of 86th Street; thence Southerly to a point of intersection of the Southern right-of-way line of 86th Street and the West line of Lot 10, Block 4 of the aforementioned BEACH BAY SUBDIVISION; thence continue Southerly along the West line of Lots 10, 11, 12, 13, and 14 of said Block 4 to a point of intersection on the Northern right-of-way line of 85th Street; thence continue Southerly to a point of intersection of the Southern right-of-way line of 85th Street and the West line of Lot 10, Block 5 of the aforementioned BEACH BAY SUBDIVISION; thence continue Southerly along the West line of Lots 10, 11, 12, 13, and 14 of said Block 5 to a point of intersection on the Northern right-of-way line of 84th Street; thence continue Southerly to a point of intersection of the Southern right-of-way line of 84th Street and the West line of Lot 10, Block 6 of the aforementioned BEACH BAY SUBDIVISION; thence continue Southerly along the West line of Lots 10, 11, 12, 13, and 14 of said Block 6 to a point of intersection on the Northern right-of-way line of 83rd Street; thence continue Southerly to a point of intersection of the Southern right-of-way line of 83rd Street and the West line of Lot 14, Block 3, HAYNSWORTH BEACH SUBDIVISION, as recorded in Plat Book 41, Page 2, of the Public Records of Miami-Dade County, Florida. Thence continue Southerly along the West lines of Lots 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of said Block 3 to a point of intersection on the Northern right-of-way line of 81st Street; thence continue Southerly to a point of intersection of the Southerly right-of-way line of 81st Street and West line of Lot 12, Block 7 of ALTOS DEL MAR NO. 3, as recorded in Plat Book 8, Page 41, of the Public Records of Miami-Dade County, Florida. Thence continue Southerly along the West line of Lots 7, 8, 9, 10, 11, and 12 of said Block 7 to a point of intersection on the Northern right-of-way line 80th Street; thence continue Southerly to a point of intersection of the Southern right-of-way line of 80th Street and the West line of Lot 12, Block 8 of the aforementioned ALTOS DEL MAR NO. 3; thence continue Southerly along the West line of Lots 7, 8, 9, 10, 11, and 12 of said Block 8 to a point of intersection on the Northern right-of-way line 79th Street; thence continue Southerly to a point of intersection of the Southern right-of-way line of 79th Street and the West line of Lot 12, Block 9 of the aforementioned ALTOS DEL

MAR NO. 3; thence continue Southerly along the West line of Lots 7, 8, 9, 10, 11, and 12 of said Block 9 to a point of intersection on the Northern right-of-way line 78th Street; thence continue Southerly to a point of intersection of the Southern right-of-way line of 78th Street and the West line of Lot 12, Block 10 of the aforementioned ALTOS DEL MAR NO. 3; thence continue Southerly along the West line of Lots 7, 8, 9, 10, 11, and 12 of said Block 10 to a point of intersection on the Northern right-of-way line 77th Street; thence continue Southerly to a point of intersection of the Southern right-of-way line of 77th Street and the West line of Lot 12, Block 11 of the aforementioned ALTOS DEL MAR NO. 3; thence continue Southerly along the West line of Lots 7, 8, 9, 10, 11, and 12 of said Block 11 to a point of intersection on the Northern right-of-way line 76th Street; thence continue Southerly to a point of intersection of the Southern right-of-way line of 76th Street and the West line of Lot 6, Block 12 of the aforementioned ALTOS DEL MAR NO. 3; thence continue Southerly along the West line of Lots 4, 5, and 6 and its Southerly extension of said Block 12 to a point of intersection on the centerline of 75th Street; thence run Westerly along the centerline of 75th Street to a point of intersection on the centerline of Dickens Avenue; thence run Southerly along the centerline of Dickens Avenue to a point of intersection on the centerline of 73rd Street; thence run Easterly along the centerline of 73rd Street to a point of intersection with the centerline of Collins Court, Said point also being the POINT OF BEGINNING. Said lands located, lying and being in Section 2, Township 53 South, Range 42 East, City of Miami Beach, Florida. The boundaries of the North Shore Historic District Tatum Waterway Expansion commence at the Point of Intersection of the Centerline of Hawthorne Avenue and the Centerline of 77th Street, as shown in the plat of BISCAYNE BEACH SUBDIVISION, as recorded in Plat Book 48, at Page 53 of the Public Records of Miami-Dade County. Said point being the POINT OF BEGINNING of a tract of land herein described; Thence run Northerly along the Centerline of Hawthorne Avenue to a Point of Intersection of the Centerline of Hawthorne Avenue and the Centerline of Crespi Boulevard; Thence Northeasterly and Northerly along the Centerline of Crespi Boulevard to a Point of Intersection with the Westerly extension of the North line of Lot 4, Block 13, of BISCAYNE BEACH SECOND ADDITTION as recorded in Plat Book 46, at Page 39, of the Public Records of Miami-Dade County, Florida; Thence Easterly along said extension of the North line of Lot 4 and along the North line of Lot 4 and its extension over the Tatum Waterway to a Point of Intersection with the Eastern bulkhead line of Tatum Waterway, the same line being the Western line of Block 1, of BEACH BAY SUBDIVISION, as recorded in Plat Book 44, at Page 25, of the Public Records of Miami-Dade County, Florida; Thence Northerly along said Western Line of Block 1 to a point being the Northwest corner of the Plat of BEACH BAY SUBDIVISION, the same point being the Northwest corner of Lot 1, Block 1 of said BEACH BAY SUBDIVISION, as recorded in Plat Book 44, at Page 25, of the Public Records of Miami-Dade County, Florida; Thence Easterly along the North line of Lot 1, Block 1 and its Easterly extension to a Point of Intersection with the Centerline of Byron Avenue; Thence Southerly along the Centerline of Byron Avenue to a Point of Intersection of Byron Avenue and 81st Street; Thence Westerly along the Centerline of 81st Street to a Point of Intersection with the Centerline of Tatum Waterway Drive; Thence southwesterly along the Centerline of Tatum Waterway Drive to a Point of Intersection with the Centerline of 77th Street; Thence westerly along the Centerline of 77th Street to a Point of Intersection of Centerline 77th Street with the Centerline of Hawthorne Avenue; said point being the POINT OF BEGINNING. Said lands located, lying and being in Section 10, Township 53 South, Range 42 East, and in Section 11, Township 53 South, Range 42 East, City of Miami Beach, Florida.

j. RM-2, RM-3, GU/HPD-10: The boundaries of the North Beach Resort Historic District commence at the point of intersection of the centerlines of Collins Avenue and 71st Street, as shown in NORMANDY BEACH SOUTH, recorded in Plat Book 21, at Page 54, Public Records of Miami-Dade County, Florida. Said point being the POINT OF BEGINNING of the tract of land herein described; thence run easterly to the point of intersection with the Erosion Control Line of the Atlantic Ocean, as recorded in Plat Book 105, at Page 62, Public Records of Miami-Dade County, Florida; thence run southerly, along the Erosion Control Line of the Atlantic Ocean to the point of intersection with the south line of Lot 44, Block 1, AMENDED PLAT OF SECOND OCEAN FRONT SUBDIVISION, recorded in Plat Book 28, at Page 28, Public Records of Miami-Dade County, Florida; thence run westerly, along the south line of said Lot 44 to the point of intersection with the easterly Right-of-Way line of Collins Avenue; thence run southerly, along the easterly Right-of-Way line of Collins Avenue to the point of intersection with the north line of Lot 42 of the above mentioned Block 1; thence run easterly, along the north line of said Lot 42 to the point of intersection with the Erosion Control Line of the Atlantic Ocean; thence run southerly, along the Erosion Control Line of the Atlantic Ocean to the point of intersection with the south line of Lot 21 K of said Block 1; thence run westerly, along the south line of said Lot 21 K and its westerly extension to the point of intersection with the centerline of Collins Avenue; thence run northerly, along the centerline of Collins Avenue to the point of intersection with the easterly extension of Lot 1 of LYLE G. HALL SUBDIVISION, recorded in Plat Book 40, at Page 5, Public Records of Miami-Dade County, Florida; thence run westerly, along the south line of said Lot 1 and its easterly extension, to the point of intersection with the easterly line of Lot 25 of the above mentioned LYLE G. HALL SUBDIVISION; thence run southerly, along the easterly line of lots 25 and 24 of said LYLE G. SUBDIVISION to the southeast corner of said Lot 24; thence run westerly, along the south line of said Lot 24 and its westerly extension to the point of intersection with the centerline of Harding Drive (now Indian Creek Drive); thence run northerly, along the centerline of Harding Drive (now Indian Creek Drive) to the point of intersection with the centerline of 63rd Street; thence run easterly, along the centerline of 63rd Street to the point of intersection with the southerly extension of the westerly line of said Lot 1, Block 7, AMENDED PLAT OF SECOND OCEAN FRONT SUBDIVISION, recorded in Plat Book 28, at Page 28, Public Records of Miami-Dade County, Florida; thence run northerly, along the westerly line of said Lot 1, Block 7 and its southerly extension to a point located 50.00 feet south (measured at right angles) of the westerly extension of the northerly line of said Lot 1; thence run easterly along a line parallel and 50.00 feet south of the northerly line of said Lot 1 to the point of intersection with the centerline of Collins Avenue; thence run northerly, along the centerline of Collins Avenue to the POINT OF BEGINNING. Said lands located, lying and being in the City of Miami Beach, Miami-Dade County, Florida.

k. RM-1, CD-1, GU/HPD-11: The boundaries of the Flamingo Waterway Historic District commence at the point of intersection of the centerline of West 47th Street and the eastern right-of-way line of Pinetree Drive, as shown in the LAKE VIEW SUBDIVISION, recorded in Plat Book 14, at Page 42, Public Records of Miami-Dade County, Florida. Said point being the POINT OF BEGINNING of the tract of land herein described; thence run northerly, along the eastern right-of-way line of said Pinetree Drive to the point of intersection with the easterly extension of the north line of Lot 20, Block 32, of the above mentioned LAKE VIEW SUBDIVISION; thence run westerly, along the north line of said Lot 20 to the point of intersection with the eastern bulkhead line of the Flamingo Waterway; thence run southwesterly, along the eastern bulkhead lines of the

Flamingo Waterway and Lake Surprise to a point. Said point being located 35.07 feet west (measured at a right angle) of the east line of Lot 11, Block 32, of the above mentioned LAKE VIEW SUBDIVISION; thence run southerly, along a line parallel and 35.07 feet west (measured at a right angle) of the east line of said Lot 11, and its southerly extension to the point of intersection with the centerline of West 47th Street; thence run easterly, along the centerline of said West 47th Street to the POINT OF BEGINNING. Said lands located, lying and being in the City of Miami Beach, Miami-Dade County, Florida.

2.13.10 Single-Family Ad Valorem Tax Exemption

(a) Scope of tax exemptions.

A procedure is hereby created for the city commission to allow tax exemptions for the restoration, renovation or rehabilitation of single family properties designated individually or as part of an historic district. The exemption shall apply to 100 percent of the assessed value of all improvements to the single family property, which result from restoration, renovation or rehabilitation made on or after the effective date of this division. The exemption applies only to taxes levied by the city. The exemption does not apply to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to the City Code or the Florida Constitution. The exemption does not apply to personal property or to properties located within a community redevelopment area.

(b) Duration of tax exemptions.

Any exemption granted under this section to a particular property shall remain in effect for ten years. The duration of ten years shall continue regardless of any change in the authority of the city to grant such exemptions or any changes in ownership of the property. In order to retain an exemption, however, the historic and architectural character of the property, its designation status, and improvements which qualified the property for an exemption, must be maintained over the period for which the exemption is granted.

(c) Eligible properties and improvements.

(1) A single-family property is qualified for an exemption under this division if:

(i) At the time the exemption is considered by the historic preservation board, the property is:

a. Individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended;

b. A contributing property within a National Register Historic District or locally designated historic district; or

c. Locally designated as an individual historic structure or an historic site.

(ii) The historic preservation board has certified to the city commission that the property for which an exemption is requested satisfies subsection (c)(i).

(2) In order for an improvement to an historic property to qualify for an exemption, the improvement must be determined by the historic preservation board to be:

(i) Consistent with the United States Secretary of the Interior's standards for rehabilitation; and

(ii) Consistent with the certificate of appropriateness criteria in section 118-564 of the City Code.

(c) Preapplication requirements. A preapplication meeting with the planning director, or designee, shall be required before a project is initiated in order to determine

whether the proposed project satisfies the minimum criteria for ad valorem tax exemption.

(d) Applications.

Any person, firm or corporation that desires ad valorem tax exemption from the improvement of an eligible single-family property must, prior to any construction or demolition, file with the planning department a written application on a form approved by the department. The application shall include the following documents and information:

(1) The name of the property owner and the location of the single-family property.

(2) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements.

(3) Proof that the property to be rehabilitated or renovated is an eligible historic property under this division.

(4) Drawings and other pertinent exhibits that clearly delineate the scope of work to be performed; the proposed improvements to the property shall be consistent with the Secretary of the Interior's standards for rehabilitation and the certificate of appropriateness criteria in section 2.13.7 of these land development regulations.

(5) Other information identified in the filing instructions provided by the planning department.

(f) Review by the historic preservation board. The historic preservation board, or its successor, is designated to review all applications for exemptions. The historic preservation board shall recommend that the city commission grant or deny the proposed exemption. The recommendation, and the reasons therefore, shall be provided to the applicant and to the city commission before consideration of the application at an official meeting.

(g) Approval by the city commission.

A majority vote of the city commission shall be required to approve an application for exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvement. The city commission shall include the following in the resolution or ordinance approving the application for exemption:

(1) The name of the owner and the address of the single-family property for which the exemption is granted.
(2) The period of time for which the exemption will remain in effect and the expiration date of the exemption.
(3) A finding that the single-family property meets the requirements of this division.
(4) References to drawings and exhibits delineating the work to be performed.

(4) Required covenant

To qualify for an exemption, the property owner shall enter into a covenant or agreement with the city for the term for which the exemption is granted. The covenant or agreement shall be form approved by the city attorney and shall require that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. Before the effective date of the exemption, the owner of the property shall have the covenant recorded in the official records of Miami-Dade County, Florida. The covenant or agreement shall be binding on the current property owner, transferees, and their heirs, successors, or assigns. Violation of the covenant or

agreement shall result in the property owner being subject to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in. § 212.12(3), Florida Statutes.

(5) Amendments.

All amendments to the approved application and permit plans must be reviewed and approved prior to the completion of the project. Minor amendments to permit plans may be approved by the planning director, or designees, provided such amendments are consistent with the certificate of appropriateness criteria in subsection 2.13.7 of these land development regulations. Major amendments to the approved plans must be reviewed and approved by the historic preservation board.

(6) Completion of work.

(i) An application must complete all work within 30 months following the date of approval by the city commission. An approval for ad valorem tax exemption shall expire if the building permit for the approved work is not issued within the timeframes specified under the corresponding certificate of appropriateness, or if a full building permit issued for the approved work should expire or become null and void, for any reason. The approval for ad valorem tax exemption shall be suspended if such permit is issued but the property owner has not submitted a final request for review of completed work within 30 months following the date of approval by the city commission.

(ii) The historic preservation board, for good cause shown, may extend the time for completion of a substantial improvement for a period not to exceed two years from the completion date in the original approval by the city commission, or such lesser time as may be prescribed by the board. Such extension shall only be considered by the board if the corresponding certificate of appropriateness for the improvements approved by the city commission is active and the applicant submits a request in writing to the planning department no later than 90 calendar days after the expiration of the completion deadline. If the board grants the extension of time request, any suspension of the approval for ad valorem tax exemption shall be lifted and all work shall be completed by the date mandated in the board order. A second extension, not to exceed two additional years, may be considered by the board if a valid full building permit for the improvements approved by the city commission is active and the applicant submits a request in writing to the planning department no later than 90 calendar days after the expiration of the completion deadline specified in the first extension. The failure to complete all required work within the timeframes mandated under an approved extension of time shall result in a permanent revocation of the approval for the ad valorem tax exemption. If the board denies a request for an extension of time, any suspension shall become a permanent revocation of the approval for ad valorem tax exemption. As a condition of any extension of time, the historic preservation board may require that the building site be properly maintained, screened and secured.

(iii) A request for review of completed work shall be submitted to the planning department. The planning director shall conduct a review to determine whether or not the completed improvements are in compliance with the work approved by the city commission, including approved amendments, if any.

(iv) If the planning director determines that the work is in compliance with the plans approved pursuant to city commission approval of the tax exemption, the final request for review of completed work shall be approved and issued in writing to the applicant. The city reserves the right to inspect the completed work to verify such compliance.

(v) If the planning director determines that the work as complete is not in compliance with the plans approved pursuant to city commission approval of the tax exemption, the applicant shall be advised that the final request for review of completed work has been denied. Such denial shall be in writing and provide a written summary of the reasons for the determination, including recommendations to the applicant concerning the changes to the proposed work necessary to bring it into compliance with the approved plans. The applicant may file an appeal of the decision of the planning director, or designee, pursuant to the requirements of Subsection 2.9.

(7) Notice of approval to the property appraiser.

Upon the receipt of a certified copy of the recorded restrictive covenant, the planning director, or designee, shall transmit a copy of the approved request for review of completed work, the exemption covenant and the ordinance or resolution of the city commission approving the final application and authorizing the tax exemption to the county property appraiser.

(8) Revocation proceedings.

(i) The planning director, or designee, or historic preservation board may initiate proceedings to revoke the ad valorem tax exemption provided in this article, in the event the applicant, or subsequent owner or successors in interest to the property, fails to maintain the property according to the terms, conditions and standards of the historic preservation tax exemption covenant. Such proceedings shall be held before the historic preservation board.

(ii) The planning director, or designee, shall provide notice by mail to the current owner of record of the property at least 15 days in advance of the revocation hearing. In order to maintain the tax exemption, the property owner shall complete the restoration or reconstruction work necessary to return the property to the condition existing at the time of project completion on a time schedule agreed upon by the property owner and the historic preservation board. In the event the property owner does not complete the restoration work to the property within the agreed upon time schedule, the historic preservation board shall make a recommendation to the city commission as to whether the tax exemption shall be revoked.

(iii) The city commission shall review the recommendation of the historic preservation board and make a determination as to whether the tax exemption shall be revoked. Should the city commission determine that the tax exemption shall be revoked, a written resolution revoking the exemption and notice of penalties as provided in this division shall be provided to the owner, the county property appraiser and filed in the official records of the county.

(iv) Upon receipt of the resolution revoking the tax exemption, the county property appraiser shall discontinue the tax exemption on the property as of January 1 of the year following receipt of the notice of revocation.

(v) If the single-family property is damaged by accidental or natural causes during the covenant period of the tax exemption, the property owner shall inform the planning director, or designee, in writing within 60 days of the nature and extent of damage to the property. In order to maintain the tax exemption, the property owner shall complete the restoration or reconstruction work necessary to return the property to the condition existing at the time of project completion on a time schedule agreed upon by the property owner and the planning director or designee.

(vi) If the single-family property has been destroyed or severely damaged by accidental or natural causes during the covenant period of the tax exemption whereby restoration is not feasible, the property owner shall notify the planning director, or designee, in writing within 60 days of the loss. The planning director, or designee,

shall initiate proceedings to revoke the ad valorem tax exemption provided in this article. In such cases, no penalty or interest shall be assessed against the property owner.

(9) Notice of penalties

The resolution revoking the tax exemption shall include a statement that a penalty equal to the total amount of taxes that would have been due in March of each of the previous years in which the tax exemption and covenant were in effect had the property not received the exemption, less the amount of taxes actually paid in those years, plus interest on the difference calculated as provided in § 212.12, Florida Statutes shall be imposed by the county tax collector for violation of the terms, conditions and standards of the historic preservation exemption covenant.

Article XIV. Transfer of Development Rights. ***Reserved***

Chapter 3

CONCURRENCY MANAGEMENT AND MOBILITY FEES ~~1~~

ARTICLE I – PURPOSE AND GENERAL PROVISIONS

3.1.1 PURPOSE

The purpose of this chapter is to ensure that all development which increases the demand for public facilities in the city will be served by adequate public facilities in accordance with the levels of service which are established in the capital improvements element of the comprehensive plan of the city and the city's municipal mobility plan.

3.1.2 CONCURRENCY MITIGATION AND MOBILITY FEE REQUIRED

Concurrency mitigation and mobility fees, if applicable, are required for all projects that increase the density and/or intensity of a site, including a building and/or use on a site. Unless exempt under the provisions of section 122-5 hereof:

a. No development order shall be granted unless the applicant has obtained a valid estimate of concurrency mitigation and mobility fees;
b. No development order shall be issued unless the applicant has proof of payment for all applicable concurrency mitigation and mobility fees.

3.1.3 CONCURRENCY MITIGATION AND MOBILITY FEE REVIEW

Concurrency mitigation review and mobility fee calculations shall be provided upon filing a request with the applicable review department. Notwithstanding the foregoing, the provisions of this chapter shall not be construed to restrict applicable review departments other than departments of the City of Miami Beach from establishing alternative review procedures. Applicable review departments for developments in the city shall include the following:

a. Potable water: Miami Dade County and Miami Beach Public Works Department, as applicable.
b. Sanitary sewer: Miami Dade County and Miami Beach Public Works Department, as applicable.
c. Solid waste: Miami Beach Public Works Department.
d. Stormwater: Miami Beach Public Works Department.
e. Recreation and open space: Miami Beach Planning Department.
f. Mobility fees: Miami Beach Planning Department.
g. Public schools: Miami Dade County Public Schools.

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[1] ~~**Editor's note**— Sec. 3 of Ord. No. 2019-4306, adopted Oct. 16, 2019, amended ch. 122 in its entirety to read as herein set out. Former ch. 122 pertained to concurrency management, consisted of §§ 122-1—122-10, and derived from Ord. No. 2000-3242, adopted Mar. 10, 2000.~~

3.1.4 EXEMPTIONS FROM CONCURRENCY MITIGATION AND MOBILITY FEES

The following types of development are not required to undergo concurrency review or pay a mobility fee pursuant to this chapter:

a. Any development undertaken by the city that does not require a rezoning, does not increase in intensity, does not include an associated change of use, or that increases the city's ability to provide essential services and facilities related to health and safety concerns (fire, police, etc.).
b. Any application that does not propose to increase intensity and/or density of a site.
c. Temporary uses in public rights-of-way, as determined by the city commission by resolution, specifying geographic areas, criteria, and duration of exemption, where such uses front on or are north of 63rd Street, on Washington Avenue from 6th Street to Lincoln Road, or in the Collins Park Arts District Overlay (as defined in section 142-854).
d. Uses at the North Shore Bandshell, the Ronald W. Shane Watersports Center, and the Miami Beach Botanical Garden, as determined by the city commission by resolution.
e. Uses located on lots with a GU zoning designation fronting on Collins Avenue between 79th Street and 87th Street, as determined by the city commission by resolution.
f. Non-elderly and elderly low and moderate income housing.

3.1.5 APPLICATION FOR CONCURRENCY MITIGATION REVIEW AND MOBILITY FEES

a. For those concurrency and mobility requirements for which the Miami Beach Planning Department is the applicable review department, an applicant may file an application for an estimate of concurrency mitigation and mobility fees prior to filing an application for a development order, or at any other time, in order to obtain information on the availability of public facilities for a parcel of land.
b. An application for an estimate of concurrency mitigation and mobility fees shall include such information as required by the city including, without limitation, the following information:
    i. Name of applicant;
    ii. Location, size, legal description, folio number, and existing use of the parcel or portion thereof proposed for development;
    iii. A description of the use, density, and intensity of use for existing and proposed development, with adequate supporting information and studies, which may include a building permit application, certificate of occupancy, certificate of use, business tax receipts, or other documentation, as applicable;
    iv. Schedule for phased developments;
    v. Description of any proposed on-site or off-site infrastructure improvements;
    vi. Any building permit documents that may be required by the planning department;
    vii. The date of demolition permit, if applicable;
    viii. Any other documents which may be requested by the planning department; and
    ix. An administrative fee, as set forth in appendix A to this Code, to offset the actual costs of the city's review of an application for an estimate of concurrency mitigation and mobility fees.
c. Within ten days after receipt of an application for concurrency mitigation review and mobility fees, each applicable review department shall determine whether the application is complete. If the application is determined to be incomplete, the applicable review department shall notify the applicant in writing that the application is incomplete and shall identify the additional information required to be submitted. Until all required information is provided and an application is determined to be complete, an applicable review department shall take no further action in regard to the application.

3.1.6 ENFORCEMENT AND PENALTIES

a. Any person, firm, corporation, or partnership that violates (or aids in a violation of) any provision of this chapter may be subject to enforcement, as outlined herein.

b. A violation of this chapter includes, but is not limited to, the failure, neglect, or refusal to pay a mobility fee; provide or perform all obligations pursuant to a concurrency mitigation program; pay a concurrency mitigation fee as required by this chapter; or a failure or refusal to comply with any other provision of this chapter. A violation of this chapter shall also include furnishing untrue, incomplete, false, or misleading information on any document, or to any city employee, concerning:
   i. The calculation, exemption, or payment of a mobility fee or concurrency mitigation fee;
   ii. The entitlement to a refund; or
   iii. The proposal, negotiation, terms, or performance of obligations pursuant to a concurrency mitigation program or agreement.

c. Penalties and enforcement.
   i. A violation of this chapter shall be subject to the following civil fines, in addition to any outstanding fees owed pursuant to this chapter:
      1. If the violation is the first violation, a person or business shall receive a civil fine of $1,000.00;
      2. If the violation is the second violation within the preceding six months, a person or business shall receive a civil fine of $2,000.00;
      3. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of $3,000.00;
      4. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of $4,000.00.
   ii. Enforcement. The code compliance department shall enforce this section. This shall not preclude other law enforcement agencies from any action to assure compliance with this section and all applicable laws. If a violation of this section is observed, the code enforcement officer will be authorized to issue a notice of violation. The notice shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special magistrate within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
   iii. Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.
      1. A violator who has been served with a notice of violation must elect to either:
         a. Pay the civil fine in the manner indicated on the notice of violation; or
         b. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
      2. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.
      3. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate may be informed of such failure by report of the code enforcement officer. The failure of the named violator to appeal the decision of the code enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

4. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.
5. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
6. The special magistrate shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
7. The special magistrate shall not have discretion to alter the penalties prescribed in subsection (c)(1).

d. In addition to enforcement of this division through issuance of a violation, the city may withhold issuance of the certificate of occupancy, certificate of use, or change of use approval, and/or bring suit to restrain, enjoin, or otherwise prevent violation of this chapter in any court of competent jurisdiction, to recover costs incurred by the city in whole or in part because of a violation of this chapter, and/or to compel payment of a mobility fee or concurrency mitigation fee pursuant to this chapter. Issuance of and/or payment of a citation for violation of this division does not preclude the city from filing such a suit. Payment of any penalties imposed does not release a person or entity from payment of the mobility fee due or concurrency mitigation, but shall be payable in addition to the mobility fee or concurrency mitigation.

ARTICLE II – CONCURRENCY

3.2.1 LEVEL OF SERVICE STANDARDS

a. A determination of concurrency for recreation and open space, potable water, sanitary sewer, solid waste, public schools, and storm water management facilities shall be based on the levels of service established in the capital improvements element of the comprehensive plan of the city, at the time the proposed development is projected to generate a demand for services. The city is designated as a transportation concurrency exception area (TCEA) and, as such, all development and redevelopment is exempt from a obtaining a determination of transportation concurrency; however, development shall be subject to the payment of a mobility fee, unless otherwise provided in this chapter.

b. For the purposes of a determination of concurrency, potable water, sanitary sewer, solid waste, and stormwater management facilities shall be deemed available if they are:
   i. In existence at the time of a determination of concurrency;
   ii. Funded, programmed, and scheduled to be available by the applicable city, state, or other governmental agency at the time the proposed development is projected to generate a demand for services; or
   iii. The subject of an enforceable mitigation program between the applicant and the city or other applicable agency, which will ensure that the facilities will be provided at the time the proposed development is projected to generate a demand for services.

c. For the purposes of a determination of concurrency, recreation and open space facilities shall be deemed available if they are:
   i. In existence at the time of a determination of concurrency.
   ii. Funded, programmed, and scheduled to be available by the applicable city, state, or other governmental agency at the time the proposed development is projected to generate a demand for services; or
   iii. The subject of an enforceable mitigation program between the applicant and the city or other applicable governmental agency, which will ensure that the facilities will be provided at the time the proposed development is projected to generate a demand for services; or

iv. Programmed or otherwise committed to be provided as soon as reasonably possible such that a substandard level of service does not exist for a period of more than one year after the proposed development is projected to generate a demand for services; or
v. A proportionate fair-share concurrency mitigation fee is paid, which will allow the city to build the facilities for which there is a substandard level of service.

3.2.2 DETERMINATION OF CONCURRENCY

a. As part of an application for a development order that increases the density or intensity of a site, as applicable, each applicable review department shall make a determination of concurrency in accordance with section 122-26 as to whether required public facilities are or will be available when needed to serve the proposed development; determine the effective period during which such facilities will be available to serve the proposed development; and issue an invoice for necessary concurrency mitigation fees or identify other mitigation measures.
b. Capacity credits shall be given for legally established uses as follows:
   i. For existing structures that have an active use, the current use shall be used as the basis for calculating capacity credits.
   ii. For vacant structures or structures undergoing construction, the last active use shall be used as the basis for calculating capacity credits.
   iii. For vacant land, the last active use shall be used as the basis for calculating capacity credits, provided the activity has not been inactive for more than ten years.
c. In the event the determination is made that the required public facilities will not be available where needed to serve the proposed development, an applicant for concurrency mitigation may propose a mitigation program in order to avoid a negative determination of concurrency. The proposed mitigation program shall be based on the same methodology utilized by the applicable review department for determining concurrency, and shall include a specific delineation of responsibilities for providing the required public facility improvements, adequate methods for securing performance of the mitigation program, payment of mitigation funds, and a proposed recapture program for the provision of excess capacity, if applicable. Such mitigation program shall be reviewed and, if the program satisfies the concurrency requirements herein, the program shall be approved by the applicable review departments of the city and other agencies having jurisdiction. The applicant shall enter into a mitigation agreement with the city, committing to the mitigation program, which agreement shall be subject to the review and approval of the city attorney.
d. If the applicable review department determines that the required public facilities are or will be available to serve the proposed development as provided in section 122-11, the applicable review department shall issue a finding of concurrency mitigation which shall be effective for a period of one year from the date of the issuance of the determination, unless otherwise specified in the finding. An extension of this one-year period may be granted by the applicable review department for an additional six months, provided that an application for a city development order is being diligently pursued, and provided that an extension is requested within the original one-year period. In the event the issuance of a concurrency mitigation certificate is based on an approved mitigation program, such certificate shall be expressly conditioned upon compliance with such program.
e. A determination of concurrency mitigation will expire within one year of issuance, unless a building permit is obtained or a mitigation fee is paid. This one-year period for a reservation of capacity, may be extended one time for an additional year for good cause shown, provided that an application to the applicable review department for an extension is made within the original one-year period.
f. If a mitigation fee is paid and the development does not receive a building permit, or the use does not become legally established, a refund can only be requested within one year of the date of payment.
g. If the applicable review department determines that the required public facilities are not and will not be available to serve the proposed development, and that an acceptable mitigation program has not been

provided, the applicable review department shall issue a notice of negative determination of concurrency and identify service areas experiencing deficiency, and the improvements or fair-share concurrency mitigation payment necessary to allow the development to proceed. If a notice of negative determination is rendered, no further review of any associated applications for development order shall be conducted unless or until a new or modified application of an estimate of concurrency mitigation and mobility fees is filed, and a determination of concurrency is made.

h. Applicable review departments other than departments or agencies of the city may utilize alternative procedures from those identified in this section to determine concurrency.

ARTICLE III – MOBILITY FEES

3.3.1 LEGISLATIVE INTENT

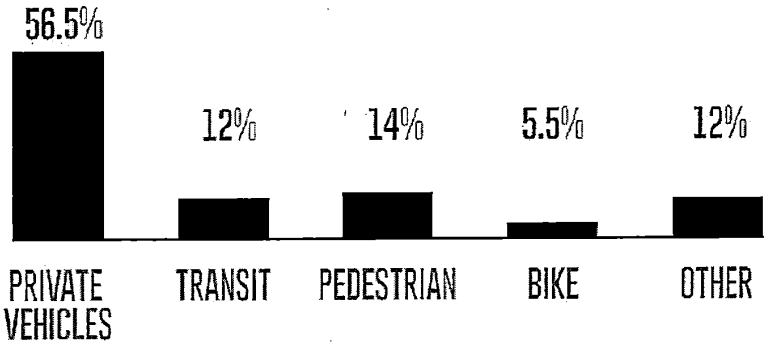
The city commission hereby finds, determines, as declares as follows:

a. Pursuant to Article VIII of the Florida Constitution and F.S. ch. 166, the city has broad home rule powers to adopt ordinances to provide for and operate transportation systems, including roadways, transit facilities, and bicycle/pedestrian facilities within the city.

b. The Community Planning Act, at F.S. § 163.3180(5)(i) (as may be amended from time to time), provides for mobility fees, based on an adopted transportation mobility plan, as an alternative means by which local governments may allow development consistent with an adopted comprehensive plan to equitably mitigate transportation impact.

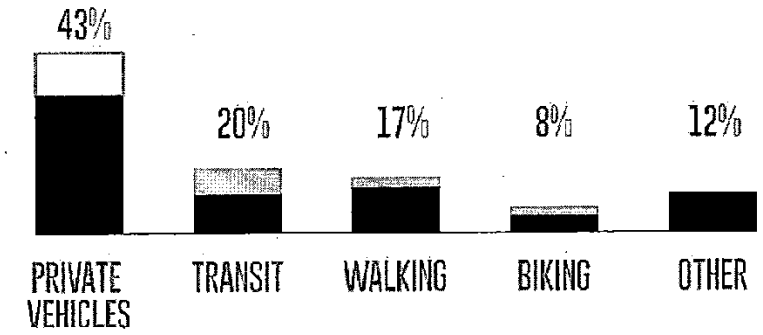
c. Florida Statutes § 163.3180(5)(i), requires that a mobility fee must be based upon an adopted transportation mobility plan. The city has adopted a transportation master plan, identifying a prioritized list of multimodal improvements, which serves as the basis for the mobility fee imposed. The master plan provides an analysis of existing traffic conditions and travel characteristics. The existing citywide mode share is as follows, pursuant to the adopted City of Miami Beach 2016 Transportation Master Plan:

1. Existing Citywide Mode Share



d. The city has established a citywide mode share goal that seeks to reduce travel by motor vehicle and increase the share of travel made by riding transit, walking, and riding a bicycle. The list of multimodal improvements established in the transportation master plan are intended to address future citywide travel demand and achieve the city's 2035 mode share goals, as follows:

2035 Mode Share Vision



e. The city's mobility fee program, established pursuant to this chapter, shall be effective 90 days following the adoption of the ordinance codified in this chapter. Developments that have obtained a land use board approval, or a building permit process number, prior to the effective date of the ordinance codified in this chapter shall be subject to the concurrency requirements applicable prior to the effective date of the mobility fee program.

3.3.2 ADOPTION OF MOBILITY FEE STUDY

The city commission hereby adopts and incorporates the following study by reference hereto:

The mobility fee study, entitled "City of Miami Beach Mobility Fee Technical Analysis," and dated August 2018, including without limitation the assumptions, conclusions, and findings in such study as to the methodology for the calculation of the city's mobility fee and the trip generation rates assigned to various land use categories.

3.3.3 IMPOSITION AND COLLECTION OF MOBILITY FEES

a. Mobility fees shall be assessed upon the issuance of a building permit or change of use for any development within the city. Mobility fees shall be calculated in the manner set forth in section 122-26 hereof and the mobility fee study referenced in section 122-23.
   i. Mobility fees assessed in connection with the issuance of a development order shall be collected and paid prior to or concurrent with the issuance of the building permit.
   ii. Mobility fees assessed in connection with a change of use shall be collected and paid prior to issuance of the certificate of use, business tax receipt, or other similar approval. The mobility fee shall be computed at the difference between the rate established in the mobility fee schedule for the proposed use and the rate established in the mobility fee schedule for the current use.

b. Modifications to an existing use and changes of use which do not result in a higher assessment under the mobility fee schedule shall be exempted from payment of the mobility fee.

c. The city shall also require a site-specific multimodal transportation analysis and mitigation plan pursuant to the applicable land use board application requirements set forth in chapter 118.

3.3.4 CALCULATION OF MOBILITY FEE

a. [Reserved.]

b. The calculation of the mobility fee requires the adjustment of the person miles of travel (PMT) for each land use by the origin and destination adjustment factor (ODAF). The ODAF is equal to 0.5. Trip generation rates represent trip-ends at the site of a land use. Thus, a single-origin trip from a residence to a workplace counts as one trip-end for the residence and one trip-end for the workplace, for a total of two trip-ends. To avoid double-counting of trips, the PMT for each land use shall be multiplied by 0.5. This distributes the impact of

travel equally between the origin and destination of the trip, and eliminates double charging for trips. The PMT for each land use begins with the entering and exiting daily trips for each land use. The adjusted PMT is then multiplied by the PMT rate of $129.37 to determine the mobility fee rate per each land use on the mobility fee schedule.

i. The formulas for each step in the calculation of the mobility fee are as follows:

Person Trips (PT) per Land Use	=	(TG x % NEW) x PMT Factor
Person Trips (PT) by Mode	=	PT x MS for each of the five modes of travel
Person Mile of Travel (PMT) per Land Use	=	SUM of (PT by Mode * TL by MODE)
Person Mile of Travel (PMT) Rate	=	$129.37 per PMT
Mobility Fee (MF) per Land Use	=	(PMT * ODAF) * PMT RT
Where:		
PT	=	Person Trips
PMTF	=	Person Miles of Travel Factor of 1.33 to account for multi-modal travel
TG	=	Daily Trip Generation during average weekday
% NEW	=	Percent of trips that are primary trips, as opposed to pass-by or diverted-link trips
MS	=	Mode Share Goals per Miami Beach Transportation Plan for each of the five modes of travel
TL	=	Average length of a trip by Mode and by Trip Purpose
PMT	=	Person Miles of Travel
PMT RT	=	Person Miles of Travel Rate = $129.37
ODAF	=	Origin and Destination Adjustment Factor of .50 to avoid double-counting trips for origin and destination
MF	=	Mobility Fee calculated by (PMT x .50) x PMT RT

c. The adopted mobility fee for each land use category are set forth in "Schedule A," below:

Schedule A - Mobility Fee

MOBILITY FEE SCHEDULE CATEGORY/LAND USE TYPE	UNIT OF MEASURE	MOBILITY FEE
Residential		
Single-family with a unit size less than 3,500 sq. ft. [1]	Per unit	$1,847.00
Single-family with a unit size between 3,500 and 7,000 sq. ft. [1]	Per unit	$2,461.00
Single-family with a unit size greater than 7,000 sq. ft. [1]	Per unit	$3,076.00

MOBILITY FEE SCHEDULE CATEGORY/LAND USE TYPE	UNIT OF MEASURE	MOBILITY FEE
Multifamily apartments	Per unit	$1,515.00
Non-elderly and elderly low and moderate income housing	Per unit	$0.00
Workforce housing	Per unit	$758.00
Co-living/micro apartments	Per unit	$758.00
Recreation and entertainment		
Marina (including dry storage)	Per berth	$308.00
Golf course	Per hole	$3,881.00
Movie theater	Per screen	$22,823.00
Outdoor commercial recreation [2]	Per acre	$1,829.00
Community center/civic/gallery/lodge/museum	Per sq. ft.	$1.86
Indoor commercial recreation/health club/fitness	Per sq. ft.	$4.54
Institutional		
Continuing care facility/nursing home/memory care/congregate care facility/assisted/independent living	Per bed	$740.00
Private school (Pre-K-12)	Per sq. ft.	$2.09
Place of worship, including ancillary and accessory buildings	Per sq. ft.	$1.78
Day care center	Per sq. ft.	$3.87
Industrial		
Warehousing/manufacturing/industrial/production (under roof)	Per sq. ft.	$1.53
Mini-warehousing/boat/RVs and other outdoor storage [3]	Per sq. ft.	$0.46
Distribution/fulfillment center/package delivery hub	Per sq. ft.	$2.14
Office		

MOBILITY FEE SCHEDULE CATEGORY/LAND USE TYPE	UNIT OF MEASURE	MOBILITY FEE
General office/research/higher education/financial/bank	Per sq. ft.	$3.33
Medical/dental/clinic/veterinary/hospital	Per sq. ft.	$7.60
Service/retial/non-residential		
Retail sales/personal and business services [4]	Per sq. ft.	$10.11
Pharmacy/dispensary/pain management clinic	Per sq. ft.	$15.40
Supermarket	Per sq. ft.	$16.37
Takeout restaurant with no seating [5]	Per sq. ft.	$11.07
Restaurant with seating [5]	Per seat	$877.00
Restaurant drive-thru [5]	Per drive-thru	$9,110.00
Bar/night club/pub without food service [4]	Per sq. ft.	$26.12
Motor vehicle and boat sales/service/repair/cleaning/parts	Per sq. ft.	$6.26
Hotel/lodging [6]	Per room	$1,721.00
Convenience retail [7]	Per sq. ft.	$19.48
Motor vehicle fueling	Per fuel position	$6,413.00
Bank drive-thru lane, stand-alone ATM or ATM drive-thru lane [8]	Per drive thru lane and/or per ATM	$12,170.00

Notes:

[1] Floor area is based on areas that count towards the maximum unit size pursuant to the single-family district regulations.

[2] The sq. ft. for any buildings or structure shall not be excluded from the acreage.

[3] Acreage for any unenclosed material and vehicle storage shall be converted to sq. ft.

[4] Areas under canopy for seating, display, storage and sales shall be converted to sq. ft.

[5] Separate fees are associated with any drive-thru lane(s) associated with a restaurant.

MOBILITY FEE SCHEDULE CATEGORY/LAND USE TYPE	UNIT OF MEASURE	MOBILITY FEE
[6] Restaurant/bar/night club and/or retail sales, that are not exclusive to hotel guests only, shall be calculated based on the separate applicable land use classification.		
[7] Convenience retail rates are separate from the fee due for vehicle fueling positions. Rates per vehicle fueling position also apply to gas stations and service stations with fuel pumps. The fee for any restaurant square footage, seating or drive-thru in a convenience store will be based on the individual fee rate for the land use, not the convenience store rate.		
[8] Bank building square footage falls under office and is an additive fee beyond the fee due for bank/ATM drive-thru lanes or free-standing ATM's. These rates are per drive-thru lane for the bank and per drive-thru lane with an ATM. The freestanding ATM is for an ATM only and not an ATM within or part of another non-financial building, such as an ATM within a grocery store.		

NOTE: The list of uses in the mobility fee schedule is subject to compliance with permitted uses in the city's land development regulations.

Mobility fee rate. Except as otherwise provided in this subsection, the mobility fee rates established above in "Schedule A" shall be automatically adjusted in the future by applying the percent increase in "Consumer Price Index For All Urban Consumers (CPI-U), Not Seasonally Adjusted, U.S. city average for all items (1982-84=100)" (To be known as Annual CPI) from the prior year. For reference, the 2018 value is 251.107. The CPI adjustment shall never be less than 0.0 percent. Adjustments shall take place by September 1 of each year, and shall take effect on October 1 of each year, beginning in 2020. The adjustment calculation is below:

The change shall be calculated as follows:

("Annual CPI" for Prior Calendar Year minus "Annual CPI" for Calendar Year Two Years Prior)/(Annual CPI for the Calendar Year Two Years Prior) = "Change in CPI"

then

("Change in CPI" + 1) * (Fee Currently in Force) = (New Fee for Next Year).

If the "Change in CPI" is less than 0.0, then 0.0 shall replace the actual "Change in CPI" in the calculation for that 12-month period.

Schedule A may be adjusted administratively on an annual basis, pursuant to the formula above.

d. Incentive areas. In order to incentivize the revitalization of targeted areas, the city commission hereby designates the area of the city north of 63rd Street, as a mobility fee incentive area. Within the incentive area, a mobility fee reduction of 62.5 percent shall be provided until August 31, 2022; between September 1, 2022, and August 31, 2023, a mobility fee reduction of 50 percent shall be provided; between September 1, 2023, and August 31, 2024, a mobility fee reduction of 38 percent shall be provided; and between September 1, 2024, and August 31, 2025, a mobility fee reduction of 26 percent shall be provided.
e. A mobility fee administration fee, in the amount identified in Appendix A, shall be assessed, for the purposes of calculating and processing payment of the mobility fee, as well as to fund future mobility fee and concurrency studies.

3.3.5 ALTERNATIVE INDEPENDENT MOBILITY FEE STUDY

a. Any applicant whose land use is not listed in the mobility fee schedule shall have the option to provide an independent mobility fee study prepared in accordance with the methodology outlined in section 122-24.
b. The city manager is hereby authorized to reject any independent mobility fee study that does not meet the standards in section 122-24. The applicant shall provide notice of its intent to provide an independent mobility fee study not later than 60 days following issuance of the building permit or approval for a change of use.

Upon submission of the independent mobility fee study, the study shall require a review at the applicant's expense, pursuant to section 118-6. If the independent mobility fee study cannot be completed and a final determination of sufficiency made by the city manager, prior to issuance of the certificate of occupancy for the development, the applicant shall pay the applicable mobility fee pursuant to the provisions of this article prior to obtaining a certificate of occupancy.

However, if the mobility fee study is subsequently accepted by the city manager, following issuance of the certificate of occupancy, a refund shall be made to the applicant to the extent that the mobility fee paid was higher than the mobility fee determined in the independent mobility fee study.

3.3.6 MOBILITY FEE LAND USES

Mobility fee calculations shall be based upon the following schedule of land uses, measured per square foot, unless noted otherwise.

a. *Residential—Per unit.*
   i. Single-family with a unit size less than 3,500 square feet.
   ii. Single-family with a unit size between 3,500 and 7,000 square feet.
   iii. Single-family with a unit size greater than 7,000 square feet.
   iv. Multifamily apartments (market rate): Per unit.
   v. Affordable housing: Per unit.
   vi. Workforce housing: Per unit.
   vii. Co-living: Per unit.
b. *Recreation and entertainment.*
   i. Marina (including dry storage)—Per berth.
   ii. Golf course—Per hole.
   iii. Movie theater—Per screen.
   iv. Outdoor commercial recreation—Per acre.
   v. Community center/civic/gallery/lodge/museum.
   vi. Indoor commercial recreation/health club/fitness.
c. *Institutional.*
   i. Continuing care facility/nursing home/memory care/congregate care facility/assisted/independent living—Per bed.
   ii. Private school (Pre-K-12).
   iii. Place of worship, including ancillary and accessory buildings.
   iv. Day care center.
d. *Industrial.*
   i. Warehousing/manufacturing/industrial/production.
   ii. Mini-warehousing/boat/RVs and other outdoor storage.
   iii. Distribution/fulfillment center/package delivery hub.
e. *Office.*
   i. General office/research/higher education/financial/bank.
   ii. Medical/dental/clinic/veterinary/hospitals.
f. *Service/retail/nonresidential.*

i. Retail sales/personal and business services.
ii. Pharmacy/medical cannabis treatment center/pain management clinic.
iii. Supermarket.
iv. Takeout restaurant with no seating.
v. Restaurant with seating—Per seat.
vi. Restaurant drive-through—Per drive-through.
vii. Bar/night club/pub without food service.
viii. Motor vehicle and boat sales/service/repair/cleaning/parts.
ix. Hotel/lodging—Per room.
x. Convenience retail.
xi. Motor vehicle fueling—Per fuel position.
xii. Bank drive-through lane, stand alone ATM or ATM drive-through lane—Per drive through lane and/or per ATM. A bank without drive-through lanes or a drive-through ATM shall only be charged a mobility fee based on the office rate. A convenience store without gas pumps shall only be charged a mobility fee based on the square footage of the convenience store.

3.3.7 MOBILITY FEE BENEFIT DISTRICT

Miami Beach shall have a single citywide mobility fee benefit district.

3.3.8 MOBILITY FEE FUND ESTABLISHED

There is hereby established a mobility fee fund for the mobility fee benefit district established in section 122-27 hereof. For accounting purposes, the mobility fee fund shall be considered a special revenue fund. Transportation concurrency mitigation funds collected prior to or subsequent to the adoption of this ordinance shall be deposited into the mobility fee fund, and shall only be used for the purposes established in section 122-29.

3.3.9 USE OF MOBILITY FEE FUND

a. The mobility fee fund shall be used by the city to fund capital expenses associated with transportation facilities, or portions thereof, that are located in the city, and that are included in the city's adopted capital improvement plan, transportation master plan, or comprehensive plan, and shall benefit new development located within the city.
b. The fund may be used to further the goals of the city to reduce dependence on single-occupant vehicle trips, and encourage use of bicycle, pedestrian, and transit modes as a means of commuting and recreational mobility. Eligible projects may include, without limitation:
   i. Carpools;
   ii. Van pools;
   iii. Demand response service;
   iv. Paratransit services (for special needs population);
   v. Public/private provision of transit service, bike sharing, or shared car initiatives;
   vi. Provision of short-term and long-term bicycle parking, showers, and changing facilities;
   vii. Provision of parking for carpools;
   viii. Alternative hours of travel, including flexible work hours, staggered work shifts, compressed work weeks and telecommuting options;
   ix. Subsidy of transit fares;
   x. Use of long-term parking to be developed at or near the city's entry points;
   xi. Shared vehicular and pedestrian access for compatible land uses, where possible;
   xii. Shared parking agreements for compatible land uses, where possible;

xiii. Provision of transit amenities;
xiv. Car share vehicle parking;
xv. Traffic management and traffic monitoring programs;
xvi. Incident management;
xvii. Congestion management;
xviii. Access management;
xix. Parking policies which discourage single-occupancy vehicles;
xx. The encouragement of carpools, vanpools, or ridesharing;
xxi. Programs or projects that improve traffic flow, including projects to improve signalization;
xxii. On road bicycle lanes, bicycle parking, and bicycle amenities at commercial and residential uses;
xxiii. Improve intersections, and implement Intelligent Transportation Systems (ITS) strategies, including pedestrian oriented intersection design strategies;
xxiv. Pedestrian countdown signals;
xxv. Medians for pedestrian refuge and curb extensions; and
xxvi. Timing signals to minimize pedestrian delay and conflicts.

c. If the capital expenses of a transportation facility will be fully paid from the mobility fee fund, the city manager shall make a written determination that (i) the demand for the transportation facility is reasonably attributable to new development in the city, and (ii) the transportation facility is not intended to alleviate an existing deficiency in the city's transportation network.
d. If a portion of the demand for the transportation facility is reasonably attributable to new development in the city and a portion of the transportation facility will alleviate an existing deficiency in the city's transportation network, the city manager shall make a written determination of the percentage of the transportation facility attributable to new development and that percentage of the capital expenses (but not the deficiency portion) may be paid from the mobility fee fund.
e. Any expenditure from a mobility fee fund not specifically authorized by this article shall be repaid to the mobility fee fund from lawfully available revenue of the city.

Chapter 4

LANDSCAPE REQUIREMENTS

ARTICLE I – INTENT AND APPLICABILITY

4.1.1 INTENT

It is the intent of these regulations to establish minimum landscape standards for the City of Miami Beach that enhance, improve and maintain the quality of the landscape, and to:

a. Prevent the destruction of the city's existing tree canopy and promote its expansion.

b. Improve the aesthetic appearance of new development and protecting designated historic landscapes.

c. Promote sound landscaping principles through the use of drought and salt tolerant plant species and also to promote planting the right tree and plant in the right place.

d. Promote the use of trees and shrubs for energy conservation, thereby helping to offset global warming and local heat island effects.

e. Provide shade.

f. Improve stormwater management and address flooding and hurricane management.

g. Ameliorate noise impacts and light pollution.

h. Promote the use of canopy trees to sequester carbon dioxide emissions.

i. Improve urban ecology and protect beach ecology.

Commented [AI1]: Definitions moved to General Provisions

4.1.2 SHORT TITLE AND APPLICABILITY

a. *Title.* This regulation shall be known and may be cited as the "City of Miami Beach Landscape Ordinance".

b. *Applicability.* All building permits for new construction, substantial rehabilitation or additions to existing buildings, and projects that are reviewed under the conditional use, variance, design review, and/or certificate of appropriateness processes, inclusive of city projects. The planning director, or designee shall conduct all landscape reviews pursuant to the regulations set forth in this chapter and consistent with the design review or certificate of appropriateness regulations, as applicable and as set forth in chapter 118 of these land development regulations. The landscape review shall include, but not be limited to, parking decks, all required yards, decks associated with recreational facilities, or any open space areas that are visible to the public.

c. *Exemptions.* As applicable to additions to existing buildings that do not expand or enlarge the footprint of the existing building, and where such additions do not require the review and approval of a land use board, and are not a substantial rehabilitation, the landscape review requirements in this chapter may be waived by the planning director or designee.

d. *New development and permits for demolition or wrecking.* Permits for new development and for demolition or wrecking shall require a vegetation survey pursuant to subsection 126-4(a), in order to ensure that valuable existing trees are not damaged or destroyed.

ARTICLE II - REQUIREMENTS

4.2.1 PLANS REQUIRED

All plans required in this chapter shall be reviewed by the planning department in accordance with the Code of the City of Miami Beach, the guidelines and illustrations provided in the Miami-Dade County Landscape Manual, as well as the Guide to Florida Friendly Landscaping provided by the Florida Yards and Neighborhoods Program. The following shall be required:

a. *Vegetation survey.* Vegetation survey(s) shall be prepared by, and bear the seal of, a professional land surveyor, licensed to practice in the State of Florida.

   i. Vegetation survey(s) shall provide the accurate location, identification and graphic representation of all existing trees inclusive of the canopy dripline that are a minimum of ten feet in height and a minimum of three inches in diameter at breast height (DBH) and existing palms that are a minimum of ten feet in height and a minimum of four inches DBH.

   ii. Existing trees and palms shall not be removed until it has been determined that no tree removal permit is required or that a valid tree removal permit has been issued in compliance with chapter 46 of the Code of the City of Miami Beach.

b. *Tree disposition plan.* Tree disposition plan(s) shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida.

   i. Where a vegetation survey and landscape plan is required, a tree disposition plan shall be submitted concurrently and shall:

   ii. Be drawn to scale and include property boundaries, north arrow, graphic scale, and date;

   iii. Identify, locate, and list all existing trees and specify the condition of each tree and whether such trees are to remain, to be removed or to be relocated on the plan;

   iv. Illustrate the location of all existing structures and/or all proposed new construction, as applicable, the location of any overhead and/or underground utilities, the new locations of existing trees to be relocated on site, and all areas affected by construction-related activities, such as access routes to the property, and staging areas;

   v. Graphically show the location of the tree protection fence to the dripline for existing trees and palms to remain on the plan;

   vi. Provide a drawing of the city approved tree protection fence detail on the plan; and

   vii. Illustrate the temporary construction parking layout as required by the parking department.

c. *Landscape plans.* Landscape plan(s) shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida.

   i. Prior to the issuance of a building permit, the planning department shall review a landscape plan; at a minimum, such plan shall include the following:

   ii. The plan shall be drawn to scale and include property boundaries, north arrow, graphic scale, and date;

iii. All existing and proposed structures, parking spaces, driveways and other vehicular use areas, public sidewalks, right-of-way swale/parkway, curbs, street edge of pavement, easements, and utilities on the property or adjacent property, shall be clearly delineated;

iv. All landscape features and non-living landscape materials shall be identified;

v. All geologic, historic and archeological features to be preserved shall be illustrated;

vi. The common and scientific name, as well as the quantity and size specifications of all plant materials to be installed shall be clearly indicated; and

vii. The critical layout dimensions for all trees, plant beds and landscape features shall be provided;

viii. Method(s) to protect and relocate trees and native plant communities during construction;

ix. Planting details and specifications; and

x. The landscape legend form shall be affixed to the plan and shall include, but not be limited to, the following:

1. The minimum number of required trees per lot, pursuant to section 126-6;

2. The minimum number of required street trees, pursuant to section 126-6;

3. Provided trees per lot;

4. Provided street trees;

5. Provided shrubs; and

6. Maximum allowable percentage of sod within the property.

d. *Irrigation plans.* Irrigation plan(s) shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida, or by persons authorized by F.S. ch. 481, to prepare irrigation plans or drawings.

i. Where a landscape plan is required, an irrigation plan shall be submitted concurrently and shall:

ii. Be drawn on a base plan at the same scale as the landscape plan(s);

iii. Delineate landscape areas, major landscape features and hydrozones:

iv. Include water source, design operating pressure, flow rate/volume required per zone and application rate;

v. Include locations of pipes, controllers, valves, sprinklers, back flow prevention devices, rain switches or soil moisture sensors, electric supply; and

vi. Irrigation details and specifications.

e. *Site and landscape lighting plans.* Site and landscape lighting plan(s) shall be prepared by, and bear the seal of, a landscape architect licensed to practice in the State of Florida, or by persons authorized by F.S. ch. 481, to prepare site and landscape lighting plans or drawings.

i. Where a landscape plan is required, a site and landscape lighting plan may be submitted concurrently and shall:

ii. Be drawn on a base plan at the same scale as the landscape plan(s);

iii. Delineate landscape areas, major landscape features and electrical zones;

iv. Include existing and proposed lighting equipment and fixture locations with sizes and mounting heights; and

v. Lighting equipment details and specifications.

4.2.2 TREE REMOVAL AND PRESERVATION

No person, agent, or representative thereof, directly or indirectly, shall cut down, destroy, move or effectively destroy through damaging any tree except pursuant to the procedures and requirements of chapter 46 of the Code of the City of Miami Beach.

No permit for development activity shall be issued until it has been determined that no tree work permit is required or that a valid tree work permit has been issued in compliance with chapter 46 of the Code of the City of Miami Beach. The environment and sustainability department is responsible for administering and enforcing this provision in accordance with chapter 46 of the Code of the City of Miami Beach.

4.2.3 MINIMUM STANDARDS

The following standards shall be considered minimum requirements unless otherwise indicated in the land development regulations:

a. Trees.

Tree size: All trees except street trees, shall be a minimum of 12 feet high with a minimum crown spread of six feet and have a minimum caliper of two inches at time of planting~~, except that 30 percent of the tree requirement may be met by native species with a minimum height of ten feet and a minimum caliper of one and a half inches at time of planting.~~

A minimum volume of 1200 cubic feet, at a depth not to exceed three (3) fee~~d~~t, of non-compacted, open soil (not covered by paving) shall be required for tree planting to provide adequate space for tree roots under pavements. Where more than one tree shares the same planting area, the volume may be reduced to a minimum of 900Ft cubic feet of soil. When trees are planted in open planting areas, Structural Soil shall be permitted, however when trees are planted in pavement, a suspended paving system, such as Silva Cells or equivalent, shall be required to meet the necessary soil volumes

~~i.~~ Street tree size and spacing: Street trees shall be of a species typically grown in Miami Beach which normally mature to a height of at least 20 feet. Street tree plantings shall comply with ADA clearance requirements. Furthermore, street trees shall have a minimum clear trunk of four feet, an overall height of 12 to 14 feet and a minimum caliper of three inches at time of planting and shall be provided along all roadways at a maximum average spacing of 20 feet on center, except as otherwise provided in this ordinance.

~~ii.~~ i.

~~iii.~~ ii. The 20-foot average spacing requirement for townhouse or multi-family units 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 environment and sustainability department. Street trees planted along roadways shall be placed consistent with the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide with respect to edge of roadway pavement and/or where unable to locate within the right-of-way within seven feet of the property line on private property.

The city may require an increase the maximum average spacing due to site-specific constraints such as, but not limited to, visibility triangles, signage, utilities, view corridors, or the use of large canopy or diameter trees. However, the total number of required trees for this requirement shall be as per a 20-foot average spacing and any required street trees that cannot be provided along the roadway due to a

required increase in the maximum average spacing shall be planted elsewhere on the site, or the applicant shall utilize the tree and shrub compliance options, pursuant to section 126-7.

~~iv.~~iii. *Palms as street trees:* Single trunk palm species with a minimum of ten inches diameter at breast height (DBH) and a minimum of 15 feet of clear or grey wood at time of planting may be planted in addition to the required number of street trees. The maximum spacing of palms as street trees shall be 20 feet on center. Palms shall not count towards the required number of street trees. The city may require an increase in the maximum spacing due to site-specific constraints, such as, but not limited to, visibility triangles, signage, utilities view corridors, or the use of large canopy or diameter trees.

~~v.~~iv. *Power lines:* Under high voltage transmission lines installed independent of underbuilt distribution lines, tree height and spread shall not exceed the minimum approach distances specified in the FPL Plant the Right Tree in the Right Place guidelines and illustrations. The maximum spacing of appropriate and allowed tree species planted under power lines shall be 20 feet on center.

The city may require an increase the maximum average spacing due to site-specific constraints, such as, but not limited to, visibility triangles, signage, utilities view corridors, or the use of large canopy or diameter trees. However the total number of required trees for this requirement shall be as per a 20-foot average spacing and any required street trees that cannot be provided along the roadway due to a required increase in the maximum average spacing shall be planted elsewhere on the site, or the applicant shall utilize the tree and shrub compliance options, pursuant to section 126-7.

b. *Lawn grass/sod area/artificial grass*.

i. Grass areas, including lawn and sod areas, shall be planted with natural growing species well adapted to localized growing conditions in the city. Grass areas shall be sodded and used in swales or other areas subject to erosion.

ii. Exclusions from maximum permitted lawn areas:

1. Stabilized grassed areas used for parking.
2. Grassed areas designated on landscape plans and actively used for sports, playgrounds or picnic areas.
3. Grassed areas in the right-of-way.
4. Stormwater retention/detention areas planted in grasses which are very drought tolerant, as well as tolerant to wet soils.
5. Very drought tolerant grasses and low growing native plants, including grasses and forbs may be used as groundcover beyond the maximum permitted grass areas.

iii. Artificial grass areas may be permitted within required rear yards in single-family zoning districts, in accordance with the following:

1. Artificial grass shall be allowed as an alternative to lawn grass and shall count towards the maximum lawn area as described in Table A.
2. Artificial grass shall be installed as a system that is pervious and contributes to storm drainage. The permeability shall be equal to or greater than that of natural grass.
3. Landscape permit plans shall be provided with artificial grass system specifications, sections and details for review and approval by planning department staff.
4. Applicants shall provide an owner affidavit agreeing to perpetually maintain the artificial grass system in good working order in order to ensure that there is continued ground permeability.

5. The artificial grass system shall utilize organic plant-derived and other natural infill components to the maximum extent feasible, including, but not limited to, cork, coconut, corn husk, rice husk, and sand. The use of crumb rubber and other synthetic materials shall be minimized.

iv. Maximum permitted lawn grass/sod areas for all zoning districts are referenced in Table A.

c. *Minimum number of trees.* Minimum number of required trees per lot or per acre of net lot area (not including street trees) and maximum allowable percentage of lawn grass/sod areas within the subject property is referenced in table A. More specific information may be found at subsections (1) through (12), following the table, for more specific requirements.

TABLE A				
Zoning District	**Number of Trees Required**			**Maximum Lawn Area** 50% of required Open Space
	Per Lot (Front Yard)	**Per Lot (Back Yard)**	**Per Acre of Net Lot Area**	**Percent of Required Open Space**
CAT 1*: Single Family Home and Townhome *				
RS-1	2	3		50%
RS-2	2	3		50%
RS-3	2	3		50%
RS-4	2	3		50%
TH	2	3		50%
CAT 2: Multifamily Residential, Hospital Districts				
RM-1			28	30%
RM-2			28	30%
RM-3			28	30%
HD			28	30%
RM-PRO			28	30%
RMPRD-2			28	30%
RO			28	30%
CAT 3: Commercial, Urban Light Industrial, Mix-Use Districts, Waterway District, Residential and Commercial Standard				
CD-1			22	20%
CD-2			22	20%
CD-3			22	20%
1-1			22	20%
MXE			22	20%
WD-1			22	20%
WD-2			22	20%
RPS-1			22	20%
RPS-2			22	20%
RPS-3			22	20%
C-PS1			22	20%
C-PS2			22	20%
C-PS3			22	20%
C-PS4			22	20%
RM-PS1			22	20%
SPE			22	20%
TC-1			22	20%

TC-2			22	20%
TC-3			22	20%
CAT 4: Institutional/Recreational; Marine Recreational, Civic/Government Use, Convention Center				
MR			22	20%
GU			22	20%
CCC			22	20%
GC			22	20%
* CAT 1: Single-Family Home and Townhome districts up to 6,000 square feet lot area. Refer to section 126-6(c)(4) for number of trees required for larger properties.				

i. Multifamily residential and commercial zones. In multifamily residential, RM-1, RM-2, RM-3, RPS-1, RPS-2, RPS-3, RPS-4, RO, TC-3 or commercial zones, CD- 1, CD-2, CD-3, C-PS-1, C-PS-2, C-PS-3, C-PS-4, 1-1, MXE, TC-1, TC-2, if the minimum number of trees required cannot be planted on the ground level of the subject property, the applicant may plant 25 percent of the required trees on upper levels such as open recreation areas, roofs, and exposed decks.

ii. Lawn grass/sod 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 maximum lawn area requirements.

iii. Trees shall be planted to provide shade to residential structures of a height of 35 feet or less. At least two required lot trees shall be positioned in the energy conservation zone. All exterior ground floor air conditioning units shall be shaded by trees and/or shrubs.

iv. The number of required trees listed in table A for category 1 residential zoning districts are intended for properties up to 6,000 square feet lot area. Provide one additional tree for each additional 1,000 square feet of lot area. If the total lot area is a fraction over the additional 1,000 square feet then, the number of required trees will be rounded up.

v. Existing trees required by law to be preserved on site and that meet the requirements of minimum tree size may be counted toward fulfilling the minimum tree requirements.

vi. Prohibited and controlled tree species: Prohibited and controlled trees shall not be planted or counted toward fulfilling minimum tree requirements. Prohibited and controlled trees included within section 24-49(f)I and II of the Miami-Dade County Code shall be identified and listed on a tree survey and tree disposition plan prior to removals.

vii. No less than ~~30~~ 50 percent of the required trees shall be native species.

viii. ~~No less than 50~~ 100% percent of the required trees shall be low maintenance or drought and salt tolerant species.

ix. Diversity of required tree species. In order to avoid a mono-species appearance and to circumvent significant tree loss due to disease to a specific tree species, the number of different tree species to be planted is as follows:

1. One to five required trees: Two tree species.
2. Six to ten required trees: Three tree species.
3. 11 to 15 required trees: Four tree species.
4. 16 to 20 required trees: Five tree species.
5. 21 to 30 required trees: Six tree species.
6. 31 or more required trees: Seven tree species.

x. Palms ~~of a ten-foot minimum overall height and minimum caliper of three inches at time of planting~~ may be planted in addition to the tree requirement. Palms shall not count towards the minimum number of required trees.

xi. All of the trees shall be listed in the Miami-Dade County Landscape Manual, the Miami-Dade County Street Tree Master Plan, the University of Florida's Low-Maintenance Landscape Plants for South Florida list, or other list approved by the City of Miami Beach Urban Forester.

xii. Where the state, county or municipality determines that the planting of trees and other landscape material is not appropriate in the public right-of-way, the city may require that said trees and landscape material be placed on private property.

d. *Shrubs.* Shrubs shall be a minimum of 18 to 24 inches high at time of planting and spaced not to exceed 30 inches on center. The minimum number shall be 12 shrubs per the number of required lot and street trees. No less than 50 percent of the required shrubs shall be native species, and 100% of shrubs shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach. No one species of shrub shall constitute more than ~~25~~ 20 percent of the shrubs required by these regulations.

Shrubs shall be planted to visually screen ground level equipment such as air conditioning units and pool equipment and shall be planted at the height of the adjacent equipment. Alternatives to shrubs screening ground level equipment include masonry walls, fences or screens that are planted with vines. The aforementioned alternatives must receive approval from the planning department.

~~e.~~ *Large shrubs or small trees.* All large shrubs or small trees shall be a minimum of six feet high with a minimum crown spread of four feet at time of planting and ten feet high at mature growth. The minimum number of large shrubs or small trees shall be ten percent of the required number of shrubs for the specific project. The minimum number of large shrubs or small trees required shall be in addition to the minimum number of shrubs required. No less than 50 percent of the required large shrubs or small trees shall be native species, and 100% of large shrubs or small trees shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach. ~~.~~

~~f.~~e. Large shrubs or small trees may be planted as understory to large trees and with the required smaller shrub and groundcover plantings, in order to achieve a layering of plants.

~~g.~~ *Vines.* Vines shall be a minimum of 30 inches high at time of planting and may be used in conjunction with fences, screens or walls. Vines will be considered as shrubs on a one-to-one basis as part of the required number of shrubs for the specific project. No less than 25 percent of the required vines ~~large shrubs or small trees~~ shall be native species, and 100% of shrubs shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach.

~~h.~~f.

~~i.~~g. *Groundcover and grasses.* Groundcover and grasses shall be used in lieu of lawn grass/sod area in whole or in part shall be planted with a minimum of 75 percent coverage with 100 percent coverage occurring within three months of installation.

~~j.~~h. *Soil and fertilizer.* All plant materials shall be planted with the soil and fertilizer specified in the City of Miami Beach Landscape Installation Specifications and Standards.

Any other soil mix or fertilizer must be submitted to the environment and sustainability department prior to delivery on site.

Soil Cells.

~~k.~~i. *Mulch.* Mulch shall be shredded pine, eucalyptus or Florimulch (100 percent melaleuca mulch). Planting areas not covered by lawn grass/sod shall be mulched to a minimum depth of three inches, in order to present a finished appearance.

Cypress mulch, red colored mulch, and rubber mulch is prohibited. Any other mulch must be submitted to the environment and sustainability department prior to delivery on site.

~~l.~~j. *Off-site tree planting.* If the minimum number of trees, large shrubs, and shrubs required cannot be planted on the subject property, the applicant may enter into an agreement with the city, as approved by the planning department, to plant the excess number of required trees, large shrubs, and shrubs on public propert

4.2.4 TREE AND SHRUB COMPLIANCE OPTIONS

a. If the minimum number of trees required cannot be planted on the subject property, the applicant/property owner is provided the following ~~two~~ option~~s~~:

   i. Seek authorization from the city to install the trees off-site, on public land near or adjacent to the applicant's property. This option shall only be available at the discretion of the city; and/or

   ii. Shall contribute into the city's tree trust fund the sum of $2,500.00 for each two-inch caliper tree required in accordance with table A of section 126-6.

   However, city residents with current proof of residency and homestead status under state law, if opting to utilize this option, ~~two~~ shall be required to contribute the lesser amount of $1,000.00 for each tree that is not provided, as required in accordance with table A of section 126-6.

b. If the minimum number of large shrubs, small trees and shrubs required cannot be planted on the subject ~~applicant's~~ property, the applicant/property owner is provided the following options:

   i. ~~can either~~ Sseek authorization from the city to install the large shrubs, and small trees and shrubs off-site on nearby or adjacent public land near or adjacent to the applicant's property. This option shall only be available at the discretion of the city; and/or

   ~~iii.~~ii. ~~be required to~~ Shall contribute into the city's tree trust fund the sum of $100.00 for each shrub required and $300.00 for each large shrub/small tree required in section 126-6.

~~b.~~c. *Annual review and adjustment:* These fees shall be evaluated and adjusted annually based on the consumer price index for all urban consumers (CPI-U).

4.2.5 PLANT QUALITY

All plant materials shall be equal to or better than "Florida No. 1," as classified by "Grades and Standards for Nursery Plants" by the Division of Plant Industry, Florida Department of Agriculture. Plant materials shall have a growth habit that is normal to the species, healthy, vigorous, free from insects, disease and injury.

Exceptions to the "Florida No. 1," classification will require approval from the City of Miami Beach Urban Forester.

4.2.6 BUFFERS BETWEEN DISSIMILAR LAND USES

Where a nonresidential zoning district abuts a residential zoning district, and where such areas will not be entirely visually screened by an intervening building or structure from the abutting property, the abutting property line shall be provided by the nonresidential property if applying for new construction with a buffer consisting of the following:

a. A landscaped buffer strip shall consist of trees with understory evergreen shrubs and groundcovers within a minimum five-foot wide landscaped strip, regardless of minimum allowable setback.

b. Trees with a minimum height of 12 feet shall be planted at a maximum average spacing of 20 feet on center. No less than 50 percent of the required trees shall be native species, and 100% of trees shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach.

c. Evergreen shrubs at a minimum of 24 to 36 inches high at time of planting may be used as a buffer and shall form a continuous screen between the dissimilar land uses within one year after planting. No less than 50 percent of the required shrubs shall be native species, and 100% of shrubs shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach.

d. Groundcovers shall be planted as understory to the trees and shrubs within the landscaped buffer strip. No less than 50 percent of the required groundcovers shall be native species, and 100% of groundcovers shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach.

e. Where site limits or constraints do not allow the five-foot wide landscaped buffer strip, provide a six-foot high wall or approved fence with a life expectancy of at least ten years. Vines may be used in conjunction with fences, screens or walls, in order to soften blank wall conditions.

4.2.7 LANDSCAPED AREAS IN PERMANENT PARKING LOTS

At-grade parking lots. For the purpose of this section, the term "at-grade" parking lot shall encompass commercial parking lots and noncommercial parking lots as described in section 114-1 whether they are primary or accessory uses and that portion of a lot which is underneath the building and is at-grade which is utilized for parking. Notwithstanding the requirements in this section, in no instance shall the required landscaped area be less than ~~20~~ 35 percent of the total area.

A landscape plan that specifies and quantifies the existing and/or proposed plant material inclusive of mature shade trees, hedge material, ground cover and in-ground irrigation shall be submitted for review and approval by the planning department, according to the following criteria:

a. A landscaped area with a tree shall be required at the end of all parking rows, particularly when abutting an aisle or building. Planting areas for each tree shall have a minimum width of eight feet, six inches, exclusive of the curb dimension, and shall be planted or covered with other landscape materials. Structural soil shall be required under the adjacent parking stalls to meet the minimum required soil volumes per section xx.xx.xx stated above.

b. For each row of parking there shall be landscaped areas with trees within the first 90 linear feet, and one landscaped area provided with a tree for each additional ~~90~~ 80 linear feet. When a minimum eight-foot, six-inch clear landscape area is provided between two rows of parking, the landscape areas with trees every ~~90~~ 80 linear feet is not required. This eight-foot, six-inch wide landscape area shall be planted with trees no greater than 20 feet on-center.

c. For each row of parallel parking there shall be a minimum of two landscape areas, such as in a curbed bulb out, for every three parking spaces. The landscape areas shall be equally spaced wherever possible. Parallel parking landscape area/tree place details such as curbed bulb outs shall be approved by the public works department.

d. All required trees shall be of an approved shade tree variety which shall attain a minimum mature crown spread greater than 20 feet.

e. Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least two feet, six inches from the edge of the paved area.

f. Where a landscape area is provided between two rows of parking, continuous curbs will not be permitted. Curb breaks/inlets shall be provided, and grading shall be such that stormwater is directed to the landscape areas to accommodate stromwater infiltration.

g. All parking stalls, access aisles and driveways in residential uses shall be separated from any building by a minimum of 30 inches and landscaped with shrubs, groundcover, or other suitable plant materials.

h. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting layer of trees, shrubs, and groundcover.

i. A landscape area that is a minimum of five feet in width shall be provided when parking stalls, access aisles, or driveways are located along any side or rear lot line. The landscape areas shall be planted with a continuous hedge and with trees spaced a maximum of 20 feet on center. ~~In certain instances, a solid and continuous masonry six-foot high wall may be approved and used in lieu of a landscape area. The approved wall surface shall be stuccoed, painted, tiled, or textured in such a way to provide a decorative effect.~~ Walls will require a variance and shall be covered with vines.

j. These requirements are in addition to any applicable required open space as provided in these regulations.

~~j.~~k. Parking stalls shall be installed with pervious pavement materials, while the drive aisles may be installed with impervious pavement materials.

~~k.~~l. All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a ~~temporary~~ permanent parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.

4.2.8 TEMPORARY AND PROVISIONAL PARKING LOT STANDARDS

a. *Temporary parking lot: Required landscaping.* A landscape plan that specifies and quantifies the existing and/or proposed plant material inclusive of mature shade trees, hedge material, ground cover and in-ground irrigation shall be submitted for review and approval by the planning department, according to the following criteria:

   i. At a minimum, the plan shall indicate a five-foot wide, landscaped area bordering the surface area along a property line, street, alley or sidewalk. All landscape areas along the perimeter of the property shall be planted with one native canopy tree for every 20 feet of the landscape areas adjacent to the perimeter and within the interior of the property, subject to the minimum tree size standards specified in section 126-6. Optional smaller native tree species may be considered at a height of no less than eight feet, and a diameter at breast height (DBH) of no less than one inch at the time of planting. A payment of $500.00 shall be made into the tree trust fund for each optional smaller lot tree. Palms may be planted in addition to the minimum number of required lot trees. Palms do not count towards the minimum number of lot trees. The areas fronting an alley shall be landscaped with ~~a grouping of three palms at every 15 linear feet of frontage, or~~ one native canopy tree every 20 feet of frontage. All landscaped areas shall ~~utilize St. Augustine grass or natural planted material, subject to the review and approval of the planning department.~~ be planted with native ground covers and shrubs, subject to the review and approval of the planning department.

   ii. A hedge that is at least 36 inches (three feet) in height at the time of planting shall be installed on the entire perimeter of the lot; hedges on street or alley frontages shall not exceed 42 inches (three feet, six inches) in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of another property shall be at least 48 inches (four feet) in height at time of planting and shall not exceed 60 inches (five feet) at maturity. No less than 50 percent of the required shrubs shall be native species, and 100% of shrubs shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach.

   iii. For temporary parking lots seeking an extension of time from the planning board, the interior landscaping of lots exceeding 55 feet in width, shall be a minimum of five percent of net interior area. One native

canopy tree shall be planted for each 100 square feet or fraction thereof of required landscaped area. Such landscaped areas shall be located and designed in such a manner as to divide and break up the expanse of paving. Parking lots that are 55 feet wide or less shall not be required to provide interior landscaping.

Landscaped areas shall require protection from vehicular encroachment. Car stops, bollards, or similar barriers, as approved by the planning department, shall be placed at least two feet, six inches from the edge of the paved area. The required protection shall not be continuous, and grading shall direct stormwater runoff to the landscape areas to promote infiltration. A ~~continuous~~ concrete curb with curb breaks/inlets may also be considered as permitted by subsection 130-61(1).

iv. Notwithstanding the dimensions of a parking lot, an in-ground irrigation system that covers 100 percent of the landscaped areas shall be required and shown on the landscape plan. Such irrigation system shall include an automatic rain sensor that is compatible with the water requirements of the proposed plantings, and shall be subject to the review and approval of the planning department.

v. All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a temporary parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.

b. *Provisional parking lot: Landscaping requirements.*

i. A landscape plan that specifies and quantifies the proposed and/or existing plant material inclusive of mature shade trees, hedge material and ground cover shall be submitted for review and approval by the planning department.

At a minimum, the plan shall indicate ~~a two feet, six inches~~five (5) feet wide landscaped area bordering the surfaced area along all property lines. All landscaped areas shall utilize ~~St. Augustine grass or~~ planted material acceptable to the planning department that is no less than 50 percent native species, and 100% of which shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach. ~~.~~ A hedge that is at least 36 inches in height at the time of planting shall be installed on the entire perimeter of the lot; the side or sides of the lot that face a street or an alley shall not exceed 42 inches in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of another property shall be at least 48 inches (four feet) in height at time of planting and 60 inches (five feet) at maturity. No less than 50 percent of the required shrubs shall be native species, and 100% of shrubs shall be low maintenance, drought tolerant, salt tolerant, and suitable for Miami Beach.

ii. The areas fronting a right-of-way or an alley shall be landscaped with ~~a grouping of three palms every 20 linear feet of frontage or~~ one canopy tree every ~~25~~ 20 feet of frontage.

iii. An in-ground irrigation system that covers 100 percent of the landscaped areas shall be required.

iv. Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least two feet, six inches from the edge of the paved area. The required protection shall not be continuous, and grading shall direct stormwater runoff to the landscape areas to promote infiltration. A concrete curb with curb breaks/inlets ~~to~~ may also be considered as permitted by subsection 130-61(1).

v. All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a provisional parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.

4.2.9 LANDSCAPE INSTALLATION

Landscape installation procedures are pursuant to the City of Miami Beach Landscape Installation and Specifications Standards.

4.2.10 IRRIGATION

All newly-planted and relocated plant material shall be watered by a permanent irrigation system. The following methods are encouraged to conserve water:

a. Cisterns and rain barrels are encouraged to conserve water, supplement irrigation systems, and as components of permanent irrigation systems.

b. Brown and grey water irrigation is encouraged as follows:

   i. *Brown water turf irrigation:* After treatment of effluent from toilets and kitchen, recycled water may be used to irrigate the lawn grass/sod areas. Subsurface dripline irrigation may be used throughout the lawn grass/sod areas and soil moisture sensors contribute to control the watering regime.

   ii. *Grey water irrigation:* Grey water from showers and hand basins is treated to a secondary standard and then pumped out to irrigation. Grey water may be used to irrigate trees and plants. Subsurface dripline irrigation may be used with the purple piping and similar to lawn/sod area irrigation, this system is split into zones to control the watering regime.

4.2.11 SITE AND LANDSCAPE LIGHTING

a. Site lighting is considered pedestrian scale lighting with luminaires/fixtures mounted on individual poles located along walkways and open spaces on a site.

b. Landscape lighting is considered accent lighting for trees, palms, understory plantings, and pathways. Low voltage landscape lighting is encouraged.

c. This section does not include architectural/building type lighting or sports field, vehicular or parking lot type lighting.

d. Site and landscape lighting shall be controlled with timers or sensors, in order to avoid electrical use all night.

~~d.~~e. Any lighting facing a waterway shall adhere to all turtle-friendly light requirements, per section 46-203 of this Code.

4.2.12 LANDSCAPE MAINTENANCE

a. The owner and occupant is responsible to ensure that landscaping required to be planted pursuant to this ordinance [chapter] is installed in compliance with the landscape requirements; maintained as to present a healthy, vigorous, and neat appearance free from refuse and debris; and sufficiently fertilized and watered to maintain the plant material in a healthy condition.

b. If any tree or plant dies which is being used to satisfy current landscape code requirements, such tree or plant shall be replaced with the same landscape material or an approved substitute.

c. Trees shall be pruned in the following manner:

   i. All cuts shall be clean, flush and at junctions, laterals or crotches. All cuts shall be made as close as possible to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub.

ii. Removal of dead wood, crossing branches, weak or insignificant branches, and sucker shall be accomplished simultaneously without any reduction in crown.

iii. Cutting of lateral branches that results in the removal of more than one-third of all branches on one side of a tree shall only be allowed if required for hazard reduction or clearance pruning.

iv. Lifting of branches or tree thinning shall be designed to distribute over half of the tree mass in the lower two-thirds of the tree.

v. No more than one-third of a tree's living canopy shall be removed within a one-year period.

vi. Trees shall be pruned according to the current ANSI A300 Standards.

~~d.~~ All street trees as well as any other landscape material in the right-of-way are the responsibility of the adjacent property owner to maintain up to the edge of pavement for the travel lanes or the centerline of the right-of-way if no travel lanes are present.

~~e.~~d.

ARTICLE III – ENFORCEMENT AND PENALTIES

4.3.1 PENALTIES

a. A violation of chapter 126, cited pursuant to the City of Miami Beach Landscape Ordinance, must be subject to the following fines. The special magistrate must not waive or reduce fines set by this section. The code compliance department shall provide a 30-day cure period for violations which can be cured, such as maintenance issues, prior to issuing a citation.

i. If the violation is the first violation: $500.00.

ii. If the violation is the second violation within the preceding 12 months: $1,000.00.

iii. If the violation is the third violation within the preceding 12 months: $1,500.00.

b. If the violation is the fourth or subsequent violation within the preceding 12 months: $2,000.00.

4.3.2 ENHANCED PENALTIES

The following enhanced penalties shall be imposed, in addition to any mandatory fines set forth in subsections (a)(1) above, for violations of this chapter:

a. *Enhanced penalties for subsection (a)(1):*

b. If the offense is a fourth offense within the preceding 12-month period of time, in addition to the fine set forth in subsection (a)(1), the property owner, landscape company or any affiliates shall be prohibited from receiving a landscaping approval for a three-month period of time.

c. If the offense is a fifth offense within six months following the fourth offense, in addition to any fine set forth in subsection (a)(1), the property owner, landscape company or any affiliates shall be prohibited from receiving a landscape approval for a six-month period of time. The property owner, landscape company or permittee shall be deemed a habitual offender.

d. The planning department may decline to issue future landscape approval to such person, individual, entity, business, company or any affiliates that have been deemed habitual offenders pursuant to this section for a period of up to one year.

e. The planning director may withhold approval of a final building inspection if landscape installations do not comply with the approved landscape plans and details.

4.3.3 ENFORCEMENT.

The code compliance department shall enforce the provisions of this ~~division [~~chapter~~]~~. This shall not preclude other law enforcement agencies or regulatory bodies from any action to assure compliance with this division [chapter], and all applicable laws. If an enforcing officer finds a violation of this division [chapter], the officer may issue a notice of violation to the violator. The notice of violation must inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within ten days after service of the notice of violation, and that failure to appeal the violation within the ten days, shall constitute an admission of the violation and a waiver of the right to a hearing.

a. No certificate of completion, occupational license, or final certificate of occupancy shall be issued unless the planning department has determined that the installed landscaping substantially meets the requirements as listed in the approved landscape plan(s) and as certified by the landscape architect of record.

b. Modifications to the approved landscape plan(s) and approved landscape installations are not allowed and will be considered a violation of this Code, unless such modifications are approved by the planning director or designee, or the design review or historic preservation board, as applicable.

c. The planning department shall have the right to inspect the lands affected by this Code, at any time, and is authorized to advise the code compliance department of any violations.

d. Failure to maintain landscaping according to the terms of this chapter shall constitute a violation of this Code. Also, failure to plant, preserve or maintain each individual tree and plants shall be considered to be a separate violation of this Code.

4.3.4 RIGHTS OF VIOLATORS; PAYMENT OF FINE; RIGHT TO APPEAR; FAILURE TO PAY CIVIL FINE OR TO APPEAL.

a. A violator who has been served with a notice of violation must elect to either:

   i. Pay the civil fine in the manner indicated on the notice of violation; or

   ii. Request an administrative hearing before a special magistrate to appeal the notice of violation, which must be requested within ten days of the issuance of the notice of violation.

b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of the city Code.

c. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate may be informed of such failure by report from the officer. Failure of the named violator to appeal the decision of the officer within the prescribed time period must constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and must be treated as an admission of the violation, which fines and penalties to be assessed accordingly.

d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the

same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes.

e. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.

f. The special magistrate shall be prohibited from hearing the merits of the notice of violation or the consideration of the timeliness of a request for an administrative hearing, if the violator has failed to request the administrative hearing within ten days of the issuance of the notice of violation.

g. The special magistrate shall not have discretion to alter the penalties prescribed in subsections 126-17(a) and (b) herein.

Chapter 6

SIGNS

ARTICLE I – IN GENERAL

6.1.1 INTENT

The purpose of this chapter is to provide comprehensive regulations for signage within the city. The following regulations and standards are intended to permit signs that through their design, location, numeration, and construction, will optimize communication, promote a sound healthy environment for housing and commerce, as well as preserve the architectural character of the city.

6.1.2 APPLICIBILITY AND SEVERABILITY

The regulations in this chapter apply to all signs and are in addition to the regulations contained elsewhere in these land development regulations. Except for signs exempted in section 138-4. all signs shall require permits. For the purposes of this chapter, "sign" or "signs" will include all associated supporting structures.

Pursuant to the procedures and standards set forth in chapter 118. article VIII, the board of adjustment, historic preservation board, or design review board, as applicable, may grant a variance permitting the erection and maintenance of a sign which does not conform to the regulations set forth for maximum size, location or graphics, illustrations, and other criteria set forth in these land development regulations.

6.1.3 GENERAL REQUIREMENTS

The following requirements shall apply to signs, in addition to provisions appearing elsewhere in these land development regulations:

a. Unless otherwise exempted in section 138-4, no sign shall be erected, constructed, posted, painted, altered, or relocated without the issuance of a building permit or planning permit.
b. Building permit applications shall be filed together with such drawing and specification as may be necessary to fully advise the city with the location, construction, materials, illumination, structure, numeration, design, and copy of the sign.
c. Structural features and electrical systems shall be in accordance with the requirements of the Florida Building Code.
d. No sign, portable or otherwise, shall conflict with the corner visibility clearance requirements of section 142-1135.
e. All signs, unless otherwise stipulated in this chapter, shall be located only upon the lot on which the business, residence special use, activity, service, product or sale is located.
    i. Unless otherwise specified in these regulations, all signs shall comply with the yard requirements of the district in which they are located.
f. All signs shall be maintained in good condition and appearance.
g. Any persons responsible for the erection or maintenance of a sign which fails to comply with the regulations of this chapter shall be subject to enforcement procedures as set forth in section 114-8.

h. No sign shall be approved for use unless it has been inspected and found to be in compliance with all the requirements of these land development regulations and applicable technical codes.

6.1.4 EXEMPT SIGNS

The following signs may be erected, posted or constructed without a permit but in accordance with the structural and safety requirements of the South Florida Building Code and all other requirements of these land development regulations:

a. Official traffic signs or sign structures, or governmental information signs and provisional warning signs or sign structures, when erected or required to be erected by a governmental agency, and temporary signs indicating danger.
b. Historical markers approved by the historic preservation board.
c. Signs directing and guiding pedestrians and traffic and parking on private property, but bearing no advertising matter and not exceeding two square feet in area.
d. Changing of the copy on a bulletin board, poster board, display encasement, directory sign or marquee.
e. Signage on vehicles as authorized in section 138-61.
f. Temporary signs authorized by section 138-131, which are composed of paper, cardboard, plastic film or other similar material and are affixed directly to a window.
g. Address signs, not to exceed one per street frontage, maximum two square feet in area. Copy shall be limited to the address of the property.

6.1.5 SIGNS IN THE PUBLIC RIGHT OF WAY

Signs erected, posted or constructed in the public right of way are subject to the review and approval of the Public Works Department.

6.1.6 PROHIBITED SIGNS

a. No general advertising sign shall be constructed, erected, used, operated or maintained in the city.
b. Pennants, banners, streamers, balloon signs and all other fluttering, spinning or similar type signs and advertising devices are prohibited except as provided in sections 138-137 and 138-139, and subsection 82-411(d). Any nonconforming pennant, banner, streamer, fluttering or spinning device, flag or flagpole that is destroyed by storm or other cause, shall be removed immediately and shall not be replaced with another such nonconforming flag, sign or device.
c. No flashing sign shall be constructed, erected, used operated or maintained in the city.
d. No sign shall be constructed, erected, used, operated or maintained which uses the word "Stop" or "Danger" or presents or implies the need or requirement for stopping, or the existence of danger, or which is a copy or imitation of an official sign. This provision regarding the words "Stop" and "Danger" does not apply when the words are a part of attraction titles for a broadcast motion picture, theatre event, opera or concert, or when they are used in descriptive lines of advertising, so long as they are not used to stimulate, copy or imply any official traffic warning, either for vehicles or for pedestrians.
e. No sign shall be constructed, erected, used, operated or maintained so as to provide a background of colored lights blending with the traffic signals to the extent of confusing a motorist when viewed from a normal approaching position of a vehicle at a distance of 25 to 300 feet.
f. No sign shall be attached or otherwise applied to trees, utility poles, bus benches, trash receptacles, or any other unapproved supporting structures.
g. No sign attached to a vehicle may be illuminated when such vehicle is parked in the public right-of-way.
h. Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure, shall be prohibited.

i. Except as otherwise permitted by these land development regulations, no sign indicating the presence of an accessory commercial use in a hotel, apartment-hotel, or apartment building located in a residential district shall be constructed, erected, used, operated, or maintained so as to be visible from a public street, walk, or other public way.

j. Pole signs and roof signs are not permitted, except for pole signs which are associated with filling stations as provided in section 138-56. Legal nonconforming roof and pole signs may be repaired only as provided in section 138-55.

~~k.~~

l. Signs on umbrellas, tables, chairs and any other furniture or fixtures associated with outdoor cafes or sidewalk cafes are prohibited; except that signs on sidewalk cafe umbrellas may be permitted as provided for in these land development regulations.

m. Televisions or similar devices, displaying images of any kind are not permitted to be located within the first ten feet of a storefront.

n. Signs attached to or placed on a vehicle (including trailers) that is parked on public or private property shall be prohibited except as permitted in Section X.

6.1.7 REMOVAL REQUIRED

a. Any sign previously associated with a vacated premises shall either be removed or altered so that the sign no longer displays the visual aspects that pertain to the activity formerly associated with the vacated premises, by the owner or lessee not later than six months from the time such activity ceases to exist.

b. The building official may initiate proceedings that result in the removal of any sign erected or maintained without a permit.

c. (d) In any district where a sign does not comply with the provisions of these land development regulations and has not received a building permit, such sign and any supporting structures other than a building shall be removed.

d. Notwithstanding the foregoing, the planning director, or designee, may waive the requirement for the removal of a sign, regardless of the permit status, if the sign is determined to be historic or architecturally significant.

e. The code compliance department shall inquire of the planning director, or designee, prior to the issuance of any violation of this section, whether a waiver has been or will be issued pursuant to this section.

6.1.8 DISPLAY OF SIGNS OR ADVERTISEMENT ON VEHICLES

a. The prohibition of signs attached to or placed on a vehicle (including trailers) that is parked on public or private property does not apply in the following cases:

   i. Identification of a firm or its principal products on a vehicle operating during the normal hours of business or parked at the owner's residence; provided, however, that no such vehicle shall be parked on public or private property with signs attached or placed on such vehicle for the purpose of advertising a business or firm or calling attention at the location of a business or firm.

   ii. Vehicles carrying advertising signs dealing with the candidacy of individuals for elected office or advertising propositions to be submitted and voted upon by the people. This exemption, however, shall cease seven days after the date of the election in which the person was finally voted upon.

   iii. Vehicles which require governmental identification, markings or insignias of a local, state or federal government agency.

   iv. Signs that are authorized under chapter [section] 10-4(b) and BA-276 of the Code of Miami-Dade County.

   v. All other signs on vehicles advertising a business or firm shall be removed or covered when the vehicle is parked on public or private property.

vi. All allowable signs on vehicles which are removable are to be removed during nonbusiness hours.

b. It shall be unlawful for any person to operate an advertising vehicle in or upon the following streets and highways under the city's jurisdiction: all of Ocean Drive, and the residential area bounded by and including 6th Street on the south, North Lincoln Lane on the north, Lenox Avenue on the west, and Drexel Avenue and Pennsylvania Avenue on the east. An advertising vehicle is any wheeled conveyance designed or used for the primary purpose of displaying advertisements. Advertising vehicles shall not include or attach any trailers or haul any other vehicle or trailer.

c. This section shall not apply to:
   i. Any vehicle which displays an advertisement or business notice of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly, or primarily to display advertisements;
   ii. Mass transit, public transportation;
   iii. Taxicabs; or
   iv. Any vehicle exempted under section 138-61(a), above.
   v. Penalties. A violation of the provisions of subsection (a) shall be subject to the enforcement procedures and fines set forth in chapter 30, article III of this Code. A violation of the provisions of subsection (b) shall be subject to the penalties set forth in section 1-14 of this Code.

6.1.9 NONCOMMERCIAL GRAPHICS AND IMAGES

a. Non-electronic graphics and images. Artistic murals, graphics and images, composed of paint, tile, stone, or similar, non-electronic medium, which have no commercial association, may be applied to a building or structure, if approved by the design review board or historic preservation board, as applicable, in accordance with the applicable design review or certificate of appropriateness criteria. Additionally, such murals, graphics and images shall comply with the design standards in Section X.

b. Electronic graphics and images. Artistic murals, graphics and images, including projected or illuminated still images and/or neon banding, composed of an electronic medium, which have no commercial association, may be installed on a building or structure, if approved by the design review board or historic preservation board, as applicable, in accordance with the applicable design review or certificate of appropriateness criteria. Additionally, such electronic graphics and images shall comply with the design standards in Section X. :

ARTICLE II – DESIGN STANDARDS

6.2.1 GENERAL SIGN REQUIREMENTS AND DESIGN STANDARDS

The following standards shall apply to all signs unless otherwise exempted in this chapter or these land development regulations:

a. Direct access to the street or waterway from the licensed establishment is required for a sign that faces a public right-of-way or waterway.

b. Signs shall front a street or waterway. Signs may be permitted to front alleys where the alley frontage provides a means of public entrance or is adjacent to a parking lot or garage.

c. Signs located above the ground floor shall be limited to the name of the building or the use that encompasses the largest amount of floor area in the building.

d. Electrical conduit, support structures, receptacle boxes, disconnect switches or any other operational devices associated with a sign shall be designed in such a manner as to be visually unnoticeable.

e. Sign copy for business identification signs, with the exception of window signs, shall be limited to licensed permitted uses.

f. All signs shall be subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.
g. The framework and body of all signs shall consist of aluminum or similar alloy material. Other materials may be used for the sign face or lettering affixed to the framework and body.
h. The placement and location of all signs shall be compatible with the architecture of the building, and shall not cover or obscure architectural features, finishes or elements.

6.2.2 WINDOW SIGNS

a. In addition to other permitted signs, licensed commercial establishments are permitted one sign on one window or door with copy limited to the address, phone number and hours of operation, in accordance with the following:
   i. The size of the numerals for the address shall not exceed six inches in height.
   ii. The numerals and letter size for the phone number and hours of operation shall not exceed two inches in height.
   iii. The name of the establishment may be repeated more than once subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.. The letters shall not exceed six inches in height.
b. An "open"/"closed" sign, illuminated or non-illuminated shall be permitted. Such "open"/"closed" sign shall not exceed two square feet, letters shall not exceed 12 inches in height, and shall be subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.
c. The aggregate area of the above signs of this section shall not exceed five percent of the total glass window area and door area measured by adding the area of each individual glass pane.When there are no other signs associated with the use, the main permitted sign or signs may be located on the window with a total aggregate size not to exceed 20 square feet.
d. Restaurants may also have a menu board besides other signs provided herein. When a menu board is affixed to a window, it shall be limited to an area of three square feet. If a menu display case is affixed to the building wall, it shall be limited to an overall area of four square feet.
e. Commercial uses may also have one establishment services identification sign located on one window or door with letters no higher than two inches and a total area of two square feet.
   Commercial establishments that offer for sale or lease products which are not located on the premises (e.g., real estate) may place up to three display board type signs on the window. Such display boards shall be limited to six square feet each and are subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW X.

6.2.3 HANGING SIGNS

a. In all districts except RS (1-4), and in addition to other permitted signs, one non-illuminated sign hanging from the underside of an awning or canopy is permitted in accordance with the following:
   i. The area of the sign shall not exceed three square feet per side. Area shall be calculated based on the frame of the sign.
   ii. Letters shall not exceed six inches in height.
   iii. A minimum height clearance of seven feet six inches is required.

6.2.4 AWNING SIGNS

In all districts except RS (1-4), and in addition to other permitted signs, one sign on the valance of an awning or canopy may also be permitted. For the purposes of this section, a valance is defined as that vertical portion of the

awning that hangs down from the structural brace. Signs on other surface areas of an awning, canopy or roller curtain are not permitted. The sign shall be in accordance with the following:

a. The length of such sign shall not exceed 25 percent of the length of a single awning, or the length of that portion of the awning or canopy associated with the establishment, up to a maximum of ten feet.
b. Letters shall not exceed eight inches in height.
c. Signs on continuous awnings shall be placed centered on the portion of the valance that corresponds to the individual storefront and be a uniform color.
d. All awning signs shall be subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.

6.2.5 WALL SIGNS

a. Wall signs shall consist of individual letters or routed out aluminum panels.
b. Wall sign individual letters shall have a minimum depth of two inches and a maximum depth of four inches.
c. Wall sign individual letters shall be pin-mounted or flush-mounted. Raceway or wireway mounting shall only be permitted where the structural conditions of the wall do not allow for the direct mounting of letters. Raceways or wireways, if permitted, shall not exceed the width or height of the sign proposed and shall be subject to the design review process.

Wall signs shall be governed by the following chart:

WALL SIGN DESIGN STANDARDS PER DISTRICT			
	Zoning Districts		
	CD (1-3) C-PS (1-4) I-1 MXE TC (C, 1-2) RM-3 HD MR	**RM (1-2) R-PS (1-4) RO TC-3 RM-PS1 TH WD (1-2)**	**RS (1-4) SPE GC**
Maximum area calculation	0.75 square feet for every foot of linear frontage, with a minimum of 15 square feet permissible, regardless of linear frontage	0.33 square feet for every foot of linear frontage, with a minimum of 20 feet permissible, regardless of linear frontage	
Maximum area (Signs shall not exceed this area, regardless of the maximum area calculation)	100 square feet	30 square feet	GC and SPE: 30 square feet RS (1—4): Two square feet
Height restrictions	Shall not be located above the window sill of a second floor window. Notwithstanding the foregoing, on buildings with two or more floors, signage may be located above the first floor, provided that the signs above the ground floor shall not exceed the size limitations on the ground floor, subject to the review and approval of the design review board or historic preservation board, as applicable.		

Maximum quantity per frontage	Multiple signs for the same establishment may be permitted through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW if the aggregate sign area does not exceed the largest maximum permitted area	One wall, projecting or detached sign.	One
Accessory use	• Maximum 75% of main use sign, or 20 square feet, whichever is less • For uses located in hotel and apt. buildings, must have direct access to street/sidewalk; follows same regulations as main permitted use.		Not permitted
Special conditions	Corner buildings may provide one combined sign instead of the two permitted signs. This sign shall be located on the corner of the building visible from both streets and shall have a maximum size of 40 square feet.		
Building identification	Hotels, apartments-hotels, and commercial buildings two stories or higher may be permitted one building identification sign for each façade facing a public right-of-way or waterway, with an area not to exceed one percent of the façade area on which it is placed. The placement and design of the sign shall be subject to approval through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.		Residential use: Copy limited to address and name of building

d. Wall signs which meet the following additional design specifications may be increased in size from 0.75 square feet per linear feet of store frontage to one square foot per linear feet of store frontage (up to the maximum size permitted in this section:
   i. The sign shall consist of individual letters, and shall be pin-mounted or flush-mounted (no raceways or wireways).
   ii. Sign letters shall consist of aluminum or similar alloy, and shall have a minimum depth of two inches and a maximum depth of four inches.
   iii. Sign letters shall be open face with exposed neon or similar lighting, or reverse channel letters.

6.2.6 PROJECTING SIGNS

Projecting signs shall be governed by the following chart:

PROJECTING SIGN DESIGN STANDARDS PER DISTRICT			
	Zoning Districts		
	CD (1-3) **C-PS (1-4)** **I-1** **MXE** **TC (C, 1-2)** **RM-3** **MR**	**RM (1-2)** **R-PS (1-4)** **RO** **TC-3** **RM-PS1** **TH** **WD (1-2)**	**RS (1-4)** **SPE** **GC** **HD**
Maximum area	15 square feet		Not permitted
Height restrictions	• Minimum nine feet per		
Maximum quantity per frontage	Multiple signs for the same establishment may be permitted through the design review process if the aggregate sign area does not exceed the largest maximum permitted area	One wall, projecting or detached sign.	
Accessory use		Main permitted use	
Building identification	Hotels, apartment-hotels, and commercial buildings two stories or higher may be permitted one building identification sign for each façade facing a public right-of-way or waterway, with an area not to exceed one percent of the façade area on which it is placed. The placement and design of the sign shall be subject to approval through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW or certificate of appropriateness process, as applicable	Not permitted	
Special conditions	• May be illuminated by an external lighting source through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW		

	• For buildings with horizontal architectural projections (such as an eyebrow or architectural awning) immediately above the ground floor, the size calculations for wall signs may be utilized for the projecting sign, provided the following conditions are met: (1) Approval shall be subject to approval through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW or certificate of appropriateness process, as applicable. (2) The sign shall be mounted to the applicable projection. (3) The sign shall consist of individual letters. (4) Raceways and wireways shall be concealed from view of the public right-of-way. (5) The sign shall not be located directly in front of windows. (6) Sign letters shall consist of aluminum or similar alloy and shall have a minimum depth of two inches. (7) Sign letters shall be open face with exposed neon or similar lighting, or reverse channel letters. (8) Compatible signage design is utilized for all signs on a single building.		

6.2.7 DETACHED SIGNS

Detached signs shall be governed by the following chart:

DETACHED SIGN DESIGN STANDARDS PER DISTRICT			
	Zoning Districts		
	CD (1-3) **C-PS (1-4)** **I-1** **TC (C, 1-2)** **RM-3** **HD** **MR**	**RM (1-2)** **R-PS (1-4)** **RO** **TC-3** **RM-PS1** **TH** **WD (1-2)**	**RS (1-4)** **SPE** **GC** **MXE**
Maximum area (all sides of a detached sign displaying signage will be calculated towards the maximum area)	• 15 square feet • Five feet if on perimeter wall	• 15 square feet • If sign is setback 20 feet from property line, maximum area may reach 30 square feet • Five feet if on perimeter wall	Not permitted
Height Restrictions	• Five feet maximum • Height may be permitted to exceed the maximum through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW. However at no time shall height exceed ten feet		
Max Quantity per Frontage	Multiple signs for the same establishment may be permitted through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW if the aggregate sign area does not exceed the largest max permitted area	One Wall, Projecting, or Detached sign	
Setback Requirements	• Front yard: Five feet • Interior side yard: Seven and one-half feet • Side yard facing a street: Five feet • Perimeter wall sign: Zero feet		
Accessory Use Sign	Main permitted use		
Special Conditions		• In RO, maximum area is ten square feet	

6.2.8 DIRECTORY SIGNS

Commercial buildings are permitted an exterior directory sign, attached to the building, up to six square feet in area. Sign material and placement shall be subject to approal through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.

6.2.9 FLAGS AND FLAGPOLES

a. Only national flags and flags of political subdivisions of the United States, flags of civic, charitable, fraternal, and welfare and organizations, and flags of nationally or internationally recognized symbols of cultural

diversity and flagpoles shall be permitted, and must meet the following requirements, except during nationally recognized holidays:

i. Flagpoles shall be permanently affixed to the ground, building or other structure in a manner acceptable to the building official.
ii. Flagpoles shall not exceed 50 feet in height above grade when affixed at ground level. The length of flagpoles permanently affixed to buildings or other structures shall be approved through the design review process, not to exceed 25 feet above the height of the main roof deck.
iii. The installation of permanent flagpoles projecting over public property shall require approval from the public works department.
iv. Attached or detached flagpoles in single-family districts shall not exceed 30 feet in height, as measured from grade.

b. Temporary flagpoles may be affixed to buildings or other structures without requiring a building permit or approval from the public works department. For exempt temporary flagpoles:
   i. The flagpole shall be of a temporary nature, i.e., not permanently affixed to the structure.
   ii. The mounting hardware must be placed at least six feet, eight inches above ground level.
   iii. The flag may not exceed three feet, by five feet and must be made of flame-retardant material.
   iv. No portion of any flag that extends over public property shall be less than nine feet above such property, measured vertically directly beneath the flag to grade.
   v. All temporary flags and flagpoles must be immediately removed upon the issuance of an official hurricane warning.
c. Detached flagpoles shall have the following setback requirements:
   i. Any yard facing a street: Ten feet.
   ii. Interior side yard: Seven and one-half feet.
   iii. Rear yard, oceanfront, bayfront: Ten feet.
d. The length of the flag shall be one-fourth the length of the pole when affixed to the ground and one-third the length of the pole for flags on roofs, structures or buildings. The width of the flag shall be two-thirds of the length.
e. The arrangement, location and number of flags and flagpoles in excess of one per property shall be determined by the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.

6.2.10 NON-COMMERCIAL GRAPHICS AND IMAGES – NON-ELECTRONIC

a. The maximum number of any combination of murals, graphics or images shall not exceed the total aggregate of two per property.
b. The maximum aggregate size of any mural, graphic or image shall not exceed 100 square feet, unless otherwise approved by and adopted by a majority vote of the city commission by resolution.
c. Any signature of, or attribution to, the mural designer or artist shall not exceed two square feet and shall be located at the bottom of the image.
d. There shall be no variances from the provisions of this subsection 138-204(a).

6.2.11 NON-COMMERCIAL GRAPHICS AND IMAGES – ELECTRONIC

a. Unless moving images are approved by the design review board or historic preservation board, as applicable, only still, non-moving, murals, graphics or images shall be permitted.
b. The maximum number of electronic murals, graphics or images shall not exceed two per property.
c. The maximum size of an electronic mural, graphic or image shall not exceed 100 square feet, unless approved by resolution adopted by a majority vote of the city commission.

d. All such electronic murals, graphics or images shall only be permitted in commercial or mixed-use districts and shall not be visible from the right-of-way.
e. A minimum distance separation of 1,500 feet shall be required from properties with electronic murals, graphics or images.
f. All such electronic murals, graphics or images shall either be reduced in illumination to a maximum of 250 nits or be turned off between the hours of 12:00 a.m. and 7:00 a.m., seven days a week.
g. There shall be no variances from the provisions of this subsection 138-204(b).

ARTICLE III – TEMPORARY SIGNS

6.3.1 GENERALLY

a. Temporary signs may be erected or posted and may be maintained only as authorized by and in accordance with the provisions of this article.
b. Temporary signs shall only be allowed for a period beginning with the temporary activity which is the subject of the sign and must be removed within seven days from the date the temporary activity ceases. Temporary business signs may be erected and maintained for a period not to exceed 30 days, except that Planning staff may approve an extension of time for the business to erect and maintain such signs beyond the 30 days to mitigate the impacts of public construction on visibility of, or access to, the business. Such extension beyond 30 days shall terminate concurrent with the termination of the public construction.
c. Temporary signs other than those affixed directly to a window and composed of paper, cardboard, plastic film or other similar material, shall require a permit as set forth in this chapter.
d. There shall be a maximum of two permits for the same premises within one calendar year for signs requiring permits.
e. For temporary signs six square feet or larger, a bond shall be posted prior to erection of the sign in an amount determined by the building official based upon the estimated cost of removal of the sign. However, no bond shall be required in excess of the amount provided in appendix A. The bond shall be refundable upon removal of the sign.
f. It shall be unlawful for any person to paste, glue, print, paint, or to affix or attach by any means whatsoever to the surface of any public street, sidewalk, way or curb or to any property of any governmental body or public utility any sign, poster, placard or automobile bumper strip.
~~g.~~
h. When associated with a particular activity, service, product, sale or lease, temporary signs shall be located only upon the lot in which the activity, service, product, sale or lease is to occur.
i. With the exception of election/free speech signs and temporary window signs, all signs shall be reviewed under the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.

6.3.2 DESIGN STANDARDS

a. *Purpose and intent.* The purpose of this section is to regulate temporary signs equally, ensuring the same setback, height, and other regulations for temporary signs. This section should be constructed consistent with Reed v. Town of Gilbert, Arizona, 135 S.Ct. 2218 (2015).
b. *Setback, height regulations for temporary signs.* Unless affixed to a fence or an existing building, detached signs shall be set back ten feet from any property line. Maximum height to the top of a detached sign affixed to posts or a fence shall be five feet above grade in single family and multifamily residential districts and 12 feet above grade in all other districts. Maximum height to the top of a flat sign affixed to a building shall not extend above the first floor in single-family and multifamily districts and shall not extend above the second story of such building in all other districts.

c. ~~—~~

d. *Number*. There shall be a maximum of one temporary sign per street frontage, with the exception of election/free speech signs, which shall not exceed one temporary sign per residential or commercial unit.
e. *Copy*. Artistic murals or ornamental signs are permitted on construction fences surrounding a construction site, subject to the provisions contained herein and the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.
f. *Type*. Signs may be wall signs, part of a fence, or rigid detached signs, affixed to posts or a construction fence..
g. The maximum sign area for temporary signs shall be as follows except as provided in Section X (temporary business signs):
    i. For window signs, 5% of total window area. This area is in addition to the maximum area for permanent window signs permitted in Section X.
    ii. For nonwindow signs:
        1. In a single-family residential district, four square feet.
        2. In a multi-family residential district, 16 square feet.
        3. In all other districts, the sign area shall not exceed one square foot per three linear feet of street frontage, not to exceed 75 feet.

6.3.3 ELECTION HEADQUARTER SIGNS

The sign area in commercial or industrial districts for campaign headquarters shall not have a sign area limitation. Each candidate may have four campaign headquarters which shall be registered with the city clerk.

6.3.4 BALLOON SIGNS

a. Notwithstanding the prohibition of balloon signs in Section X, for special events authorized in accordance with the requirements prescribed by the city, sponsor's cold air balloon signs and inflatables tethered to the ground may be permitted, but only to the extent said signs and inflatables are approved pursuant to the special event review procedures as established by the city.

6.3.5 Banners Notwithstanding the prohibition of banners in Section X, banners may be permitted subject to the following:

a. One temporary banner per calendar year, per property, may be erected and maintained for a period not to exceed 14 days.
b. Area shall not exceed 100 square feet.
c. Design shall be subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.
d. A building permit shall be required. The building official shall require a performance bond in an amount determined necessary in order to insure its removal, but not less than the amount provided in appendix A.
e. Temporary banners shall not be used for construction signs.

6.3.6 GARAGE SALE SIGNS

a. The maximum number of garage sale signs shall be one.
b. The sign area shall be 12 inches by 18 inches.
c. The garage sale signs are allowed once yearly for a maximum period of two days commencing on the first day of the sale and ending at the close of the sale.
d. A garage sale sign may only be posted during the effective time of a valid garage sale permit issued by the city.

6.3.7 CULTURAL INSTITUTIONS TEMPORARY ADVERTISING

a. A cultural institution may have temporary banners identifying a special event, exhibit or performance, there shall be a maximum of two banners per structure, no larger than 30 square feet each.

b. Banners may be installed up to 30 days prior to the special cultural event, exhibit or performance and shall be removed at the end of the special event, exhibit or performance.
c. Cultural institutions may use projected images of the special event, exhibit or performance up to a maximum of 30 days prior to the special event, exhibit or performance and shall be removed within one day of the event.
d. Design of the banners and manner and duration (hours) of projection shall be subject to approval through the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.

The institution shall have an established state corporate charter for at least one year prior to the application for approval and be maintained for duration of the approval.

6.3.8 VACANT STOREFRONT COVERS AND SIGNS

a. *Purpose.* Vacant storefronts create blighted economic and social conditions contrary to the viable and healthy economic, aesthetic, and social fabric that the city has cultivated and encouraged in its commercial zoning districts. The purpose of this section is to encourage and regulate the screening of the interior of vacant storefronts with aesthetically compatible and attractive material, to obscure the deteriorated or deconstructed conditions of vacant storefronts, and to allow temporary signs to be included on this material.

~~b.~~ *Applicability*. The requirements of this section apply only to the ground floor windows and doors of vacant storefronts that face a public right-of-way.
c. If a commercial property is vacant for more than 15 days, all glass surfaces visible to the public shall be kept clean, and the interior of such vacant store shall be screened from public view in one of the following ways, until the property is occupied:
   i. All glass surfaces visible from the public right-of-way shall be covered as provided in subsection (e); or
   ii. All glass surfaces visible from the public right-of-way shall be covered as provided in subsection (f).
d. *Storefront window cover required for vacant storefronts*. Exterior windows and doors on vacant commercial property shall be substantially screened with an opaque material obscuring the interior. The materials used to satisfy this requirement shall be subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW, in accordance with applicable design review and historic preservation criteria, and shall consist of 60-pound weight paper, or similar opaque material. Windows covered in accordance with this section shall remain covered until issuance of a certificate of use or occupancy for the new occupant, whichever occurs first. If the owner of vacant commercial property elects not to utilize one of the signs identified in subsection (e), the owner shall utilize the window covers identified in subsection (f).
e. *Temporary signs permitted*. Material applied to windows in conformity with this section shall not contain general advertising signs or other prohibited sign types. Such material may contain applicable property access limitations, including no trespass provisions, as well as signs that comply with the regulations of this chapter, as follows:
   i. Artistic murals in accordance with section 138-204, which may cover 100 percent of the window; and
   ii. Other types of signage allowed by this chapter, which may be incorporated into artistic murals as referenced in (1) above; however, the text of such signage shall be limited to no more than 25 percent of the total window area of the vacant storefront.

iii. The design and material of all proposed signs under this subsection (e) shall be subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW, in accordance with applicable design review and historic preservation criteria.

f. *City-provided storefront cover*. The city shall produce and provide preapproved storefront covers, for a charge, to cover vacant storefronts not complying with subsection (d) above. Such covers may contain applicable property access limitations, including no trespass provisions.

g. *Penalties and enforcement*. Each day of noncompliance shall constitute a separate offense. The code compliance department is empowered and authorized to require compliance with this section within 30 days of written notice to violators.

i. The following civil fines shall be imposed for a violation of this section:

1. First violation within a 12-month period: Warning;
2. Second violation within a 12-month period: $250.00;
3. Third violation within a 12-month period: $500.00;
4. Fourth or subsequent violation within a 12-month period: $1,000.00.

h. *Enforcement*. The code compliance department shall enforce this section. The notice of violation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

i. *Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master*.

i. A violator who has been served with a notice of violation must elect to either:

1. Pay the civil fine in the manner indicated on the notice of violation; or
2. Request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.

ii. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

iii. The failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

iv. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. Three months after the recording of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien, for the amount of the lien plus accrued interest.

v. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.

vi. The special master shall not have discretion to alter the penalties prescribed in this section.

vii. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

6.3.9 SIGNAGE FOR TEMPORARY BUSINESSES

a. Signage for businesses operating with a temporary business tax receipt (BTR) or pop-up special event permit shall be restricted to those signs permitted explicitly within this section, and may only be installed for the duration of the term of the respective permit.
b. Temporary businesses shall only have the following types of signs:
c. Window signage (up to a maximum coverage of 30 percent of the window storefront area, or 15 square feet, whichever is greater).
d. Hanging signs, pursuant to the requirements in section 138-15 of this Code.
e. Temporary businesses shall not be permitted to erect any wall, projecting, monument, or other exterior signage.
f. All signage related to a temporary business shall be removed upon the expiration of the respective temporary BTR or pop-up special event permit.
    i. If a temporary business transitions to operating on a permanent basis, and obtains a regular business tax receipt, such business shall no longer be subject to the requirements of this section, and shall instead be subject to all other applicable sections of this chapter. In order to retain signage approved pursuant to this section, such signage shall comply with all other applicable sections of this Code, including any applicable requirement to obtain a separate planning and/or building permit.

ARTICLE IV – SPECIFIC LOCATION SIGN REGULATIONS

6.4.1 LINCOLN ROAD SIGNAGE DISTRICT

a. Purpose. The purpose of this section is to facilitate the substantial restoration of existing storefronts, facades and buildings, in accordance with the criteria and requirements of chapter 118, article X of these land development regulations, and to permit well designed, unique and proportional graphics and signage, which is consistent with the historic period of significance and which do not detract from the architectural character of the buildings, nor the established context of the surrounding streetscape. Additionally, this section is not intended to allow larger signs that do not adequately address the architectural and historic character of graphic signage that previously existed on Lincoln Road.
b. Regulations. For those properties fronting on Lincoln Road, and located in between the west side of Collins Avenue and the east side of Washington Avenue, the following shall apply:
    i. Wall, projecting or other building signs, which exceed the number and overall square footage permitted under sections 138-16 and 138-18, may be permitted, subject to the issuance of a certificate of appropriateness from the historic preservation board. The placement, design and illumination of such signage shall be subject to the review and approval of the historic preservation board, in accordance with the following:
        1. A proportional relationship of text and graphics shall be required. All graphics must relate to the proposed use of the store for which the sign is proposed.
        2. The total square footage of permitted signage, inclusive of non-text graphics, shall not exceed 35 percent of the building facade area. For purposes of this section, the building facade area shall be defined as the area located above the storefront and below the top of the parapet, in between the physical confines of a specific tenant space.
        3. The text portion of the sign shall be limited to the name of the establishment and related products and services available on site only. Signage text not associated with the actual use, or incidental signage text, shall not be permitted.
        4. The text portion of the sign(s) shall be limited to no more than one per storefront. For corner properties, the text portion of the sign(s) shall be limited to no more than one per street front. For

corner properties where historic evidence exists of more than two signs at the ground floor, including a corner sign, at the discretion of the historic preservation board, an additional sign at the ground floor may be permitted at the corner in a manner consistent with such historic evidence. In no instance shall the total square footage of signs permitted under this subsection exceed the limitations set forth in subsection (b) above.

5. For those facades facing a residential or hotel use, only back-lit signage shall be permitted.
6. For properties with frontage on both Lincoln Road and Collins Avenue, the only signage permitted on Collins Avenue shall fall within the confines of the corner radius, with a maximum lineal frontage of 20 feet on Collins Avenue.

ii. In evaluating signage applications for a certificate of appropriateness, the historic preservation board shall consider the following:
   1. The quality of materials utilized for the sign and their appropriateness to the architecture as well as the historic and design integrity of the structure.
   2. The overall design, graphics and artistry associated with a proposed sign and its relationship to the historic and design integrity of the structure.
   3. The design detail, animation and non-text graphics proposed for the proposed sign(s).
   4. The illumination, surface colors and finishes, width, depth, and overall dimensions of the proposed sign(s).
   5. Original, historic signage associated with the building and/or property.

iii. The historic preservation board may, at its discretion, place restrictions on the hours of operation for any sign approved under this subsection.

iv. Signage must relate to the specific occupant(s) of the property.

v. Prior to the issuance of a building permit for any signage approved under this section, the planning director, or designee, or, if required the historic preservation board, shall review and approve the substantial rehabilitation or restoration of a facade, business location or storefront where new signage under this section is proposed. Such rehabilitation or restoration shall be substantially completed, prior to the actual installation of any signage approved under this section.

6.4.2 SIGNS FOR OCEANFRONT AND BAYFRONT BUILDINGS

a. Oceanfront signs. Signs located between the erosion control line (ECL) and the main structure shall be limited to the following:
   i. One sign identifying the main structure, sign area not to exceed one percent of the wall area facing the ECL with a maximum size of 75 square feet.
   ii. One sign per accessory use, sign area not to exceed 20 square feet.
   iii. A flat sign located on a wall facing an extension of a dead-end street, municipal parking lot or park, and within the area designated as the dune district or the required 50-foot rear yard setback at the ground level, may be permitted with a maximum size of ten square feet of sign for only one accessory use.
   iv. Illuminated signs shall only consist of flush-mounted, back-lit letters. This does not apply to the MXE district.

b. Bayfront signs. Bayfront buildings shall have no more than one sign facing the bay, limited to the main permitted use. Such sign shall only consist of flush-mounted, back-lit letters, with copy limited to the main permitted use. The area of such sign shall not exceed one percent of the wall area facing the bay with a maximum size of 50 square feet. The design and location of the sign shall be approved by the design review process or certificate of appropriateness process as applicable.

ARTICLE V – SPECIFIC USE SIGNS

6.5.1 SIGNS FOR SHOPPING CENTERS

Signs for shopping centers (for purposes of this article a shopping center is a main permitted use in a commercial district with three or more individual stores) shall be subject to the following:

TYPE OF SIGN	NUMBER	SIGN AREA	AGGREGATE AREA	SPECIAL CONDITIONS
Individual store sign: A wall sign identifying the name of the establishment.	One per store front.	Ten square feet.	N/A	None.
Main shopping center sign: Identifying the name of the shopping center and the names of the stores.	One sign per street frontage or waterfront.	30 square feet.	N/A	Pole signs are prohibited. A detached monument sign is permitted as the main shopping center sign; the height and size of the monument shall be determined under the design review process. One five square foot directory sign per 20,000 square feet or fraction thereof of floor area is permitted when located on the exterior wall of the building.

6.5.2 SIGNS FOR INTERCONNECTED RETAIL

For retail storefronts that share interior connecting openings, required bathrooms or other common facilities, the following criteria shall be met before separate individual main use signs may be permitted for each:

a. Each of the interconnected businesses shall have a separate occupational license.
b. Each of the interconnected businesses shall have direct access from the street with its own separate, main entrance.
c. Each of the interconnected businesses shall have a minimum storefront width of 20 linear feet.
d. The maximum width of the interconnecting opening between businesses shall not exceed 12 feet.
e. The individual sign for a storefront that interconnects with another business shall not exceed three-fourths of the storefront where it is located.
f. The aggregate sign area for the interconnected storefronts shall not exceed the maximum sign area permitted for the combined linear frontage under article II for CD zoning districts.

6.5.3 SIGNS FOR VERTICAL RETAIL CENTERS

a. An eligible use in a vertical retail center is a use with a minimum of 12,500 square feet that shall be retail, restaurant, food market or personal fitness center.
b. *Criteria*.

i. The center may have signs on only two street frontages, the location and configuration of which shall be subject to design review approval. The cumulative sum of the sign areas on a facade, including corners, approved under this provision, shall be up to five percent of the building facade on which they are located. Signs located on a building corner shall be up to five percent of the smallest adjoining building facade, subject to design review or historic preservation board approval, whichever has jurisdiction.
ii. The center shall have no more than six business identification signs in each permitted facade or corner. Each business identification sign shall not occupy more than one percent of the wall area.
iii. An eligible use in a vertical retail center may, subject to the limitations contained in (b)(2) above, have no more than two business identification signs on the external walls or projections of the center, exhibiting the name of the establishment and/or its brand identifying logo only. Individual capital letters shall not exceed four feet six inches in height.
iv. A vertical retail center may have a roof-top project identification sign, not including the name of any tenant of the project, in the sole discretion of the design review and/or historic preservation boards, whichever by law has jurisdiction.
v. Project entrance identification signs for the center are allowed. A project entrance identification sign may be wall mounted or projecting and may be located immediately adjacent to each vehicular or pedestrian entry to the project. Such signs may be up to 30 square feet in total sign area and may not exceed ten feet in overall height, subject to design review approval.
vi. Ground floor retail signage shall be as permitted in sections 138-16 and 138-18, one sign per store. In addition to the above, any retail use greater than 40,000 square feet on the ground floor may have one additional wall or double-faced projecting sign, not to exceed 175 square feet, subject to design review approval.
vii. Project directory signs for a vertical retail center may be located inside the center near each vehicular or pedestrian entrance to the project, not visible from the right-of-way. These signs may be no more than 18 square feet in signage area per sign face and wall mounted or freestanding. Such project directory signs may list all tenants on all floors within the center and have a "You are Here" type map to orientate guests and visitors.
viii. Uses in vertical retail centers may also have business identification signs on interior walls, not visible from the right-of-way.
ix. The design review board, or historic preservation board, whichever by law has jurisdiction, shall approve a sign master plan for the center prior to the issuance of any sign permit. The appropriate board shall have design review authority over all signs above ground level; building and planning staff may approve all signs at ground level, as well as any replacement signage for new occupants within the previously approved sign areas, provided the same are otherwise in compliance with the criteria set forth herein.

6.5.4 SIGNS FOR SCHOOLS AND RELIGIOUS INSTITUTIONS

a. Religious institutions and schools shall be permitted 30 square feet of aggregate signage area or the maximum allowed for the underlying zoning district, whichever is larger.
b. A temporary sign identifying a religious event or holiday may be permitted under the following criteria:
   i. A maximum of one temporary sign per street front, no larger than 30 square feet each.
   ii. Temporary signs may be installed up to 30 days prior to the religious event or holiday and shall be removed at the end of the religious event or holiday.
   iii. Temporary signs may include projected images of the religious event or holiday; however projected images shall not be permitted facing any residential building or residential zoning district.

iv. The design, projection, materials, location and installation method of temporary signs shall be subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW or certificate of appropriateness process, as applicable.

6.5.5 SIGNS FOR FILLING STATIONS AND OTHER USES SELLING GASOLINE

Signs for filling stations and any other use that sells gasoline shall be subject to the following:

TYPE OF SIGN	NUMBER	SIGN AREA	AGGREGATE AREA	SPECIAL CONDITIONS
Wall signs or hanging/marquee sign: Identifying the name of the establishment.	Total of one sign per street frontage.	40 square feet maximum.	80 square feet maximum.	None.
Detached pole/monument signs: Identifying the name of the establishment or prices.	One fixed sign per site.	20 square feet maximum; in addition, the price sign shall be no greater than the minimum necessary to meet state requirements.	40 square feet maximum.	Height shall not exceed 25 feet to the top of the sign.
Service bay identification: Providing direction or instructions but containing no advertising material.	One sign per service bay located on the premises.	Five square feet maximum.	15 square feet maximum.	The information displayed by a service bay identification sign shall be in compliance with state law and chapter 8A of the County Code.
Service island identification: Indicating type of service offered, prices of gasoline and other relevant information or instructions but containing no advertising material.	One sign per service island located on the premises.	Five square feet maximum.	Ten square feet maximum.	The information displayed by a service island identification sign shall be in compliance with state law and chapter 8A of the County Code.
Signs having copy indicating the sale of alcoholic beverages or tobacco products: The height of the letters shall not exceed two inches.				

6.5.6 SIGNS FOR MAJOR CULTURAL INSTITUTIONS

Signs for major cultural institutions, as defined in section 142-1032, shall be subject to the following:

TYPE OF SIGN	NUMBER	SIGN AREA	SPECIAL CONDITIONS
Wall signs or hanging/marquee sign: Identifying the name of the institution.	Total number of signs to be determined under the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.	Total sign area to be determined under the design review procedures.	None.
Detached monument signs: Identifying the name of the institution.	One fixed sign per site.	15 square feet maximum.	Height and size of monument shall be determined under the design review process set forth in SECTION 2.5.3 DESIGN REVIEW.

ARTICLE VI – LEGAL NONCONFORMING SIGNS

6.6.1 GENERALLY

a. Nonconforming signs which are damaged by any cause may be repaired if the cost of repair does not exceed 50 percent of the current replacement value of the sign, except as otherwise provided herein. Such repairs shall be limited to routine painting, repair and replacement of electrical components; change of copy shall not be permitted. Notwithstanding this provision, signs painted directly on the surface of a building or painted directly on a flat surface affixed to a building may only be repainted to conform to all requirements of these land development regulations.
b. The copy or content of existing nonconforming roof signs and pole signs may not be altered, except as otherwise provided herein.
c. Existing nonconforming roof signs and pole signs shall be removed if ownership or use of the advertised building or business changes, except as otherwise provided herein.

6.6.2 LEGAL NONCONFORMING SIGNS LOCATED WITHIN A LOCAL OR NATIONAL REGISTER HISTORIC DISTRICT OR LOCAL HISTORIC SITE

a. Existing legal nonconforming signs, including roof and pole signs located within a site containing at least one contributing structure, or within a local historic site, may be repaired or restored regardless of cost and may be retained regardless of change in ownership if all of the following criteria are met:
   i. The sign was installed within 30 years of the associated structure's initial construction according to the City of Miami Beach Building Permit Records. If no city building permit record exists, the applicant shall submit historical documentation which demonstrates the sign was installed within approximately 30 years of the structure's initial construction.
   ii. The sign shall retain its existing content and copy, or the original content and copy may be restored consistent with historical documentation.
   iii. The location and design of the existing sign is consistent with the architectural style of the existing structure and does not detract from the character of the existing structure, or the established context of the surrounding streetscape.
b. Signs, including roof and pole signs, which were installed on a building or site located within a local or National Register historic district containing at least one contributing building, or within a local historic site

but were subsequently removed or altered, may be reconstructed subject to the certificate of appropriateness criteria or design review criteria as applicable, in chapter 118 and herein, if all of the following criteria are met:

i. The sign was permitted within 30 years of the associated structure's initial construction according to the City of Miami Beach Building Permit Records. If no city building permit record exists, the applicant shall submit historical documentation which demonstrates the sign was installed within approximately 30 years of the structure's initial construction.
ii. Substantial historical evidence of the original configuration of the sign is available.
iii. The original content, design, dimensions and copy of the sign shall be reconstructed consistent with substantial historical documentation, and the sign shall be located in close proximity to the original location on the building or site.
iv. The location and design of the sign is consistent with a historical period of significance and does not detract from the architectural character of the structure on which it is located, or the established context of the surrounding streetscape.

c. Signs, including roof and pole signs which were installed on a noncontributing building or site located within a local historic district but were subsequently removed or altered, may be reconstructed subject to certificate of appropriateness approval by the historic preservation board based on the criteria in chapter 118 and herein, if all of the following criteria are met:

i. The noncontributing building or structure was initially constructed prior to 1966.
ii. The sign was permitted within ten years of the associated structure's initial construction according to the City of Miami Beach Building Permit Records. If no city building permit record exists, the applicant shall submit historical documentation which demonstrates the sign was installed within approximately ten years of the structure's initial construction.
iii. Substantial historical evidence of the original configuration of the sign is available.
iv. The original content, design, dimensions and copy of the sign shall be reconstructed consistent with substantial historical documentation, and the sign shall be located in close proximity to the original location on the building or site.
v. The location and design of the sign is consistent with a historical period of significance and does not detract from the architectural character of the structure on which it is located, or the established context of the surrounding streetscape.

d. The renovation or reconstruction of an eligible sign(s) shall be reviewed in accordance with the certificate of appropriateness criteria as set forth in section 118-564 of the City Code or the design review criteria as set forth is section 118-251 as applicable, and shall not be required to meet existing sign regulations as it pertains to the overall size, location and number of signs. The renovated or reconstructed sign shall not be construed as additional signage, but rather the retention of original historic elements of a building or structure.

e. A change of copy may be approved by the historic preservation board or design review board as applicable, provided the sign meets the criteria in a, b, or c above.

6.6.3 LEGAL NONCONFORMING SIGNS LOCATED OUTSIDE A LOCAL OR NATIONAL REGISTER HISTORIC DISTRICT OR LOCAL HISTORIC SITE

f. Existing nonconforming signs, including roof and pole signs, located outside of a local historic district or local historic site, may be repaired or restored regardless of cost and may be retained regardless of change in ownership if all of the following criteria are met and subject to the design review process:

i. The existing structure, to which the sign is associated, is characteristic of a specific architectural style constructed in the city prior to 1966, including, but not limited to, Vernacular, Mediterranean Revival, Art Deco, Streamline Moderne, Post War Modern or variations thereof.
ii. The sign was installed within approximately ten years of the associated structure's initial construction according to the City of Miami Beach Building Permit Records. If no city building permit record exists, the applicant shall submit historical documentation which demonstrates the approximate date of installation.
iii. The sign shall retain its existing content and copy or the original content and copy may be restored consistent with substantial historical documentation.
iv. The location and design of the existing sign is consistent with the architectural style of the existing structure and does not detract from the character of the existing structure, or the established context of the surrounding streetscape.

g. Signs, including roof and pole signs which were installed on a building or site but were subsequently removed or altered, may be reconstructed subject to the design review criteria in chapter 118 and herein, if all of the following criteria are met:
i. The existing structure, to which the sign is associated, is characteristic of a specific architectural style constructed in the city prior to 1966, including, but not limited to, Vernacular. Mediterranean Revival, Art Deco. Streamline Moderne, Post War Modern or variations thereof.
ii. The sign was permitted within approximately ten years of the associated structure's initial construction according to the City of Miami Beach Building Permit Records. If no city building permit record exists, the applicant shall submit historical documentation which demonstrates the sign was installed within approximately ten years of the structure's initial construction.
iii. Substantial historical evidence of the original configuration of the sign is available.
iv. The original content, design, dimensions and copy of the sign shall be reconstructed consistent with substantial historical documentation, and the sign shall be located in close proximity to the original location on the building or site.
v. The location and design of the sign is consistent with a historical period of significance and does not detract from the architectural character of the structure on which it is located, or the established context of the surrounding streetscape.

h. Such renovation or reconstruction shall be subject to the design review process set forth in SECTION 2.5.3 DESIGN REVIEW and shall not be required to meet existing sign regulations as it pertains to overall size, location and number of signs. The renovated or reconstructed sign shall not be construed as additional signage, but rather the retention of original architecturally significant elements of a building or structure.

i. A change of copy may be approved by the design review board, provided the sign meets the criteria in a or b above.

6.6.4 LEGAL NONCONFORMING USE SIGNAGE—RESIDENTIAL DISTRICT.

Signage regulations for legal nonconforming use in a residential district shall be the regulations for CD-1 zoning district.