Subpart B - LAND DEVELOPMENT REGULATIONS

> *Footnotes:*
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> ***Cross reference—** Building regulations, ch. 14.*

Chapter 114 - GENERAL PROVISIONS

Sec. 114-1. - Definitions.

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

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

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

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

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

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

Alcoholic beverage establishment (midnight to 2:00 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.

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.

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.)

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.

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.

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

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

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

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

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

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

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

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

Beer means a brewed beverage containing malt.

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

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.

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.

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.

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.

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

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

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

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.

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 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.

Convenience store means a retail store with direct access from the street or sidewalk, containing a publicly accessible sales area that comprises at least 70 percent of the floor area of the store, and 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.

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

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

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

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

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

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

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

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

Design 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dwelling unit, 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.

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).

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.

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.

Exterior means all external surfaces of any improvement.

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

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

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

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

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

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

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

Floor area means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls or from the exterior face of an architectural projection, from the centerline of walls separating two attached buildings. 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:

(1) Accessory water tanks or cooling towers.

(2) Uncovered steps.

(3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.

(4)

Terraces, breezeways, or open porches.

(5) Floor space used for required accessory off-street parking spaces. However, up to a maximum of two spaces per residential unit may be provided without being included in the calculation of the floor area ratio.

(6) Commercial parking garages and noncommercial parking garages when such structures are the main use on a site.

(7) Mechanical equipment rooms located above main roof deck.

(8) Exterior unenclosed private balconies.

(9) Floor area located below grade when the top of the slab of the ceiling is located at or below grade. However, if any portion of the top of the slab of the ceiling is above grade, the floor area that is below grade shall be included in the floor area ratio calculation. 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.

(10) Enclosed garbage rooms, enclosed within the building on the ground floor level.

(11) Stairwells and elevators located above the main roof deck.

(12) Electrical transformer vault rooms.

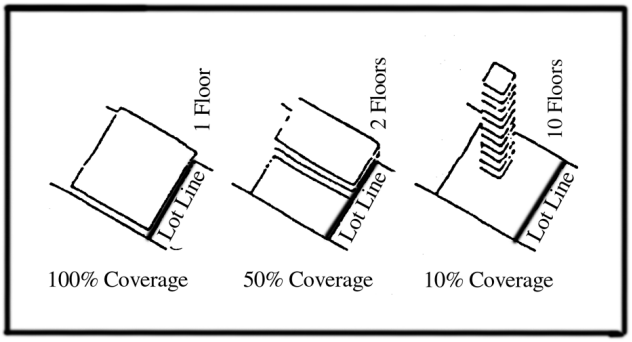
(13) Fire control rooms and related equipment for life-safety purposes.

(14) 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.



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

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:

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

(2) *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.

(3) *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.

(4) *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.

(5) *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.

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

(7) *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;

(1) *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.

(2) *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.

(3) *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.

(4) *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.

(5) *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.

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

(7) *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.

Freeboard shall be as defined in section 54-35.

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

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

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

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

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

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

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

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

Grade, average existing means the average grade elevation calculated by averaging spot elevations of the existing topography taken at 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.

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.

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:

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

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:

(1) Buildings, structures, improvements, sites, interiors and landscape features designated pursuant to chapter 118, article X, division 4 as historic buildings, structures, improvements, sites, interiors and landscape features.

(2) Buildings located in a historic district. Properties located in a historic district shall be classified in the database as historic, contributing or noncontributing. Entries for historic and contributing buildings may include architecturally significant features of the public portions of interiors of the buildings.

(3) Historically significant properties. The database may be updated, amended and revised by the historic preservation board.

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

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

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

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

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

(1) As an anesthesiologist, radiologist, pathologist, or emergency room doctor; or

(2) As a full time hospital employee; or

(3) On a full time basis pursuant to a contract.

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

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.

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.

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.

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:

(1) A single lot of record;

(2) A portion of a lot of record;

(3) A combination of complete lots of record, and portions of lots of record; or of portions of lots of record;

(4) A parcel of land described by metes and bounds.

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

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

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

Lot coverage means the percentage of the 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.

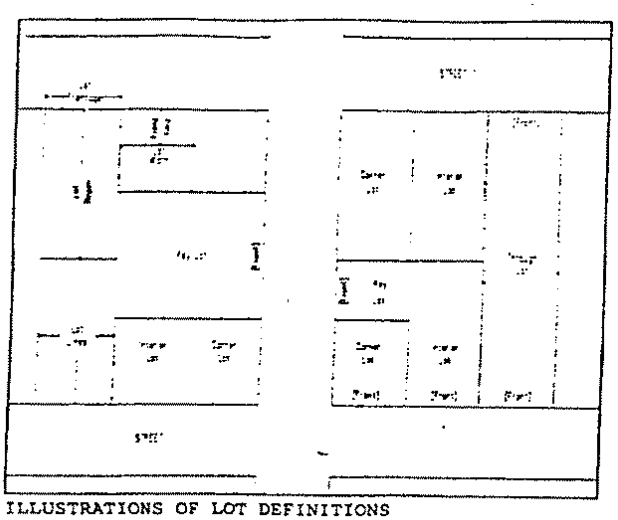
Lot line means the boundary line of a lot.

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.



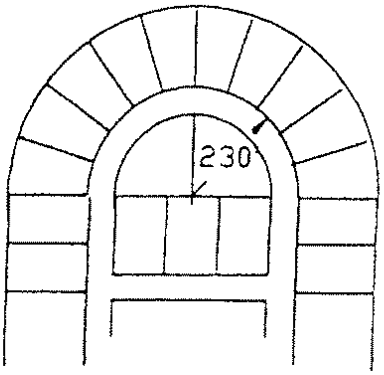
ILLUSTRATIONS OF LOT DEFINITIONS

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

(1) Side lot lines are not parallel.

(2) The front lot line is a least 30 feet wide.

(3) The lot fronts on a turning circle of a cul-de-sac or a circular street with a radius of less than 230 feet.



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

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.

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

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

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

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

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.

May means permissive, not required.

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 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.

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;

(c) Use or administration of low-THC cannabis or medical cannabis:

i. On any form of public transportation.

ii. In any public place.

iii. In a qualified patient's place of employment, if restricted by their employer.

iv. In a correctional institution.

v. On the grounds of any child care facility, preschool, or school.

vi. 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.

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).

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.

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.

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.

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.

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.

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

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.

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 aisle means the area to the rear of off-street parking spaces utilized for maneuvering of motor vehicles in a parking lot or parking garage.

Parking garage means a substantially enclosed structure used for the parking of motor vehicles.

Parking lot means an at-grade, level area used for the parking of motor vehicles.

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

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

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

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

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

Pawn means either of the following transactions:

(1) *Loan of money.* A written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.

(2) *Buy-sell agreement.* Any agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

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

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

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

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

Personal service means any services in addition to housing and food service, which include, but are not limited to, personal assistance with bathing, dressing, ambulation, housekeeping, supervision, emotional security, eating, supervision of self-administered medications, and assistance with securing health care from appropriate sources. This definition shall only be applicable to assisted living facilities as defined in article 5, division 2 of chapter 142.

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

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.

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.

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

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

Public facilities and services means facilities relating to comprehensive plan elements required by F.S. § 163.3177 and for which level of service standards must be adopted under F.A.C. ch. 9J-5. The public facilities and services means roads, sanitary sewer, solid waste, drainage, potable water, recreation, and mass transit.

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

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

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

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

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.

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 fulfillment center means a retail establishment, not licensed as an adult bookstore or adult entertainment establishment, where goods are primarily sold online and/or delivered off premises. Such goods shall not include the sale of any type of alcoholic beverage, nor the sale of cannabis (or marijuana), cannabis derivative products, or cannabis delivery devices, nor the sale of any type of tobacco product, vaping. vapor-generating electronic device. or smoking device. Such establishment must also have an active storefront, along all sidewalk facing portions of the building, that is open to the general public at least eight hours per day. The active storefront must have a minimum depth of 15 feet and a minimum area of 700 square feet. Retail fulfillment centers shall be limited to no more than 7,000 square feet. Goods sold by a retail fulfillment center may include goods similar to those that are sold in a convenience store, except for those products identified in this paragraph.

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 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.

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

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

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.

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

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

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.

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

Service station. (See "Filling station.")

Shall 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.

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

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

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

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

Sign, detached means a sign not attached to or painted on a building but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of the building, shall be considered a detached sign.

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

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

(1) The name of the owner, operator, and/or management of the use.

(2) Information identifying the types of services or products provided by the establishment.

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

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

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

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

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

Sign, monument means a freestanding sign permanently affixed to a monument or other similar detached architectural feature without the need of posts and/or poles. A monument sign may be a double-faced sign.

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

Sign, projecting means a sign which is attached to and projects more than 12 inches from the face of a wall of a building. The term projecting sign includes a marquee sign. A projecting sign which extends more than 36 inches above a roof line or parapet wall shall be designated as a roof sign.

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

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

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

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

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:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.

(2) Water pipes;

(3) Carburetion tubes and devices;

(4) Chamber pipes;

(5) Carburetor pipes;

(6) Electric pipes;

(7) Air-driven pipes;

(8) Chillums;

(9) Bongs; or

(10) 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.

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.

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.

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.

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

Supermarket. (See "grocery store.")

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.

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:

(1) Inserting, attaching or suspending jewelry, decorations or other foreign objects;

(2) Producing an indelible mark or figure on the human body or face by scarring skin or flesh;

(3) Producing an indelible mark or figure on the human body or face by inserting a pigment under or upon the skin; or

(4) Permanently changing the color or other appearance of the skin.

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.

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.

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.

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

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

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.

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.

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

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

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

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

Vitamin shop means any commercial establishment where the primary use is selling one or more of the following products: Health supplements, including vitamins, nutritional supplements, dietary supplements, consumable hemp products, or performance enhancers. This definition excludes medical cannabis treatment centers.

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.

(Ord. No. 89-2637, eff. 4-15-89; Ord. No. 89-2665, §§ 3-1, 3-2, eff. 10-1-89; Ord. No. 90-2719, eff. 11-6-90; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 91-2768, eff. 11-2-91; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2779, eff. 3-28-92; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 93-2867, eff. 8-7-93; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 94-2925, eff. 6-15-94; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 95-3019, eff. 11-4-95; Ord. No. 96-3035, eff. 3-1-96; Ord. No. 96-3050, § 1, 7-17-96; Ord. No. 97-3083, § 1, 6-28-97; Ord. No. 97-3097, § 1, 10-8-97; Ord. No. 98-3108, § 1, 1-21-98; Ord. No. 98-3109, § 1, 5-20-98; Ord. No. 99-3176, § 1, 3-3-99; Ord. No. 99-3222, § 2, 12-15-99; Ord. No. 2000-3264, § 1, 9-13-00; Ord. No. 2000-3271, § 1, 9-27-00; Ord. No. 2006-3539, § 1, 10-11-06; Ord. No. 2008-3593, § 1, 1-16-08; Ord. No. 2011-3714, § 1, 1-19-11; Ord. No. 2014-3876, § 1, 6-11-14; Ord. No. 2014-3891, § 1, 9-10-14; Ord. No. 2014-3899, § 1, 10-22-14; Ord. No. 2014-3907, § 1, 11-19-14; Ord. No. 2015-3944, § 1, 6-10-15; Ord. No. 2015-3955, § 1, 7-31-15; Ord. No. 2016-4010, § 5-11-16; Ord. No. 2016-4029, § 1, 9-14-16; Ord. No. 2016-4047, § 1, 10-19-16; Ord. No. 2017-4078, § 1, 3-1-17; Ord. No. 2017-4102, § 1, 6-7-17; Ord. No. 2017-4107, § 1, 6-7-17; Ord. No. 2017-4121, § 1, 7-26-17; Ord. No. 2017-4124, § 1, 7-26-17; Ord. No. 2017-4130, § 1, 9-25-17; Ord. No. 2017-4133, § 1, 9-25-17; Ord. No. 2017-4137, § 1, 9-25-17; Ord. No. 2017-4138, § 1, 10-18-17; Ord. No. 2017-4146, § 1, 10-18-17; Ord. No. 2017-4148, § 2, 10-18-17; Ord. No. 2017-4150, § 2, 10-31-17; Ord. No. 2018-4224, § 1, 11-14-18; Ord. No. 2019-4252, § 2, 3-13-19; Ord. No. 2019-4260, § 1, 6-5-19; Ord. No. 2019-4280, § 1, 6-5-19; Ord. No. 2019-4305, § 1, 10-16-19; Ord. No. 2020-4332, § 1, 2-12-20; Ord. No. 2020-4337, § 1, 5-13-20; Ord. No. 2020-4339, § 1, 5-13-20; Ord. No. 2020-4359, § 1, 10-14-20; Ord. No. 2020-4371, § 1, 11-18-20; Ord. No. 2020-4380, § 1, 12-9-20; Ord. No. 2021-4421, § 1, 5-12-21; Ord. No. 2021-4438, § 1, 7-28-21; Ord. No. 2022-4468, § 1, 1-20-22; Ord. No. 2022-4531, § 1, 12-14-22)

Cross reference— Definitions generally, § 1-2.

Sec. 114-2. - Interpretation, purpose and conflict.

(a) Words and terms not defined in section 114-1 shall be interpreted in accord with their normal dictionary meaning and customary usage.

(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.

(Ord. No. 89-2665, § 21-7, eff. 10-1-89)

Sec. 114-3. - Relationship to the comprehensive plan.

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.

(Ord. No. 89-2665, § 5-9, eff. 10-1-89)

Sec. 114-4. - Compliance with regulations required.

Except as provided in these land development regulations:

(1) No land or water area may be used except for a purpose permitted in the district in which it is located.

(2) No land or water area may be used without an approved certificate of use.

(3) 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.

(4) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered to exceed the height limit herein established for the district in which the building is located.

(5) 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.

(6)

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.

(7) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area ratio, minimum and average 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.

(8) 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.

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

(10) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered without approval of the planning and zoning director and the building official.

(11) 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.

(12) 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 Parking and Traffic Management Plan approved by the Parking Director pursuant to Chapter 106, Article II, Division 3, entitled "Construction Management Plan."

(Ord. No. 89-2665, § 5-1, eff. 10-1-89; Ord. No. 2015-3943, § 1, 6-10-15; Ord. No. 2016-4011, § 2, 5-11-16)

Sec. 114-5. - 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.

(Ord. No. 89-2665, § 21-3, eff. 10-1-89)

Sec. 114-6. - 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 Ordinance No. 1891, as amended, may be built or processed to obtain a building permit in accordance with the zoning regulations listed in Zoning Ordinance 1891, as amended. 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 and zoning 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 and zoning director shall be in accordance with these land development regulations.

(Ord. No. 89-2665, § 5-4, eff. 10-1-89)

Sec. 114-7. - Enforcement.

(a) It shall be the duty of the planning, design and historic preservation division and the department of code compliance to enforce the provisions of these land development regulations and to refuse to approve any permit for any building or for the use of any premises, which would violate any of the provisions of these land development regulations. The building official shall enforce those provisions of the land development regulations which delegate specific powers and duties to that individual. It shall also be the duty of all officers and employees of the city to assist these departments by reporting to them any seeming violation in new construction, reconstruction or land uses.

(b) The city's planning and zoning director, building official, and director of the department of code compliance are authorized, where deemed necessary for enforcement of these regulations, to request the execution of an agreement for recording.

(c) In case any building is erected, constructed, reconstructed, altered, repaired, or converted, or any building or land is used in violation of these land development regulations, the city's planning and zoning director, building official, and director of the department of code compliance, or the city in their behalf is authorized and directed to institute any appropriate action to put an end to such violation.

(d) For purposes of inspection and upon presentation of proper credentials, the city's planning and zoning director, building official, and director of the department of code compliance or their authorized representatives, may enter at any reasonable time, any building, structure or premises, for the purpose of determining whether these land development regulations are being violated. In the event violations of these land development regulations are found on a given premises, the building official and the director of the department of code compliance, historic preservation and urban design director or their authorized representative, are empowered to issue notices of violation to the owner of such premises and to any persons responsible for

creating or maintaining the violations. Additionally, the building official may stop work on projects which violate these land development regulations with respect to materials, work, grades, use or other regulations or provisions thereof.

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

Sec. 114-8. - Violations and penalties.

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.

(Ord. No. 89-2665, § 21-2, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 2021-4431, 7-28-21)

Chapter 118 - ADMINISTRATION AND REVIEW PROCEDURES

Footnotes:
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***Cross reference—** Administration, ch. 2.*

ARTICLE I. - IN GENERAL

Sec. 118-1. - Site plans.

(a) 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:

(1) The proposed title of the project and the name of the engineer, architect, or landscape architect, and the developer.

(2) The northpoint, scale, and date.

(3) Existing zoning and zoning district boundaries.

(4)

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.

(5) The location and sizes of sanitary and storm sewers, water mains, culverts, and other underground structures in or near the project.

(6) Proposed changes in zoning, if any.

(7) 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.

(8) The location and dimensions of proposed lots, setback lines, and easements, and proposed reservations for parks, playgrounds, open spaces, and other common areas.

(9) Location with respect to each other and to lot lines of all proposed buildings and structures, or major excavations, accessory and main.

(10) Preliminary plans and elevations of the building or buildings, as may be necessary.

(11) Location, height, and material of all fences, walls, screen planting, and landscaping.

(12) Location, character, size, and height and orientation of proposed signs, if any.

(13) 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.

(b) The planning and zoning 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.

(Ord. No. 89-2665, § 21-4, eff. 10-1-89)

Sec. 118-2. - Certificates of occupancy and certificate of use.

(1) *General.*

(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 and certificate of use shall have been applied for and issued.

(b) Certificates of occupancy and certificates of use shall not be issued until the premises have been inspected and found to comply with all requirements of the Code of the city and of these land development regulations, and with the requirements of all other agencies having regulatory authority over the project.

(c)

A record of all certificates of occupancy issued hereunder shall be kept on file in the office of the building official.

(d) A record of all certificates of use issued hereunder shall be kept on file in the department of planning.

(e) All applications for certificates of occupancy shall be approved or disapproved within three days following application.

(2) *Certificate 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) 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 sections 118-136 and 118-351 et seq. All appeals must be submitted to the board of adjustment within 15 days of the date of the denial.

(Ord. No. 89-2665, § 21-6, eff. 10-1-89; Ord. No. 2020-4337, § 2, 5-13-20)

Sec. 118-3. - Reserved.

Editor's note— Sec. 2 of Ord. No. 2015-3978, adopted Dec. 9, 2015, effective Apr. 1, 2016, repealed § 118-3, which pertained to mailing lists, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; and Ord. No. 90-2722, effective Nov. 21, 1990.

Sec. 118-4. - Authority to enter into development agreement; hearings.

The city commission shall have authority to enter into a development agreement with any person within the city's jurisdiction if:

(1)

The development agreement meets all of the requirements of the Florida Local Government Development Agreement Act, F.S. § 163.3220 et seq.;

(2) 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 at the second such hearing of thereafter;

(3) Notice of such public hearings shall have been given in accordance with the Florida Local Government Development Agreement Act; and

(4) 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 contemplated in section 118-193 for conditional use permits issued by the planning board; section 118-258 for design review and variance approvals issued by the design review board; section 118-355 for variance approvals issued by the board of adjustment; and section 118-532 for certificates of appropriateness and variance approvals issued by the historic preservation board (altogether, the "city land use board orders"). 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.

(Code 1964, § 9D-1; Ord. No. 2019-4254, § 1, 4-10-19)

Sec. 118-5. - Unity of title; covenant in lieu thereof.

The term "unified development site" shall be defined as a site where a development is proposed and consists of multiple lots, all lots touching and not separated by a lot under different ownership, or a public right-of-way. A "unified development site" does not include any lots separated by a public right-of-way or any non-adjacent, non-contiguous parcels.

Additionally, the following shall apply to any "unified development site":

(a) 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.

(b) Only commercial and/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 and/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.

(c)

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.

(d) 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).

(e) 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.

All applications for building permits where buildings and/or improvements are proposed for a single lot, or where building(s) are proposed for a unified development site, shall be accompanied by one of the following documents:

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

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

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

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

c. Standards for reviewing a modification to the site plan. A modification may be requested, provided all owners within the original unified development site, or their successors, whose consent shall not be unreasonably withheld, execute 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.

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.

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.

d. That if the unified development site is to be developed in phases, that each phase will be developed in substantial accordance with the approved site plan.
e. In the event of multiple ownerships subsequent to site plan approval that each of the subsequent owners shall be bound by the terms, provisions and conditions of the covenant in lieu of unity of title. The owner shall further agree that he or she will not convey portions of the subject property to such other parties unless and until the owner and such other party or parties shall have executed and mutually 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 right-of-ways and curb cuts;

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

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

xiv. Such easement and operating agreement shall contain such other provisions with respect to the operation, maintenance and development of the property as to which the parties thereto may agree, or the director may require, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan. The planning department shall treat the unified site as one site under these land development regulations, regardless of separate ownerships.

These provisions or portions thereof may be waived by the planning director if they are not applicable to the subject property (such as for conveyances to purchasers of individual condominium units). These provisions of the easement and operating agreement shall not be amended without prior written approval of the city attorney.

f.

The declaration of restrictive covenants shall be in effect for a period of 30 years from the date the documents are recorded in the public records of Miami-Dade County, Florida, after which time they shall be extended automatically for successive periods of ten years unless released in writing by the then owners and the planning director, acting for and on behalf 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.

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

(Ord. No. 2000-3275, § 1, 10-18-00; Ord. No. 2015-3941, § 1, 6-10-15; ord. No. 2016-4011, § 1, 5-11-16; Ord. No. 2018-4162, § 1, 1-7-18)

Sec. 118-6. - Use of, and cost recovery for, consultants for applications for development approval.

(a) *Purpose and summary.* The city commission declares that new procedures are required to provide for preparation and review of traffic and other technical studies and/or reports to restore and instill confidence in the development approval process. Further, such new procedures are necessary to confirm that adverse effects of development are adequately evaluated for property owners, citizens, residents and taxpayers in the City of Miami Beach. The new procedures will provide for the creation and maintenance of an approved list of qualified consultants to provide impartial expertise for preparation and/or review of studies and reports required for assessment of impacts of applications for development approval, upon which applicants for development approval, affected citizens, and the city can rely.

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

(c) *[Defined.]* For purposes of this section, "application for development approval" shall mean any application for approval by a city land use board (planning board, board of adjustment, historic preservation board, design review board).

(d) *Requirements for selection of a city consultant and procedures for payment.* Prior to the applicant submitting an application for development approval, the applicant shall meet with city staff to determine the types of studies and/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 an applicant is required to submit, as part of an application for development approval, a traffic or any other technical study and/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 approval of the application by the applicable land use board.

(e) *[City not liable.]* In no event shall the city be held liable, whether to applicants and/or third parties, for any work and/or services rendered by any consultant on the city's approved list, and/or otherwise in connection with a consultant's preparation or review of any study and/or report contemplated herein.

(f) *Expert reports and appearances.*

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

(2) Applicant's reports and/or studies shall be submitted to the planning department a minimum of 60 days prior to the board 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/study being deemed inadmissible for that public hearing, subject to a waiver of this inadmissibility by a five-sevenths vote of the applicable board.

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

(Ord. No. 2010-3677, § 1, 3-10-10; Ord. No. 2010-3707, § 1, 11-17-10; Ord. No. 2015-3978, § 2, 12-9-15, eff. 4-1-16)

Sec. 118-7. - Fees for the administration of land development regulations.

(a) *Application fees, generally.* The fees identified 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 forestated 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, the applicable fees 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.

(12)

Notwithstanding the foregoing, the application fee for a public hearing and application fee for design review approval per square foot of floor area shall be waived for non-elderly and elderly low and moderate income or workforce housing developments.

(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 (7) 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 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.

(12) Notwithstanding the foregoing, the application fee for a public hearing and fee per variance requested shall be waived for non-elderly and elderly low and moderate income or workforce housing developments.

(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 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.

(13) Notwithstanding the foregoing, the application fee for a public hearing and application fee for a certificate of appropriateness per square foot of floor area shall be waived for non-elderly and elderly low and moderate income or workforce housing developments.

(i) *Historic designation.* Any applicant other than the city commission, a city board or other city official 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, pursuant to section 142-108, shall pay, upon submission all applicable fees in subsection (1) below:

(1) Application for a determination of architectural significance by planning director.

(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) Reserved.

(5) Courier.

(6) Research.

(7) Excessive review.

(8) Review of covenants and easements.

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

(10) 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.

(11) Modification or release of covenant or easement.

(12) Recording fee per page.

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

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

(15) 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.

(Ord. No. 2015-3978, § 2, 12-9-15, eff. 4-1-16; Ord. No. 2017-4130, § 2, 9-25-17; Ord. No. 2019-4252, § 2, 3-13-19; Ord. No. 2021-4416, § 1, 5-12-21; Ord. No. 2022-4513, § 1, 9-28-22)

Sec. 118-8. - Notice procedures for quasi-judicial, public hearing quasi-judicial land use board actions.

Quasi-judicial, public hearing, applications for land use board actions (board of adjustment, design review board, historic preservation board, and planning board) that require notice shall be noticed in accordance with the following provisions, unless otherwise more specifically provided for in these land development regulations, and shall pay a fee pursuant to section 118-7, and appendix A:

(a) *Advertisement.* At least 30 days prior to the quasi-judicial, 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. Applicant shall be required to pay all associated costs relating to the advertisement.

(b) *Mail notice.* At least 30 days prior to the quasi-judicial, 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 department. Additionally, courtesy notice shall also be given to any Florida nonprofit community organization which has requested of the director in writing to be notified of board hearings. Applicant shall be required to pay all associated costs relating to the mailed notice.

(c) *Posting.* At least 30 days prior to the quasi-judicial, 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. Applicant shall be required to pay all associated costs relating to the posting.

(Ord. No. 2015-3976, § 1, eff. 12-19-15; Ord. No. 2016-3999, § 2, 3-9-16)

Sec. 118-9. - Rehearing and appeal procedures.

The following requirements shall govern rehearings and appeals of decisions of the city's land use boards unless otherwise more specifically provided for in these land development regulations, and applicable fees and costs shall be paid to the city as required under section 118-7 and appendix A to the city Code. As used herein, "land use boards" shall mean the board of adjustment, design review board, historic preservation board and planning board.

(a) *Rehearings.*

(1) The following types of land use board decisions are eligible for a rehearing:

A. Historic preservation board. Any final order granting or denying a certificate of appropriateness, certificate of appropriateness to dig, or certificate of appropriateness for demolition. Petitions for rehearing under the Bert J. Harris, Jr., Private Property Rights Protection Act, F.S. 70.001 et seq., are separately address at subsection (a)(7), below.

B. Design review board. Any final order of the design review board final order granting or denying design review approval.

C.

Except as delineated above. Rehearings are not available for any other land use board action.

D. All petitions for rehearing of a particular land use board decision shall be heard at the same duly noticed hearing before the respective land use board.

(2) A petition for rehearing shall be filed in accordance with the process as outlined in subsections A through F below:

A. *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.

B. *Eligible parties.* Parties eligible to file a petition for rehearing are limited to:

(i) The original applicant(s);

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

(iii) An affected person, which for purposes of this subsection (a)(2) 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;

(v) Dade Heritage Trust.

C. *Application requirements.* The petition to the board shall be in writing that contains all facts, law and argument, by or on behalf of an eligible party.

D. *Standard of review.* In order to grant a petition for rehearing, the applicable land use board must find that the petition demonstrates 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.

E. *Notice requirements.* A petition for rehearing shall be subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8. The rehearing petitioner shall be responsible for all associated costs and fees.

F. *Rehearing timeframe.* Only one rehearing request per eligible party, and per land use board order, shall be permitted. Each petition for rehearing shall be heard at the next scheduled meeting of the applicable land use board, subject to the notice requirements in subsection (a)(2)E, and shall be acted on by the board at such meeting, unless a lack of quorum, cancellation of a meeting, or length of the agenda requires the rehearing to be continued, or unless the board, at its discretion,

continues the rehearing to a later date. No more than one continuance may be requested by each party. In no event shall a rehearing be continued by the board for more than 60 days.

(3) Outside counsel to the planning department. For petitions for rehearing filed pursuant to the requirements of this section, 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 during the rehearing.

(4) Actions by land use board on a petition for rehearing. After the rehearing petition is heard, the applicable land use board may take any of the actions outlined in subsections (i) through (v) below:

(i) Grant or deny the petition for rehearing,

(ii) If the decision is to rehear the application, the board may take additional testimony,

(iii) Reaffirm the boards previous decision,

(iv) Issue a new decision, and/or

(v) Reverse or modify the previous decision.

(5) Stay of work. A petition for rehearing to an applicable land use board stays all work on the premises and all proceedings in furtherance of the board action until (i) the petition for rehearing is denied by the board, or (ii) the petition for rehearing is granted and the board reaffirms or modifies an approval or issues a new approval. 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.

(6) Tolling. The tolling provisions in subsection (c)(6) shall apply during the pendency of a petition for rehearing.

(7) Rehearings due to Bert J. Harris Claim. A petition for rehearing pursuant to a Harris Act claim, the petition shall include the following documentation which shall be submitted no later than 15 days after the submission of the petition for rehearing:

A. A bona fide, valid appraisal supporting the claim of inordinate burden and demonstrating the loss, or expected loss, in fair market value to the real property as a result of the board's action;

B. All factual data described in subsection 118-564(c), "Decisions on certificates of appropriateness"; provided, however, in the event all or any portion of the factual data was available to the applicant prior to the conclusion of the public hearing before the historic preservation or joint design review board/historic preservation board and the applicant failed to furnish same to the board's staff as specified in subsection 118-564(c), "Decisions on certificates of appropriateness" then, the board may, in its discretion, deny the applicant's request to introduce such factual data;

C. A report prepared by a licensed architect or engineer analyzing the financial implications of the requirements, conditions or restrictions imposed by the board on the property or development proposed by the applicant with respect to which the applicant is requesting a rehearing;

D. A report prepared by a licensed architect or engineer analyzing alternative uses for the real property, if any;

E. A report prepared by a licensed architect or engineer determining whether, as a result of the board action, the owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property with respect to the real property as a whole, or that the property owner is left with existing or vested uses that are unreasonable; and

F. A report prepared by a licensed architect or engineer addressing the feasibility, or lack of feasibility, of effectuating the board's requirements, conditions or restrictions and the impact of same on the existing use of the real property or a vested right to a specific use of the real property.

(b) *Board of adjustment—Administrative appeal procedures:*

(1) The board of adjustment shall have the exclusive authority to hear and decide the following administrative appeals:

A. *Written determinations of the planning director.* Appeals when it is alleged that there is an error in any written determination made by the planning director in the enforcement of these land development regulations. An applicant shall first request a written determination from the planning director and pay the applicable fees set forth in appendix A. Within 30 days of the issuance of a written determination by the planning director, the determination shall be published on the city's website for a period of at least 30 days. An eligible party, as defined in subsection (b)(2)(B), shall have 30 days from the publication of the determination on the city website to appeal the determination.

B. *Appeals expressly authorized under section 118-395, repair and/or rehabilitation of nonconforming buildings and uses; section 118-609, completion of work; and section 142-108, provisions for the demolition of single-family homes located outside of historic districts.* An eligible party, as defined in subsection (b)(2)(B), shall have 30 days from the date of the decision to appeal an administrative decision issued under sections 118-395, 118-609, or 142-108.

C.

Appeals pursuant to section 118-260 The applicant and/or property owner shall have 15 days from the issuance of the approval or denial pursuant to section 118-260, to file an appeal.

D. *Appeals pursuant to subsections 118-563(d)(1) and 118-563(d)(3).* With the exception of properties located within an RS district. an eligible party, as defined in subsection (b)(2)(8). shall have 15 days from the issuance of a certificate of appropriateness pursuant to subsections 118-563(d)(1) or 118-563(d)(3) to file an appeal. For purposes of this subsection. the date of issuance of the certificate of appropriateness shall be the date of the issuance of the corresponding building permit.

(2) Eligible administrative appeals shall be filed in accordance with the process as outlined in subsections A through D below:

A. *Timeframe to file.* A petition for an administrative appeal, by an eligible party, as defined in this section, shall be submitted to the planning director in accordance with the timeframes noted in subsection 118-9(b)(1) above.

B. *Eligible parties.* Parties eligible to file an application for an administrative appeal are limited to the following:

(i) Original applicant/property owner.

(ii) The city manager on behalf of the city administration, except for administrative appeals pursuant to sections 118-260, special review procedure, 118-395, repair and/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.

(iii) 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, except for administrative appeals pursuant to sections 118-260, special review procedure, 118-395, repair and/or rehabilitation of nonconforming buildings and uses, 118-609, completion of work, and 118-260, special review procedure.

(iv) Miami Design Preservation League, except for administrative appeals pursuant to sections 118-260, special review procedure, 118-395, repair and/or rehabilitation of nonconforming buildings and uses, 118-260, special review procedure, 118-609, completion of work, and 142-108, provisions for the demolition of single-family homes located outside of historic districts.

(v) Dade Heritage Trust, except for administrative appeals pursuant to sections 118-260, special review procedure, 118-395, repair and/or rehabilitation of nonconforming buildings and uses, 118-260, special review procedure, 118-609,

completion of work, and 142-108, provisions for the demolition of single-family homes located outside of historic districts.

C. *Application requirements.* The following shall be required for all applications for administrative appeals:

(i) The petition to the board shall be in writing; and

(ii) The petition shall be submitted by or on behalf of an eligible party; and

(iii) The petition shall set forth the factual, technical, architectural, historic and legal bases for the appeal; and

(iv) 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.

D. *Notice requirements.* All administrative appeal applications are subject to the same noticing requirements as an application for a public hearing, in accordance with section 118-8. The hearing applicant shall be responsible for all associated costs and fees.

E. *Standard of review.* The appeal shall be "de novo," meaning that the party appealing the administrative decision bears the burden of going forward with evidence and of persuasion before the board of adjustment, and to that end, the board shall have all the powers of the officer from whom the appeal is taken. Relevant evidence and witness testimony may be considered during the hearing. The hearing is quasi-judicial in nature, and a public hearing is required.

(3) *Outside counsel to the planning department.* In the event of an administrative appeal to the board of adjustment, 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.

(4) *Board of adjustment decisions on administrative appeals.* The board of adjustment may, upon appeal, reverse or affirm, wholly or partly, the order, requirement, decision, or determination of the planning director. 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. With the exception of appeals filed pursuant to subsections 118-563(d)(1) or 118-563(d)(3), no permit shall be issued for work prior to expiration of the appeal period or final disposition of any appeal.

(5)

Stay of work and proceedings on 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:

A. 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

B. 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.

(c) *Appeals of land use board decisions.*

(1) 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:

A. Planning board.

B. Board of adjustment.

C. Design review board, with respect to variance decisions and administrative appeals, only.

D. Historic preservation board, with respect to variance decisions and administrative appeals, only.

E. Historic preservation special magistrate.

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

A. *Historic preservation board.*

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

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

a.

Historic preservation special magistrate qualifications, Historic preservation special magistrates 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 magistrate terms. Historic preservation special magistrates 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 magistrates shall be determined by the city commission.

B. *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 orders granting or denying a request for rehearing shall not be reviewed by the city commission.

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

A. *Timeframe to file.* A petition for review of an order of the historic preservation board or design review board shall be filed with the city clerk on or before the 20th day after the rendition of the board order. The date of rendition of an order shall be the date upon which the order is executed by the clerk to the applicable board.

B. *Eligible parties.* Eligible parties to file a petition under this subsection (c) are limited to the following:

(i) The original applicant for the subject historic preservation board or design review board approval;

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

(iii) An affected person, which for purposes of this subsection (c) 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 and whose appearance is confirmed in the record;

(iv) Miami Design Preservation League;

(v) Dade Heritage Trust.

C. *Application requirements.*

(i) The petition shall be in writing, and shall include all record evidence, facts, law and arguments in support of the petition; and

(ii) Shall be accompanied by all applicable fees, as provided in appendix A; and

(iii) Shall be filed 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) Sufficient copies of the entire record before the board, including a full verbatim transcript of all proceedings which are the subject of the appeal shall be provided by the petitioner, 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. Sufficient copies of the record before the board shall be filed on or before the same date as the petition is due.

D. *Notice requirements.* Oral argument on an appeal of the design review board or historic preservation board shall require a ten-day published notice either in a newspaper of general circulation or on the city's website. The petitioner shall be responsible for all associated costs and fees.

E. *Deadlines.* Oral argument for a design review board or historic preservation board appeal shall take place within 90 days of the date the appeal is filed, unless a lack of quorum of the city commission, or the availability of the special magistrate, requires the oral argument to be continued to a later date.

(i) *Answer brief.* The respondent may serve an answer brief within 30 days of the city's written acceptance of the petition.

(ii) *Reply brief.* The petitioner may serve a reply brief within 15 days of the filing of the answer brief.

(iii) *Oral argument.* Oral argument shall occur within 90 days of the city's acceptance of the petition, except that oral argument may be continued to a future date due to lack of quorum of the city commission or the unavailability of the special magistrate.

(iv) *Decision.* A decision of the city commission or special magistrate shall be rendered within 120 days of the date the appeal is filed.

These deadlines may be modified by consent of the parties to the appeal.

(4) Action. 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 magistrate (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:

(i) Provide procedural due process;

(ii) Observe essential requirements of law; and

(iii) Based 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.

(5) Stay of work and proceedings on appeal. An appeal of a land use board order stays all work on the premises and all proceedings in furtherance of the action appealed from, unless one of the exceptions below applies:

(i) *Imminent peril to life or property.* 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;

(ii) *Specified appeals from the planning board.* 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 appeal in circuit court. 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 appeal is pending. Should the decision on the circuit court appeal (petition for certiorari) 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 appeals to the Third District Court of Appeal or other appellate proceedings, so long as the following conditions are met:

a. The building permit may issue and shall remain active until the final resolution of all administrative and court proceedings;

b. 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 administrative and court proceedings;

c. 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;

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

e. The scope of the conditional use permit is limited to modifications to an existing structure;

f. 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;

g. The applicant is not seeking the demolition of any portion of a contributing structure; and

h. 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 CC or CO shall not be issued. Additionally, no BTR for entertainment shall issue.

In order for a building permit to issue pursuant to this subsection (c)(5)(ii), pending any further appeals to the Third District Court of Appeal or other appellate proceedings, the applicant shall be required to comply with all of the conditions in subsections (c)(5)(ii) a. through h., 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 appellate or administrative proceedings, any civil actions relating to the application of this subsection (c)(5)(ii), 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 administrative 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.

(iii) *Other appeals from land use board decisions.* Except for appeals arising from the planning board's approval of a conditional use permit, which are governed by subsection (ii) above, the appeal of any land use board order for a property located outside the RS-1, RS-2, RS-3, or RS-4 single-family zoning districts, if timely and properly filed subject to the requirements of this section or the Florida Rules of Appellate Procedure (as applicable), shall stay all work on the premises and all proceedings in furtherance of the action appealed from, at a minimum, for either 120 days from the date the appeal is filed or until such time as the applicant obtains a favorable ruling by the body or court with jurisdiction at the first level of appeal (whether the special magistrate, for appeals from the historic preservation board: the city commission, for appeals from the design review board: or the circuit court, for appeals of decisions on variances and appeals from other land use boards), whichever occurs first. Notwithstanding the foregoing, and only as applicable to appeals before

the city commission or special magistrate, in the event that a decision is not rendered within 120 days due to a lack of quorum of the city commission or the unavailability of the special magistrate, the stay shall remain in place, at a minimum, until such time as the appeal is ruled on by the city commission or special magistrate. The provisions of this paragraph shall not be applicable to appeals filed by the city manager or the applicant for the land use board approval. In order to lift the automatic stay once the initial 120-day period has elapsed, or upon a favorable ruling by the body or court with jurisdiction at the first level of appeal, whichever is applicable, an applicant shall first be required to satisfy the following requirements:

a. The applicant shall execute a written agreement (in a form acceptable to the city attorney) to hold harmless and indemnify the city from any claim, liability, or loss resulting from the approval of the application, the underlying appellate proceedings, the application of this subsection (c)(5)(iii), the issuance of a building permit, and/or the non-issuance of a final certificate of completion (CC) or a final certificate of occupancy (CO) for the property.

b. The written agreement shall bind the applicant to all requirements of the conditions of the applicable order of the respective land use board, including all enforcement, modification, and revocation provisions; except that the applicant shall be ineligible to apply for any modifications to the board order that are subject to the appeal, until the final resolution of all administrative and court proceedings as certified by the city attorney. Notwithstanding the foregoing, an applicant shall be eligible to apply for modifications that, as determined by the planning director and the city attorney, (i) are minor, (ii) do not affect the portions of the project that are challenged in the appeal, or (iii) are necessary to effectuate a settlement.

c. The applicant shall agree that in the event that the decision of the board is reversed, the applicant shall be required to restore the property to its previous condition, except that portions of the project that are not affected by the final order or resolution on the appeal, as determined by the planning director and city attorney, may remain, unless subsequent modifications are approved by the respective land use board.

d. No final certificate of occupancy (CO) or final certificate of completion (CC), shall be issued until the final resolution of the appeal (including all judicial proceedings), as determined by the city attorney.

(6) 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, the applicant shall have 18 months, or such lesser time as may be specified by the board, from the date of final resolution of all administrative and/or court proceedings to obtain a full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first. This tolling provision shall only be applicable to the original approval of the board and shall not apply to any subsequent requests for revisions or requests for extensions of time.

(Ord. No. 2015-3977, § 1, eff. 12-19-15; Ord. No. 2017-4083, § 1, 4-26-17; Ord. No. 2018-4185, § 1, 4-11-18; Ord. No. 2021-4431, 7-28-21; Ord. No. 2022-4481, § 1, 4-6-22; Ord. No. 2022-4502, § 1, 7-20-22; Ord. No. 2023-4534, § 1, 2-1-23)

Secs. 118-10—118-30. - Reserved.

ARTICLE II. - BOARDS

DIVISION 1. - GENERALLY

Sec. 118-31. - 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; (i) be in writing, (ii) indicate to whom the consideration has been provided or committed, (iii) generally describe the nature of the consideration, and (iv) 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 (i) the application or order, as applicable, shall immediately be deemed null and void without further force or effect, and (ii) 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.

(Ord. No. 98-3161, § 1, 12-16-98)

Sec. 118-32. - 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 or she 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 files his or her application prior to being sworn in as a member of these boards.

(Ord. No. 2009-3630, § 1, 3-18-09)

Secs. 118-33—118-50. - Reserved.

DIVISION 2. - PLANNING BOARD

Footnotes:
*--- (**2**) ---*
***Cross reference—** Boards, committees, commissions, § 2-61 et seq.*

Sec. 118-51. - Powers and duties.

The planning board shall have the following powers and duties:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) To carry out its responsibilities as the local planning agency pursuant to the state and the Local Government Comprehensive Planning and Land Development Regulations Act (F.S. ch. 163).

(8) To insure 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.

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

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

(11) 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:

a. Whether or not the proposed use is in keeping with city goals and objectives and conforms to the city comprehensive plan.

b. 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.

c.

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.

d. 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.

e. 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.

f. 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.

g. If a lease is proposed, the duration and other nonfinancial terms of the lease.

(Ord. No. 89-2665, § 17-1, eff. 10-1-89; Ord. No. 2006-3521, § 1, 7-12-06)

Sec. 118-52. - Meetings and procedures.

(a) *Officers; rules; meetings and hearings.* The planning board created hereby shall elect a chairperson, a vice chairperson, and a secretary. It shall have authority to adopt rules and regulations for its guidance in the transactions of its business, subject to the limitations of the city's Charter and ordinances. The board shall establish appropriate rules, establish the time, place and manner of holding regular and special meetings. The board is also authorized to call public hearings and to create committees and subcommittees when deemed appropriate or convenient for the performance of its duties.

(b) *Requests.* 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) *Oath.* Any person appearing before the planning board 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."

Any person giving false testimony before the planning board shall be deemed to have violated the provisions hereof and shall be subject to the maximum penalty prescribed by section 1-14 of the Code of the city.

(d)

Quorum and voting. A quorum shall constitute four regular members. An affirmative vote of four regular members shall be required to approve a request before the board that requires city commission approval. An affirmative vote of five regular members shall be required to approve a conditional use request or to approve any other request that does not require city commission approval. If an application is denied, the board shall provide a written statement in support of its finding.

As applicable to meetings held during a state of emergency declared by the city, county, or state that applies to the City of Miami Beach and that impacts the board's ability to meet in person, a quorum of the board shall attend the meeting in person, and remaining board members may attend and participate using communications media technology such as telephonic and video conferencing, unless the in-person quorum requirement has been suspended by the Florida Governor, by a court of competent jurisdiction, or otherwise suspended pursuant to applicable law.

(e) *Conflict of interest.* Members of the board shall abide by the applicable provisions of F.S. § 112.311 et seq., Dade County Code section 2-11.1 and section 2-446 et seq. of this Code, regarding voting conflicts and disclosures of financial interests.

(f) *Removal of board members.* In the event that any member of the board fails to attend three of the regularly scheduled meetings per calendar year, or abstains from voting on a matter before the board due to a conflict of interest on four different applications within a period of one year, such member shall cease to be a member of the board. For purposes of this section, an absence from a meeting shall be defined as missing more than 50 percent of the scheduled matters unless the member attended 70 percent of the duration of time of that meeting's agenda. A person who has ceased to be a member of the board due to absences or conflicts of interest shall not be reappointed to the board for a period of one year from the date of his/her removal.

(Ord. No. 89-2665, § 17-2, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 95-3026, eff. 12-16-95; Ord. No. 99-3225, § 1, 12-15-99; Ord. No. 2009-3638, § 1, 5-13-09; Ord. No. 2014-3888, § 1, 7-23-14; Ord. No. 2021-4396, § 1, 1-13-21)

Sec. 118-53. - Composition.

(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. Each regular voting member shall serve for a term of two years. 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 and/or experience in historic preservation issues. For purposes of this section, the term "education and/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 residents at-large and who currently reside in the city and have resided in the city for at least three consecutive years at the time of appointment or reappointment. Additionally, strong preference shall be given to individuals who have previously served on a Miami Beach board or committee and/or completed the Miami Beach Leadership Academy course, and to individuals not currently working in the fields of real estate development, real estate brokerage/sales, real estate law, or architecture; and

(6) 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) Except as provided in subsection (b)(5), 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 five-sevenths vote in the event a person not meeting these requirements is available to serve on the board and is exceptionally qualified by training and/or experience.

(Ord. No. 89-2665, § 17-3, eff. 10-1-89; Ord. No. 2003-3402, § 1, 3-19-03; Ord. No. 2005-3477, § 1, 3-16-05; Ord. No. 2009-3624, § 1, 1-28-09; Ord. No. 2013-3770, § 1, 7-18-12; Ord. No. 2019-4279, § 1, 6-5-19; Ord. No. 2021-4408, § 1, 4-21-21; Ord. No. 2021-4408, § 1, 4-21-21)

Secs. 118-54—118-70. - Reserved.

DIVISION 3. - DESIGN REVIEW BOARD

Footnotes:
*--- **(3)** ---*
***Cross reference—** Boards, committees, commissions, § 2-61 et seq.*

Sec. 118-71. - Powers and duties.

The design review board shall have the following powers and duties:

(1) To promote excellence in urban design.

(2) 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.

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

(4) 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.

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

(6) To authorize, upon application, variances from the terms of these land development regulations, where authorized by subsection 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 provisions of these land development regulations would result in unnecessary and undue hardship.

(7) The design review board shall 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.

(Ord. No. 89-2665, § 18-1(A), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2000-3268, § 1, 9-27-00; Ord. No. 2001-3333, § 3, 11-28-01; Ord. No. 2014-3914, § 1, 12-18-14; Ord. No. 2015-3924, § 2, 2-11-15; Ord. No. 2015-3977, § 2, eff. 12-19-15)

Sec. 118-72. - Membership.

(a) *Composition.* The design review board shall be composed of seven regular members. The seven regular members shall consist of:

(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 persons who are residents at-large and who currently reside in the city and have resided in the city for at least three consecutive years at the time of appointment or reappointment. Additionally, strong preference shall be given to individuals who have previously served on a Miami Beach board or committee and/or completed the Miami Beach Leadership Academy course, and to individuals not currently working in the fields of real estate development, real estate brokerage/sales, real estate law, or architecture; and

(6) 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").

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 the city attorney or designee, shall serve in an advisory capacity.

(b) *Appointment.* Design review board members shall be appointed with the concurrence of at least four members of the city commission. 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.

(c) *Residency and place of business.* 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 (a)(6), who need not reside in or have a principal place of business in the county, and except as otherwise provided in subsection (a)(5). The two resident 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.

(Ord. No. 89-2665, § 18-1(B), eff. 10-1-89; Ord. No. 90-2722, § 31, 11-21-90; Ord. No. 93-2889, § 1, 12-1-93; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 97-3089, § 1, 7-16-97; Ord. No. 99-3172, § 1, 2-17-99; Ord. No. 2000-3268, § 1, 9-27-00; Ord. No. 2003-3402, § 2, 3-19-03; Ord. No. 2005-3477, § 2, 3-16-05; Ord. No. 2012-3770, § 2, 7-18-12; Ord. No. 2019-4279, § 1, 6-5-19; Ord. No. 2021-4408, § 1, 4-21-21; Ord. No. 2021-4408, § 1, 4-21-21)

Sec. 118-73. - Terms of office.

The term of service on the design review board shall be two years.

(Ord. No. 89-2665, § 18-1(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97)

Sec. 118-74. - Removal.

(a) Removal of a design review board member shall be mandatory when that member:

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

(2) Abstains from voting due to a conflict of interest on four different applications within a calendar year.

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.

(b) Any absences and/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.

(Ord. No. 89-2665, § 18-1(D), eff. 10-1-89; Ord. No. 94-2923, eff. 4-14-94; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 99-3225, § 2, 12-15-99; Ord. No. 2009-3638, § 2, 5-13-09; Ord. No. 2014-3888, § 1, 7-23-14)

Sec. 118-75. - Quorum and voting.

A quorum shall consist of four regular members. An affirmative vote of four regular members shall be required to approve an application for design review. Prior to a decision of the design review board, the ex officio members shall submit a recommendation for each item on the agenda. An affirmative vote of five regular members of the board shall be necessary to approve any variance request. In addition, the city attorney shall determine whether a request is properly before the board. If an application is denied, the board shall provide a written statement in support of its finding.

As applicable to meetings held during a state of emergency declared by the city, county, or state that applies to the City of Miami Beach and that impacts the board's ability to meet in person, a quorum of the board shall attend the meeting in person, and remaining board members may attend and participate using communications media technology such as telephonic and video conferencing, unless the in-person quorum requirement has been suspended by the Florida Governor, by a court of competent jurisdiction, or otherwise suspended pursuant to applicable law.

(Ord. No. 89-2665, § 18-1(E), eff. 10-1-89; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2014-3914, § 1, 12-18-14; Ord. No. 2021-4396, § 1, 1-13-21)

Sec. 118-76. - Meetings.

The design review board shall meet within a reasonable time upon receipt of an application, at the call of the chairperson or the planning director. All meetings shall be open to the public and shall be conducted in accordance with the rules and regulations adopted by the board.

(Ord. No. 89-2665, § 18-1(F), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2000-3268, § 1, 9-27-00)

Sec. 118-77. - Conflict of interest.

Members of the design review board shall abide by the applicable provisions of F.S. § 112.311 et seq., Dade County Code section 2-11.1 and section 2-446 et seq. of this Code regarding voting and conflicts and disclosures of financial interests.

(Ord. No. 89-2665, § 18-1(G), eff. 10-1-89; Ord. No. 97-3067, § 1, 1-8-97)

Secs. 118-78—118-100. - Reserved.

DIVISION 4. - HISTORIC PRESERVATION BOARD

Footnotes:
*--- (**4**) ---*
***Cross reference—** Boards, committees, commissions, § 2-61 et seq.*

Sec. 118-101. - 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.

(Ord. No. 89-2665, § 19-4, eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 1, 7-26-00)

Sec. 118-102. - Powers and duties.

The historic preservation board shall:

(1) Recommend to the planning board, and city commission, the designation of historic buildings, structures, improvements, landscape features, public interiors, and historic sites or districts.

(2) 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.

(3) 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).

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) Award historic markers or plaques upon the recommendation of the city manager and with the consent of the city commission.

(9) Update and revise the historic properties database.

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

(11) 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.

(12)

To review 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.

(13) The historic preservation board shall 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.

(Ord. No. 89-2665, § 19-4(A), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 97-3095, § 1, 9-24-97; Ord. No. 2000-3262, § 1, 7-26-00; Ord. No. 2001-3333, § 4, 11-28-01; Ord. No. 2002-3349, § 1, 2-20-02; Ord. No. 2014-3914, § 1, 12-18-14; Ord. No. 2015-3924, § 3, 2-11-15)

Sec. 118-103. - Membership.

(a) The historic preservation board shall be composed of seven members. There shall be a member from each of the following categories:

(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) (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 5/7 ths vote, in the event a person not meeting the residency requirements is available to serve on the board and is exceptionally qualified by training and/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.

(Ord. No. 89-2665, § 19-4(B), eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 1, 7-26-00; Ord. No. 2009-3624, § 2, 1-28-09; Ord. No. 2012-3770, § 3, 7-18-12; Ord. No. 2019-4279, § 1, 6-5-19)

Sec. 118-104. - Appointment.

(a) Historic preservation board members shall be appointed with the concurrence of at least four members of the city commission. An eligibility list solicited from, but not limited to, the organizations listed in this section 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.

(b) Except as provided in section 118-105, every member appointed shall serve a term of two years.

(Ord. No. 89-2665, § 19-4(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 1, 7-26-00; Ord. No. 2003-3402, § 3, 3-19-03)

Sec. 118-105. - Removal.

In the event any member of the historic preservation board fails to attend three of the regularly scheduled meetings per calendar year, or abstains from voting on a matter before the historic preservation board due to a conflict of interest four times within a period of one year, such member shall cease to be a member of the board. 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. However, abstentions for reason of conflict for matters relating to amendment of the historic properties database shall not be counted for this purpose.

(Ord. No. 89-2665, § 19-4(D), eff. 10-1-89; Ord. No. 99-3225, § 3, 12-15-99; Ord. No. 2009-3638, § 3, 5-13-09; Ord. No. 2014-3888, § 1, 7-23-14)

Sec. 118-106. - Quorum and voting.

The presence of a quorum shall be necessary to conduct a historic preservation board meeting. A quorum shall consist of four members of the board. 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) Issuance of a certificate of appropriateness for demolition, recommendations for historic designation and reclassification of properties listed as "historic" in the historic properties database shall require five affirmative votes.

(2) The issuance of a certificate of appropriateness 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, shall require five affirmative votes.

(3) The approval of any variance request shall require five affirmative votes.

(4) The issuance of a certificate of appropriateness pertaining to any application for new construction, renovation or rehabilitation, except as otherwise provided in this section, shall require four affirmative votes.

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

As applicable to meetings held during a state of emergency declared by the city, county, or state that applies to the City of Miami Beach and that impacts the board's ability to meet in person, a quorum of the board shall attend the meeting in person, and remaining board members may attend and participate using communications media technology such as telephonic and video conferencing, unless the in-person quorum requirement has been suspended by the Florida Governor, by a court of competent jurisdiction, or otherwise suspended pursuant to applicable law.

(Ord. No. 89-2665, § 19-4(E), eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 1, 7-26-00; Ord. No. 2006-3527, § 1, 9-6-06; Ord. No. 2014-3914, § 1, 12-18-14; Ord. No. 2021-4396, § 1, 1-13-21)

Sec. 118-107. - Meetings.

The historic preservation board shall meet at the call of the chairperson or the planning director in order to carry out the provisions of this division. All meetings shall be open to the public and shall be conducted in accordance with the rules and regulations adopted by the board. Members of the public shall have the right to address the board and to present evidence.

(Ord. No. 89-2665, § 19-4(F), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 1, 7-26-00)

Sec. 118-108. - Organization.

(a) The chairperson and vice chairperson shall be elected annually from the members of the historic preservation board by a majority vote.

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

(c) 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.

(Ord. No. 89-2665, § 19-4(G), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 1, 7-26-00)

Sec. 118-109. - Conflict of interest.

Members of the historic preservation board shall abide by the applicable provisions of F.S. § 112.311 et seq., Dade County Code section 2-11.1, and section 2-446 et seq. of this Code regarding voting conflicts and disclosures of financial interests.

(Ord. No. 89-2665, § 19-4(H), eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94)

Secs. 118-110—118-130. - Reserved.

DIVISION 5. - BOARD OF ADJUSTMENT

Footnotes:
*--- (**5**) ---*
***Cross reference—** Boards, committees, commissions, § 2-61 et seq.*

Sec. 118-131. - 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 for a term of two years 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.

(Ord. No. 89-2665, § 16-1, eff. 10-1-89; Ord. No. 2004-3436, § 1, 3-17-04; Ord. No. 2007-3554, § 1, 4-11-07; Ord. No. 2012-3770, § 4, 7-18-12)

Sec. 118-132. - Conflict of interest.

Members of the board of adjustment shall abide by the applicable provisions of F.S. § 112.311 et seq., Dade County Code section 2-11.1 and section 2-446 et seq. of this Code and shall be subject to removal from office for the violation of the terms thereof.

(Ord. No. 89-2665, § 16-2, eff. 10-1-89)

Sec. 118-133. - Removal.

In the event that any member of the board of adjustment fails to attend three of the regularly scheduled meetings per calendar year, or abstains from voting on a matter before the board due to a conflict of interest on four different applications within a period of one year, such member shall cease to be a member of the board. 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 person who has ceased to be a member of the board due to absences or conflicts of interest shall not be reappointed to the board for a period of one year from the date of his/her removal.

(Ord. No. 89-2665, § 16-3, eff. 10-1-89; Ord. No. 95-3025, eff. 12-16-95; Ord. No. 99-3225, § 4, 12-15-99; Ord. No. 2009-3638, § 4, 5-13-09; Ord. No. 2014-3888, § 1, 7-23-14)

Sec. 118-134. - Applications.

Quasi-judicial public hearing applications shall be submitted to the planning department, which shall prepare a report and recommendation for consideration by the board of adjustment.

(Ord. No. 2015-3976, § 2, eff. 12-19-15)

Editor's note— Sec. 2 of Ord. No. 2015-3976, adopted Dec. 9, 2015, amended § 118-134 in its entirety to read as herein set out. Former § 118-134 pertained to notification of hearings and derived from Ord. No. 89-2665, eff. Oct. 1, 1989; Ord. No. 2010-3711, adopted Dec. 8, 2010; and Ord. No. 2015-3977, eff. Dec. 19, 2015.

Sec. 118-135. - Meetings and records.

Meetings of the board of adjustment shall be held at least once monthly, or at such other times as the board may determine, or upon call of the chairman. The board shall adopt its own rules or procedures and keep minutes of its proceedings showing its action on each question considered. A quorum shall constitute of four members of the board.

As applicable to meetings held during a state of emergency declared by the city, county, or state that applies to the City of Miami Beach and that impacts the board's ability to meet in person, a quorum of the board shall attend the meeting in person, and remaining board members may attend and participate using communications media technology such as telephonic and video conferencing, unless the in-person quorum requirement has been suspended by the Florida Governor, by a court of competent jurisdiction, or otherwise suspended pursuant to applicable law.

(Ord. No. 89-2665, § 16-5, eff. 10-1-89; Ord. No. 2021-4396, § 1, 1-13-21)

Sec. 118-136. - Powers and duties.

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

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

(2) 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. Five affirmative votes shall be necessary to approve any variance request.

(b) The board of adjustment shall 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.

(Ord. No. 89-2665, § 16-8(A)(1), (2), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 2004-3436, § 2, 3-17-04; Ord. No. 2014-3914, § 1, 12-18-14; Ord. No. 2015-3977, § 4, eff. 12-19-15)

Sec. 118-137. - Reserved.

Editor's note— Sec. 5 of Ord. No. 2015-3977, adopted Dec. 9, 2015, repealed § 118-137, which pertained to stay of work and proceedings on appeal, and derived from Ord. No. 89-2665, eff. Oct. 1, 1989; Ord. No. 2000-3269, adopted Sept. 27, 2000; and Ord. No. 2011-3742, adopted Oct. 19, 2011.

Sec. 118-138. - Reserved.

Editor's note— Sec. 6 of Ord. No. 2015-3977, adopted Dec. 9, 2015, repealed § 118-138, which pertained to appeal of board adjustment's decision, and derived from Ord. No. 89-2665, eff. Oct. 1, 1989.

Secs. 118-139—118-160. - Reserved.

ARTICLE III. - AMENDMENT PROCEDURE

Sec. 118-161. - Changes and amendments generally.

The city commission may, from time to time, amend these land development regulations or change the zoning district boundaries. All amendments shall be consistent and compatible with the comprehensive plan and shall be enacted in accordance with the provisions of this article.

(Ord. No. 89-2665, § 14, eff. 10-1-89)

Sec. 118-162. - Petition for changes and amendments.

(a) An application to amend the land development regulations or the comprehensive plan 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.

(b)

Any applicant or his representative shall file an application with the planning department in accordance with a form approved by the city attorney, and shall supply all information pertinent to the proposed amendment as requested by the planning department.

(c) Fees.

(1) Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 118-7 and appendix A to this Code. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

(2) If an application is filed by, or on behalf of, a private applicant, the applicant shall be required to pay all applicable planning department fees and costs associated with the application. An application shall not be heard by the planning board or city commission unless and until the application is complete and all applicable fees and costs have been paid.

(3) 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, and/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); and/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.

(Ord. No. 89-2665, § 14-1, eff. 10-1-89; Ord. No. 92-2820, eff. 10-31-92; Ord. No. 94-2947, eff. 10-15-94; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 95-3004, eff. 8-5-95; Ord. No. 2015-3978, § 3, 12-9-15, eff. 4-1-16; Ord. No. 2019-4259, § 1, 5-8-19)

Sec. 118-163. - Review by planning board.

Before the city commission takes any action on a proposed amendment to the actual list of permitted, conditional or prohibited uses in zoning categories or to the actual zoning map designation of a parcel or parcels of land or to other regulations of these land development regulations or to the city's comprehensive plan, 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. In reviewing the application, the planning board may propose an alternative ordinance on the same subject for consideration by the city commission. The following procedures shall apply to the board's consideration of the request:

(1) 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 and zoning director shall submit a report of the board's recommendations on the proposal to the city commission.

(2) When an application requests an amendment to these land development regulations notice of public hearings before the planning board shall be the same as the notice required for the first public hearing before the city commission as set forth in section 118-164.

(3) In reviewing a request for an amendment to these land development regulations, 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 changes is consistent with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

(4) Notices of any public hearing regarding proposed amendments to the city's comprehensive plan shall be in accordance with the applicable requirements of F.S. ch. 163, F.A.C. chs. 9J-5 and 9J-11 and the public participation procedures set forth in the city's comprehensive plan as they may be amended from time to time.

(5) Oath.

a. Any person appearing before the planning board or the city commission at a public hearing in regard to an application for a change of a zoning district boundary or other 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 a change of zoning or other amendments to these land development regulations shall be subject to the maximum penalty provided by law.

(6) An application for a change in the actual list of permitted, conditional or prohibited uses in zoning categories or in the actual zoning map designation of a parcel or parcels of land or for any other amendment to these land development regulations or change in the future land use map of the comprehensive plan 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.

(Ord. No. 89-2665, § 14-2, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2907, eff. 2-26-94; Ord. No. 95-3004, eff. 8-5-95; Ord. No. 97-3076, § 1, eff. 4-12-97; Ord. No. 2017-4123, § 1, 7-26-17)

Sec. 118-164. - Action by city commission.

Within 60 days of transmission of the recommendation of the planning board to the city commission, the commission shall consider the proposed amendment as provided herein. All the land development regulation amendments shall be enacted pursuant to the following procedure:

(1) In all cases in which the proposed amendment changes the actual list of permitted, conditional or prohibited uses in a zoning category or changes the actual zoning map designation for a parcel or parcels of land and, in either case, 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 or the proposed zoning map designation. 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, or changes the actual zoning map designation of a parcel or parcels of land involving ten contiguous 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 hearings 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 to F.S. ch. 50. 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).

Except for amendments which change the actual list of permitted, conditional or prohibited uses within a zoning category, 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 118-164(2)b. 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 these land development regulations does not change the actual list of permitted, conditional or prohibited uses in a zoning category or 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 (1) and (2) of this section:

a. 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.

b. 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.

(5) Any application for amendment to the actual list of permitted, conditional or prohibited uses in zoning categories or to the actual zoning map designation of land or to any other regulation in these land development regulations, or to the future land use map of the city's comprehensive plan 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 amendment 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.

(Ord. No. 89-2665, § 14-3, eff. 10-1-89; Ord. No. 94-2907, eff. 2-26-94; Ord. No. 95-3004, eff. 8-5-95; Ord. No. 97-3066, § 1, 1-8-97; Ord. No. 97-3102, § 1, 11-19-97)

Sec. 118-165. - Reconsideration of district boundary changes.

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.

(Ord. No. 89-2665, § 14-4, eff. 10-1-89)

Sec. 118-166. - Amendment of comprehensive plan.

Consideration of proposed amendments to the city's comprehensive plan by the planning board and city commission shall follow the procedures set forth in F.S. ch. 163, F.A.C. chs. 9J-5 and 9J-11 and the public participation procedures of the comprehensive plan and any amendments thereto.

(Ord. No. 89-2665, § 14-5, eff. 10-1-89; Ord. No. 94-2907, eff. 2-26-94)

Sec. 118-167. - Periodic review.

It shall be the duty of the planning board and the board of adjustment, in cooperation with the planning and zoning 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.

(Ord. No. 89-2665, § 14-6, eff. 10-1-89)

Sec. 118-168. - 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 and/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:

a. 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, or (iv) a full building permit as defined in section 114-1 where no design review approval, certificate of appropriateness or variance approval is required; and

b. Satisfies subsection a., 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 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 and/or project (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 project shall no longer be deemed nonconforming.

(2) In the event the applicant:

a. 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, or (iv) a full building permit as defined in section 114-1 where no design review approval, certificate of appropriateness or variance approval is required; and

b. Satisfies subsection a., 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 project shall be presumed to have received a favorable determination and the subject land development regulation amendment shall not be enforced against such application and/or project, 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 and/or project, 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 and/or project.

(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, 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 and zoning 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 and/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) Subsections 118-168(a) and (b) shall not apply to proposed amendments to chapter 118, which would designate specific properties or districts as historic. The moratorium regulations applicable to such proposed amendments are set forth in chapter 118, article X, division 4.

(Ord. No. 89-2665, § 14-7, eff. 10-1-89; Ord. No. 92-2865, eff. 8-7-93; Ord. No. 94-2947, eff. 10-15-94; Ord. No. 98-3106, § 1, 1-7-98; Ord. No. 98-3130, § 1, 7-15-98; Ord. No. 2000-3253, § 1, 7-12-00; Ord. No. 2006-3537, § 1, 10-11-06)

Sec. 118-169. - Proposed comprehensive plan amendments; application of equitable estoppel to permits and approvals.

(a) Amendments to the city's comprehensive plan shall be enforced against all applications and/or requests for project approval upon the earlier of the favorable recommendation by the planning board or the applicable effective date of the comprehensive plan amendment, as more

particularly provided below. After submission of a completed application for a project approval, to the extent a proposed amendment to the comprehensive plan 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:

a. 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, or (iv) a full building permit as defined in section 114-1 where no design review approval, certificate of appropriateness or variance approval is required; and

b. Satisfies subsection a., above, prior to a favorable recommendation by the planning board with respect to any comprehensive plan amendment that is adopted by the city commission within 150 days after receiving comments on the transmitted proposed amendment from the department of community affairs,

then the project shall be presumed to have received a favorable determination that equitable estoppel applies and the subject comprehensive plan amendment shall not be enforced against the application and/or project (hereinafter, a "favorable determination"), except as otherwise provided in subsection (b), below. In the event the city commission fails to adopt a resolution providing for transmittal of the proposed amendment to the department of community affairs, or rejects the amendment within 150 days after a favorable recommendation by the planning board, or fails to enact or rejects the amendment within 150 days after receiving comments on the transmitted proposed amendment from the department of community affairs, then the project shall no longer be deemed nonconforming.

(2) In the event the applicant:

a. 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, or (iv) a full building permit as defined in section 114-1 where no design review approval, certificate of appropriateness or variance approval is required; and

b. Satisfies subsection a., above, prior to the effective date of any comprehensive plan amendment where there was an unfavorable recommendation by the planning board with respect to the comprehensive plan amendment, or when the planning board recommends favorably, but the city commission rejects the amendment within the specified 150-day period, or the city commission fails to enact or rejects the amendment within 150 days after reviewing comments on the transmitted proposed amendment from the department of community affairs,

then the project shall be presumed to have received a favorable determination and the subject comprehensive plan amendment shall not be enforced against such application and/or project, 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 and/or project, 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 and/or project.

(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, 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 and zoning 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 and/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) Subsections (a) and (b) of this section shall not apply to proposed amendments to 118-101 et seq., which would designate specific properties or districts as historic. The moratorium regulations applicable to such proposed amendments are set forth in 118-593.

(Ord. No. 89-2665, § 14-8, eff. 10-1-89; Ord. No. 93-2866, eff. 8-7-93; Ord. No. 98-3106, § 1, 1-7-98; Ord. No. 98-3130, § 1, 7-15-98; Ord. No. 2000-3253, § 1, 7-12-00; Ord. No. 2006-3537, § 2, 10-11-06)

Secs. 118-170—118-190. - Reserved.

ARTICLE IV. - CONDITIONAL USE PROCEDURE

Sec. 118-191. - Purpose.

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

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

Sec. 118-192. - Review guidelines.

(a) Conditional uses may be approved in accordance with the procedures and standards of this article provided that:

(1) The use is consistent with the comprehensive plan or neighborhood plan if one exists for the area in which the property is located.

(2) The intended use or construction will not result in an impact that will exceed the thresholds for the levels of service as set forth in the comprehensive plan.

(3) Structures and uses associated with the request are consistent with these land development regulations.

(4) The public health, safety, morals, and general welfare will not be adversely affected.

(5) Adequate off-street parking facilities will be provided.

(6) Necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values.

(7) The concentration of similar types of uses will not create a negative impact on the surrounding neighborhood. Geographic concentration of similar types of conditional uses

should be discouraged.

(8) The structure and site complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

(b) In reviewing an application for conditional use for new structures 50,000 square feet and over, the planning board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines listed in subsection a. above:

(1) Whether the proposed business operations plan has been provided, including hours of operation, number of employees, goals of business, and other operational characteristics pertinent to the application, and that such plan is compatible with the neighborhood in which it is located.

(2) Whether a plan for the mass delivery of merchandise has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhood.

(3) Whether the scale of the proposed use is compatible with the urban character of the surrounding area and create adverse impacts on the surrounding area, and how the adverse impacts are proposed to be addressed.

(4) Whether the proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking and operational needs of the structure and proposed uses.

(5) Whether an indoor and outdoor customer circulation plan has been provided that facilitates ingress and egress to the site and structure.

(6) Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the business and its users and minimizes impacts on the neighborhood.

(7) Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.

(8) Whether a noise attenuation plan has been provided that addresses how noise will be controlled in the loading zone, parking structures and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.

(9) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.

(10) Whether the proximity of the proposed structure to similar size structures and to residential

uses creates adverse impacts and how such impacts are mitigated.

(11) Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect will be addressed.

(c) In reviewing an application for a religious institution, the planning board shall apply the following review criteria instead of the standard review guidelines listed in subsection (a) above:

(1) Whether a proposed operations plan has been provided, including hours of operation, number of employees, and other operational characteristics pertinent to the application, and that such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.

(2) Whether a plan for the delivery of supplies has been provided, including the hours of operation for delivery trucks to come into and exit from the neighborhood and how such plan will mitigate any adverse impacts to adjoining and nearby properties, and neighborhoods.

(3) Whether the design of the proposed structure is permitted by the regulations in the zoning district in which the property is located, and complies with the regulations of an overlay district, if applicable.

(4) Whether a proposed parking plan has been provided, including where and how the parking is located, utilized, and managed, that meets the required parking for the use in the zoning district in which the property is located.

(5) Whether an indoor and outdoor congregant/parishioner circulation plan has been provided that facilitates ingress and egress to the site and structure.

(6) Whether a security plan for the establishment and supporting parking facility, if any, has been provided that addresses the safety of the institution and its users and minimizes impacts on the neighborhood.

(7) Whether a traffic circulation analysis and plan has been provided that details means of ingress and egress into and out of the neighborhood, addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, traffic flow through immediate intersections and arterials, and how these impacts are to be mitigated.

(8) Whether a noise attenuation plan has been provided that addresses how noise will be controlled in and around the institution, parking structures or areas, and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.

(9) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the structure.

(10) Whether the proximity of the proposed structure to adjacent and nearby residential uses creates adverse impacts and how such impacts are to be mitigated.

(11) Whether a cumulative effect from the proposed structure with adjacent and nearby structures arises, and how such cumulative effect will be addressed.

(Ord. No. 89-2665, § 17-4(B), eff. 10-1-89; Ord. No. 99-3179, § 1, 3-17-99; Ord. No. 2006-3518, § 1, 7-12-06; Ord. No. 2011-3714, § 5, 1-19-11; Ord. No. 2017-4123, § 2, 7-26-17)

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

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

(1) *Site plan required.* Each application for a conditional use permit shall be accompanied by a site plan meeting the requirements of section 118-1, and such other information as may be required for a determination of the nature of the proposed use and its effect on the comprehensive plan, the neighborhood and surrounding properties.

(2) *Expiration of orders of planning board.*

a. 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 conditional use was granted to obtain a full building permit, a certificate of occupancy, a certificate of use or a certificate of completion, whichever occurs first. The foregoing 18-month time period, or lesser time period, includes the time of the decision of the planning board may be filed. If the applicant fails to obtain a full building permit within 18 months, or such lesser time period as is specified, of the board meeting date at which a conditional use was granted and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the conditional use shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the planning board, provided the applicant submits a request in writing to the planning and zoning director no later than 90 calendar days after the expiration of the original approval, showing good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and

plans have been filed with the building department, a building permit process number has been issued and the planning department has reviewed the plans and provided initial comments.

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

b. 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 competition set forth in subsection (2)(a) may be superseded and modified by a development agreement approved and fully executed pursuant to section 118-4 of this Code, so long as the modified time period is expressly negotiated and set forth in the executed development agreement.

c. An approved and operational conditional use which remains idle or unused in whole or in part for a continuous period of six months or for 18 months during any three-year period whether or not the equipment, fixtures, or structures remain, shall be required to seek re-approval of the conditional use from the board. Resumption of such use shall not be permitted unless and until the board approval has been granted.

d. An applicant may defer an application before the public hearing only one time. The request to defer shall be in writing. When an application is deferred, it shall be re-noticed at the applicant's expense as provided in subsection 118-196(5). The applicant shall also pay a deferral fee as set forth in this article. In the event that the application is not presented to the board for approval at the meeting date for which the application was deferred, the application shall be deemed null and void. If the application is deferred by the board, the notice requirements shall be the same as for a new application as provided in subsection 118-196(5) and shall be at the city's expense.

e. The board may continue an application to a date certain at either the request of the applicant or at its own discretion.

f. In the event the application is continued due to the excessive length of an agenda or in order for the applicant to address specific concerns expressed by the board and/or staff, the applicant shall present for approval to the board a revised application inclusive of all required exhibits that attempts to address the concerns of the board and/or staff, for the date certain set by the board, which shall be no more than 120 days after the date on which the board continues the matter.

g. In the event that the applicant fails to present for approval to the board a revised application as described above within 120 days of the date the application was continued, the application shall be deemed null and void.

h. Deferrals or continuances for a specific application shall not exceed one year cumulatively for all such continuances or deferrals made by the board, or the application shall be deemed null and void.

i. An application may be withdrawn by the applicant if such request is in writing and filed with the planning department prior to the public hearing, or requested during the public hearing, provided, however, that no application may be withdrawn after final action has been taken. Upon a withdrawal or final denial of an application by the planning board, the same application cannot be filed within six months of the date of the withdrawal or denial unless, however, the decision of the board taking any such action is made without prejudice to refile.

j. In the event there is a lack of a quorum, all pending or remaining matters shall be automatically continued to the next available meeting of the board.

(Ord. No. 89-2665, § 17-4(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 2000-3270, § 1, 9-27-00; Ord. No. 2003-3416, § 1, 6-11-03; Ord. No. 2008-3599, § 1, 3-12-08; Ord. No. 2010-3711, § 2, 12-8-10; Ord. No. 2014-3889, § 2, 7-23-14; Ord. No. 2015-3976, § 3, eff. 12-19-15; Ord. No. 2015-3977, § 7, eff. 12-19-15; Ord. No. 2015-3978, § 4, 12-9-15, eff. 4-1-16; Ord. No. 2019-4254, § 2, 4-10-19)

Sec. 118-194. - Compliance with conditions.

(a) No occupational license, certificate of use, certificate of occupancy, or certificate of completion shall be issued until all conditions of approval have been met. The establishment of a conditional use without complying with the conditions of approval shall constitute a violation of these land development regulations and shall be subject to enforcement procedures as set forth in section 114-8, and as provided herein.

(b) Within a reasonable time after a conditional use application or amendment has been approved, the applicant shall record the planning board's action and conditions in the public records of the county. No building permit, certificate of use, certificate of occupancy, certificate of completion or occupational license shall be issued until this regulation has been complied with.

(c) The board may revoke or modify a conditional use approval pursuant to the following procedures:

(1) The planning director shall notify the applicant by certified mail of the failure to comply with the conditions of the approval;

(2) If, after expiration of a 15-day cure period commencing on the date of the notice, the applicant fails to comply with the conditions, or the applicant has exhibited repeated or intermittent noncompliance with the conditions prior to the cure period and the planning director is concerned about further repeated or intermittent noncompliance, the planning director shall advise the board at the next meeting and the board may consider setting a public hearing for the purpose of examining the noncompliance issues;

(3)

If the board elects to set a public hearing, the planning director shall place the matter on the board's agenda in a timely manner and all notice requirements imposed for conditional use applications as set forth in section 118-193 shall be applicable, with the addition of notice to the applicant; and

(4) The board shall hold a public hearing to consider the issue of noncompliance and the possible revocation or modification of the approval, and, based on substantial competent evidence, the board may revoke the approval, modify the conditions thereof, or impose additional or supplemental conditions.

(d) In determining whether substantial competent evidence exists to support revocation, modification or the imposition of additional or supplemental conditions to the approval, intermittent noncompliance with the conditions, as well as the frequency, degree and adverse impact of such intermittent noncompliance, may be considered by the board.

(e) In the event the board takes any of the enforcement actions authorized in this section, the applicant shall reimburse the planning, design and historic preservation division for all monies expended to satisfy notice requirements and to copy, prepare or distribute materials in anticipation of the public hearing. The applicant shall not be permitted to submit a new application, for related or unrelated matters, nor shall an application be accepted affecting the subject property, for related or unrelated matters, for consideration by the board of adjustment, planning board, design review board, historic preservation board, or the design review/historic preservation board until repayment in full of all monies due and payable pursuant to the foregoing sentence.

(f) In addition to all other enforcement actions available to the board, based upon a board finding that the applicant has failed to comply with the conditions of the approval, the board may recommend that the code compliance director (or his/her successor in interest with respect to the issuance of occupational licenses and certificates of use), in his/her discretion, revoke or suspend the certificate of use for the subject property and/or the applicants occupational license applicable to the business conducted at the subject property.

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

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

(a) When an applicant requests an amendment to an approved conditional use, the planning and zoning director shall first determine whether the request is a substantial or minor amendment. A minor amendment may be authorized by the planning and zoning director. If the planning and zoning director determines that the request is a substantial amendment, the review process shall be the same as for a new application. In determining whether the request is a substantial or minor amendment, the planning and zoning director shall consider the overall impact of the change, increase or decrease in parking or floor area, landscaping and design, consistency with

these land development regulations, efficient utilization of the site, circulation pattern and other pertinent facts. Any increase in lot area, parking requirements, floor area ratio, density or lot coverage shall be considered as a substantial amendment.

(b) If the planning and zoning director determines the request is a minor amendment, the applicant may submit an application for a building permit; however, the planning and zoning director shall approve the site plan prior to the issuance of a building permit.

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

Sec. 118-196. - Reserved.

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

Sec. 118-197. - Reserved.

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

Secs. 118-198—118-220. - Reserved.

ARTICLE V. - TRANSFER OF DEVELOPMENT RIGHTS

Sec. 118-221. - Intent.

This article is intended to provide for greater flexibility in the pattern of development by allowing for the transfer of development rights (unused floor area) from one parcel to another.

(Ord. No. 89-2665, § 6-29(A), eff. 10-1-89; Ord. No. 96-3048, § 1(A), 7-17-96)

Sec. 118-222. - Transfer and receiving districts.

Except as provided in section 118-224, development rights (unused floor area) shall only be transferred from properties in designated transfer districts to properties in designated receiving districts. For purposes of this section the R-PS1, R-PS2, C-PS4, GU and the MXE mixed use entertainment districts are designated as transfer districts and the CD-3 (when not located in the architectural district), the C-PS2 and C-PS4 districts are designated as receiving districts; however, there shall be no transfer of development rights (unused

floor area) from a GU district to any district other than the C-PS4 district. In a locally designated historic district or site, a historic structure (as listed in the historic property database) that has received a tax credit or qualifies as a "certified rehabilitation" according to the U.S. Secretary of the Interior Standards, may transfer its development rights to a hotel development. However, such hotel development shall not be within the architectural district but within a receiving district as listed in this section and meet all of the requirements of this section. For the purposes of this section, a lot or portion thereof which is within or part of a locally designated district or historic site shall not be allowed to transfer its development rights to another property unless it is developed as a parking lot or garage. Lots in a transfer district may be called transfer lots or properties and lots in a receiving district may be called receiving lots or properties.

(Ord. No. 89-2665, § 6-29(B), eff. 10-1-89; Ord. No. 96-3048, § 1(B), 7-17-96)

Sec. 118-223. - Procedures pertaining to the transfer of development rights (unused floor area).

(a) *Application.*

(1) An applicant for transfer of development rights shall file an application with the planning and zoning director who shall place the request on the agenda of the planning board after it is determined that the application is complete. Filing and processing procedures for placing the request on the agenda shall be pursuant to the conditional use procedures as listed in article IV of this chapter.

(2) The application shall include plans, construction schedule, status of financing and a general description of the manner in which the project shall be constructed. Plans shall include, but not be limited to, a site plan, elevations, landscaping as well as other items listed in section 118-1.

(3) The application shall include substantiation of how the project complies with the criteria listed in subsection 118-223(b).

(4) If variances are required, the transfer of development rights (unused floor area) shall first be approved by the planning board and then the board of adjustment may consider requests for variances; however, it is not within the board of adjustment's jurisdiction to consider variances relating to the following development regulations: floor area, floor area ratio or those regulations listed in subsections 118-223(c)(2), (4), (5), (6), (7) or (8). Deviation from these development regulations are considered as an amendment to these land development regulations and shall be considered pursuant to article III of this chapter.

(5) All projects are required to be approved by the design review board prior to consideration by the planning board or board of adjustment.

(b) *Evaluation criteria.* A request for a transfer of development rights (unused floor area) shall only be approved if the planning board finds that the application is consistent with the following mandatory criteria.

(1) The project is consistent with the comprehensive plan and will not reduce the levels of service set forth in the plan.

(2) The project is consistent with the intent of these regulations as set forth in section 118-221.

(3) The project provides adequate off-street parking facilities, the enhancement or creation of view corridors either through the building(s) or within open space that is in addition to the required setbacks.

(4) The transfer of unused floor area is desirable for purposes of enhancing the overall development; the creation of view corridors; improves the pedestrian environment, public right-of-way and publicly owned property.

(5) The transfer of development rights (unused floor area) accomplishes a public purpose that is consistent with the comprehensive plan.

(6) The proposed development shall be designed to produce an environment of desirable character and in harmony with the neighborhood. The provisions herein are intended to result in a superior quality of development and open space relationships with high standards for recreational and parking areas.

(7) A logical and superior pattern of development results through the transfer of development rights (unused floor area) rather than in projects that would occur if the property were developed independently of one another.

(c) *Development regulations.*

(1) The project shall be consistent with the development regulations as set forth in these land development regulations, unless the board of adjustment grants a variance(s) to such development regulations. (See subsection 118-223(a)(4) which lists what types of requests are not within the jurisdiction of the board of adjustment).

(2) The maximum floor area for the entire project shall not exceed the combined floor area as determined by the underlying zoning districts of each of the individual parcels that are shown on the site plan. The amount of floor area transferred shall be determined by the maximum permitted floor area allowed on the transferring lot minus the provided floor area; but, excluding floor area in parking garages and commercial uses if they are included in a parking garage.

(3) If the developments contain a building which is listed in the Miami Beach historic property database, then the maximum allowed floor area that may be transferred excludes the floor area in the existing building if such building is designated as a local historic site and it is substantially rehabilitated in accordance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. A building permit and

certificate of occupancy or certificate of completion for the rehabilitation shall be issued at the same time or before a building permit and certificate of occupancy or certificate of completion is issued for the structure on the receiving lot.

(4) A receiving property shall not exceed the maximum allowed floor area provisions on a receiving lot by more than 20 percent. Any floor area that is transferred to a receiving property and which is used as units shall meet or exceed the average floor area per unit size provided in the building.

(5) No more than 25 percent of the required parking shall be placed in a building on a lot that received the transfer of development rights (unused floor area).

(6) If a garage is constructed on a transfer lot, it shall contain retail uses on the ground floor elevation that faces Collins Avenue, Alton Road or Fifth Street. The development regulations pertaining to parking lots and garages are set forth in subsection 142-1132(n).

(7) All lots contained on the site shall be within 400 feet of each other.

(8) Minimum dimension of a receiving lot shall be 200 feet wide and 50,000 square feet of lot area.

(9) In a receiving district, the front setback for the pedestal and the tower shall be 50 feet. However, if the project contains retail uses on the ground floor facing the street, the front setback for the pedestal shall be 15 feet with a height restriction of 20 feet and the tower front setback shall be 50 feet.

(10) Any project that is located in the dune overlay district shall, at the request of the city, continue, extend or connect to the city's beachfront park and promenade in accordance with the established guidelines. Projects adjacent to Biscayne Bay or Government Cut shall include a pedestrian walkway which may or may not be accessible to the general public; however, walkways on-sites adjacent to the Miami Beach Marina shall be open to the general public.

(11) Transfer properties in different projects fronting on the same street which have a parking garage that is 50 percent or more of the total floor area of the building shall be no less than 400 feet from another transfer property that is similarly developed.

(12) These regulations are only applicable when the receiving property contains new construction on the entire lot or if the receiving property has a historic structure as a main permitted building.

(13) The planning board may impose conditions on the project to insure that the project is compatible with the neighborhood, supports the intent of these regulations, does not reduce the levels of service as set forth in the comprehensive plan and mitigates any negative impacts that may result from the development of a project under these regulations.

(14) The design review board may require a greater setback than that which is required in order to achieve a view corridor.

(d) *Recording of documents.* Within a reasonable time after the planning board's decision on the request to transfer development rights (unused floor area), a final order shall be recorded by the applicant in the public records of the county, against all of the properties in the development. The final order shall be recorded against the transfer and receiving properties. The final order shall include the amount of development rights (unused floor area) that was transferred and received for each property and the amount of required parking that shall always be made available to the receiving property and be in the form of an irrevocable covenant running with the land. Such covenant shall only be dissolved if the floor area that was built on the receiving property is completely removed. The applicant shall agree to bind themselves, successors and all of the property in the development with regard to conditions, if any, that are placed on the development. All documents that are required to be recorded in the public records of the county by these regulations shall first be approved by the city attorney.

(e) *Changes in the development.* The final order(s) and documents that are required to be recorded against the property in the public records of the county shall not be changed unless such change is approved by those agencies and boards which were involved in the initial approval.

(Ord. No. 89-2665, § 6-29(C), eff. 10-1-89; Ord. No. 96-3048, § 1(C), 7-17-96; Ord. No. 98-3107, § 4, 1-21-98)

Sec. 118-224. - Development agreements and/or interlocal agreements.

(a) Notwithstanding the terms and provisions of sections 118-221, 118-222 and 118-223, transfers of development rights pursuant to a development agreement and/or interlocal agreement approved after October 1, 1995 in accordance with the terms of section 118-4, F.S. § 163.3220, and/or F.S. § 163.01, (hereinafter called a "F.S. ch. 163, development agreement"), shall be approved by the city commission either contemporaneously with the approval of the F.S. ch. 163, development agreement or during a subsequent publicly noticed hearing as provided in this section. An approval by the city commission to transfer development rights as contemplated in the foregoing sentence shall not modify, limit or supersede approvals, reviews or recommendations required to be issued by another board or committee with jurisdiction over the project, as more particularly provided in these land development regulations or the applicable F.S. ch. 163, development agreement.

(b) An applicant for a transfer of development rights under a F.S. ch. 163, development agreement shall file an application with the planning and zoning director who shall place the request on the city commission agenda after it is determined that the application is complete. 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 to F.S. ch. 50. Whenever possible, the advertisement shall be in a newspaper that is published at least five days a week unless the only newspaper in the city is published less

than five times a week. The notice shall be published at least ten days prior to the commission meeting. Notwithstanding the provisions of subsection 118-223(a), any application hereunder need only include the F.S. ch. 163, development agreement and substantiation of how the proposed transfer complies with the criteria set forth in subsections (c) and (d) of this section.

(c) The city commission in considering any such application for the transfer of development rights pursuant to a F.S. ch. 163, development agreement may grant its approval upon a determination that:

(1) The proposed transfer is consistent with the intent of these regulations as set forth in section 118-221;

(2) The proposed transfer is consistent with the terms and provisions of the F.S. ch. 163, development agreement approved by the city commission; and

(3) The applicant agrees to satisfy the city's off-street parking requirements for the property in a manner consistent with the F.S. ch. 163, development agreement.

(d) With respect to property subject to a F.S. ch. 163, development agreement, in addition to the transfer and receiving properties outlined in section 118-222, the properties within the C-PS4 district shall also be permitted transfer properties, and properties with the C-PS3 district shall be permitted receiving properties for those C-PS3 properties located south of Second Street and west of Washington Avenue or west of the southern theoretical extension of Washington Avenue, provided the F.S. ch. 163, development agreement approves such a transfer. In addition, to the extent specifically approved in the F.S. ch. 163, development agreement, transfer of development rights shall also be permitted from a GU district as a transfer property to a C-PS2 or C-PS3 district (which is subject to a F.S. ch. 163, development agreement) as a receiving property.

(e) Subsections 118-223(a) through 118-223(d) shall not apply to proposed transfers which comply with this subsection. Within 30 days after the city commission approves a transfer of development rights, the applicant shall record the final order in the public records of the county, which shall be recorded against the transfer and receiving properties. The final order shall comply with subsection 118-223(d), except as provided in this subsection.

(Ord. No. 89-2665, § 6-29(D), eff. 10-1-89; Ord. No. 96-3048, § 1(C), 7-17-96)

Secs. 118-225—118-250. - Reserved.

ARTICLE VI. - DESIGN REVIEW PROCEDURES

Sec. 118-251. - Design review criteria.

(a) Design review encompasses the examination of architectural drawings for consistency with the criteria stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure and physical attributes of the project in relation to the site, adjacent structures and surrounding community. The board and the planning department shall review plans based upon the below stated criteria, criteria listed in neighborhood plans, if applicable, and design guidelines adopted and amended periodically by the design review board and/or historic preservation board. Recommendations of the planning department may include, but not be limited to, comments from the building department and the public works department. If the board determines that an application is not consistent with the criteria, it shall set forth in writing the reasons substantiating its finding. The criteria referenced above are as follows:

(1) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.

(2) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.

(3) The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

(4) The color, design, selection of landscape materials and architectural elements of exterior building surfaces and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-252.

(5) The proposed site plan, and the location, appearance and design of new and existing buildings and structures are in conformity with the standards of this article and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the design review board and historic preservation board and all pertinent master plans.

(6) The proposed structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties.

(7) The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

(8)

Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are 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.

(9) Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

(10) Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

(11) Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

(12) The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

(13) The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

(14) The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

(15) An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

(16) All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

(17) The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.

(18)

In addition to the foregoing criteria, 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.

(19) The structure and site complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

(Ord. No. 89-2665, § 18-2(A), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 98-3107, § 6, 1-21-98; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2015-3924, § 4, 2-11-15; Ord. No. 2017-4123, § 3, 7-26-17)

Sec. 118-252. - Applicability and exemptions.

(a) *Applicability.*

(1) All building permits for new construction, public interior areas, interior areas that face a street or sidewalk, demolitions and wrecking, alterations, or additions to existing buildings, including fences, parking lots, walls and signs, whether new or change of copy, and exterior surface finishes and materials, shall be subject to review under the design review procedures except as provided in subsection (b) of this section. No building permit shall be issued without the written approval by the design review board or staff as provided for in these regulations.

(2) Except for stormwater pump stations and related apparatus installed by the City, all public improvements upon public rights-of-way and easements shall be reviewed by the Design Review Board. For purposes hereof, public improvements shall include, structures, streetscape projects, street improvements or redesign, modifications to street lighting or signage, landscaping projects, medians, master screening plans for stormwater pump stations and related apparatus, and above ground utilities; provided, however, that public improvements shall not include routine maintenance, utility repair work, and stormwater pump stations and related apparatus installed by the City.

(3) The review and approval of all new single-family home construction, in accordance with subsection 142-105(d)(7).

(b) *Exemptions.* Exemptions to these regulations include all of the following provided no new construction or additions to existing buildings are required:

(1) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment when such work is entirely within the interior of the building, excluding public interior areas and interior areas that face a street or sidewalk; however, the 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 are exempt from the design review regulations, 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.

(c) *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 pursuant to subsection (a)(1)), 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 (c), 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) *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 and/or provide a recommendation to the city commission within the 35-day period following the first meeting at which the project is reviewed.

(3) *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.

(4) *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 (c), if the city commission finds such waiver to be in the best interest of the city.

(5) *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 118-8.

(6) *Exceptions.* Advisory review pursuant to this subsection (c) 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.

(Ord. No. 89-2637, eff. 4-15-89; Ord. No. 89-2665, § 18-2(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2002-3375, § 2, 7-10-02; Ord. No. 2014-3914, § 2, 12-18-14; Ord. No. 2015-3952, § 1, 7-8-15; Ord. No. 2020-4353, § 1, 9-16-20)

Sec. 118-253. - Application for design review.

(a) The applicant shall obtain a design review application from the planning department, which shall be responsible for the overall coordination and administration of the design review process. When the application is complete, the planning department shall place the application on the agenda and prepare a recommendation to the design review board. The planning department shall determine the date on which the application will be heard by the board; however, the board shall consider the application and planning department recommendation at the next available meeting date after the submission of a completed application to the planning department. Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

(b) In the event the applicant seeks a preliminary evaluation of a project from the board for information and guidance purposes only, an application for preliminary evaluation shall be required. The 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 a general comment, feedback, information and guidance during the initial hearing on the application for preliminary evaluations, and may continue discussion on a preliminary evaluation to subsequent meetings in order for the applicant to better address any specific concerns raised by the board or staff, or may elect to terminate the preliminary evaluation process after providing general comments. All preliminary evaluations shall be subject to the noticing requirements provided in section 118-254. 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) [Reserved.]

(d) 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 in accordance with section 118-252 of the Miami Beach Code 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:

(1) Completed board application, affidavits and disclosures of interest.

(2) Written description of proposed action with details of application request.

(3) Survey (original signed and sealed) dated less than six months old at the time of application (lot area shall be provided by surveyor), identifying grade (if not sidewalk, provide a letter from Public Works, establishing grade), spot elevations and Elevation Certificate.

(4) All applicable zoning information.

(5) Complete site plan.

(6) Materials containing detailed data as to architectural elevations and plans showing proposed changes and existing conditions to be preserved.

(7) Preliminary plans showing new construction in cases of demolition.

(8) All available data and historic documentation regarding the building, site or features, if required.

(9) Commercial and mixed-use developments over 5,000 gross square feet and multi-family 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.

For that propose an increase in floor area.

(Ord. No. 89-2665, § 18-2(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2015-3978, § 5, 12-9-15, eff. 4-1-16; Ord. No. 2016-3986, § 1, 1-13-16; Ord. No. 2019-4306, § 1, 10-16-19)

Sec. 118-254. - Decision of design review board.

(a) The design review board shall consider each application at a quasi-judicial, public hearing, at which the applicant and interested persons shall have an opportunity to express their opinions, present evidence and rebut all evidence presented. The planning department, shall provide the applicant with advance notice of the hearing date and time, including a copy of the agenda and the recommendation of the planning department.

(b) Applications shall comply with the notice requirements in accordance with section 118-8.

(c) The board may require such changes in the plans and specifications, and conditions, as in its judgment may be requisite and appropriate to the maintenance of a high standard of architecture, as established by the standards contained in these land development regulations and as specified in the city's comprehensive plan and other specific plans adopted by the city of pertaining to the areas identified in subsection 118-252(a).

(d)

Upon approval of an application by the board, the planning director or his authorized representative shall stamp and sign three sets of plans. Two sets of plans shall be returned to the applicant who may then submit an application for a building permit. The remaining approved plans shall be part of the board's official record and shall be maintained on file with the planning department. The board's decision shall be set forth in a written order, specifying the reasons for such decision.

(e) The planning department, shall promptly mail a copy of the board's order to the applicant.

(Ord. No. 89-2665, § 18-2(D), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2950, eff. 10-29-94; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 00-3268, § 2, 9-27-00; Ord. No. 2010-3711, § 3, 12-8-10; Ord. No. 2015-3976, § 4, eff. 12-19-15)

Cross reference— Review requests and meetings of the historic preservation board and design review board joint projects, § 118-531.

Sec. 118-255. - Reserved.

Editor's note— Sec. 5 of Ord. No. 2015-3978, adopted Dec. 9, 2015, effective Apr. 1, 2016, repealed § 118-255 which pertained to fees, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 90-2722, effective Nov. 21, 1990; Ord. No. 92-2786, effective July 19, 1992; Ord. No. 94-2959, effective Dec. 17, 1994; Ord. No. 95-2993, effective May 27, 1995; Ord. No. 97-3067, effective Jan. 8, 1997; and Ord. No. 98-3155, effective Nov. 18, 1998.

Sec. 118-256. - Clarification hearing.

Should a question arise as to compliance with the conditions as outlined by the design review board, a clarification hearing before the design review board may be called at the request of the planning department, or by the applicant.

(Ord. No. 89-2665, § 18-2(F), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 97-3067, § 1, 1-8-97; Ord. No. 2000-3268, § 2, 9-27-00)

Sec. 118-257. - Deferrals, continuances, and withdrawals.

(a) An applicant may defer an application before the public hearing only one time. The request to defer shall be in writing. When an application is deferred, it shall be re-noticed at the applicant's expense as provided in section 118-254. The applicant shall also pay a deferral fee as set forth in this article. In the event that the application is not presented to the design review 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 118-254, and shall be at the city's expense.

(b) The board may continue an application to a date certain at either the request of the applicant or at its own discretion.

(c) In the event the application is continued due to the excessive length of an agenda or in order for the applicant to address specific concerns expressed by the board and/or staff, the applicant shall present for approval to the board a revised application inclusive of all required exhibits which attempt to address the concerns of the board and/or staff, for the date certain set by the board, which shall be no more than 120 days after the date on which the board continues the matter.

(d) In the event that the applicant fails to present for approval to the board, a revised application as described above within 120 days of the date the application was continued, the application shall be deemed null and void.

(e) Deferrals or continuances for a specific application shall not exceed one year cumulatively for all such continuances or deferrals made by the board, or the application shall be deemed null and void.

(f) 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 design review approval from the design review board the same application cannot be filed within six months of the date of the withdrawal or denial unless, however, the decision of the board taking any such action is made without prejudice to refile.

(g) In the event there is a lack of a quorum, all pending or remaining matters shall be continued to the next available meeting of the board.

(Ord. No. 89-2665, § 18-2(G), eff. 10-1-89; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2010-3711, § 3, 12-8-10)

Sec. 118-258. - Building permit application.

(a) The applicant or his authorized agent shall make application for a building permit. The application shall include, at a minimum, the two sets of plans which were approved by the design review board and stamped and signed by the planning director or his authorized representative.

(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 to plans that have been approved by the board shall be permitted when approved by the planning director.

(c) Expiration of orders of the design review board. No building permit, full building permit or phased development permit shall be issued for any plan subject to design review except in conformity with the approved plans. The applicant shall have up to 18 months, or such lesser

time as may be specified by the board, from the date of the board meeting at which design review approval was granted to obtain a full building permit or a phased development permit. The foregoing 18-month time period includes the time period during which an appeal of the decision of the design review board may be filed, pursuant to the requirements of section 118-9. If the applicant fails to obtain a full building permit or a phased development permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which design review approval was granted, and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, all staff and board approvals shall be deemed null and void. Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the board, at its sole discretion, provided the applicant submits a request in writing to the planning director no later than 90 calendar days after the expiration of the original approval, showing good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the planning department has reviewed the plans and provided initial comments.

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

(d) An applicant may submit an application for a building permit simultaneously with a design plan review in order to expedite processing, however, no building permit shall be issued until the final design plan has been stamped and signed by the planning director or designee in accordance with these land development regulations.

(e) No construction may commence in the event a design review approval expires.

(f) Timeframes in development agreements. The time period to obtain a full building permit or phased development permit set forth in subsection (c) may be superseded and modified by a development agreement approved and fully executed pursuant to section 118-4 of this Code, so long as the modified time period is expressly negotiated and set forth in the executed development agreement.

(Ord. No. 89-2665, § 18-2(H), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 95-3003, eff. 7-22-95; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2003-3416, § 2, 6-11-03; Ord. No. 2008-3599, § 2, 3-12-08; Ord. No. 2015-3977, § 9, eff. 12-19-15; Ord. No. 2019-4254, § 3, 4-10-19)

Sec. 118-259. - Phased development permit.

A phased development permit shall apply to multiple building/structure development only and shall include all plans for each phase of the project as submitted, required and approved by the design review board. The applicant shall request the board approve a phased development at the public hearing and the

board shall specify a reasonable time limit within which the phases shall begin or be completed or both. The board shall require a progress report from the applicant at the completion of each phase. A phased development permit shall not be a demolition, electrical, foundation, mechanical or plumbing permit or any other partial permit.

(Ord. No. 89-2665, § 3-2(159), eff. 10-1-89; Ord. No. 95-3003, eff. 7-22-95)

Sec. 118-260. - Administrative review procedures.

(a) The planning director or the director's designated representative, 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 30 feet 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 10,000 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 and/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 (a)(4) shall comply with the following regulations:

a. 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

b. 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 and/or facade alterations shall require design review board review and approval.

(5) Modifications to storefronts and/or facade alterations utilizing an exterior component within the storefront and/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.

The director's decision shall be based upon the criteria listed in this article. The applicant may appeal a decision of the planning director, pursuant to the procedural requirements of section 118-9.

(Ord. No. 89-2665, § 18-2(I), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 99-3167, § 2, 1-20-99; Ord. No. 2000-3268, § 2, 9-27-00; Ord. No. 2015-3977, § 10, eff. 12-19-15; Ord. No. 2017-4083, § 2, 4-26-17; Ord. No. 2018-4182, § 1, 4-11-18; Ord. No. 2019-4271, § 1, 6-5-19; Ord. No. 2020-4359, § 2, 10-14-20)

Sec. 118-261. - Reserved.

Editor's note— Sec. 11 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-261, which pertained to rehearings and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 94-2950, effective Oct. 29, 1994; Ord. No. 98-3133, adopted July 15, 1998; and Ord. No. 2000-3268, adopted Sept. 27, 2000.

Sec. 118-262. - Reserved.

Editor's note— Sec. 12 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-262, review of design review decisions in its entirety. See Code Comparative Table for legislative history.

Sec. 118-263. - Reserved.

Editor's note— Sec. 13 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-263, which pertained to stay during rehearings/reviews/appeals, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 95-3003, effective July 22, 1995; and Ord. No. 2000-3268, adopted Sept. 27, 2000.

Sec. 118-264. - Design review approval conditions and safeguards.

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.

(Ord. No. 2007-3566, § 3, 9-5-07)

Secs. 118-265—118-320. - Reserved.

ARTICLE VII. - DIVISION OF LAND/LOT SPLIT

Footnotes:
*--- (**6**) ---*
***Cross reference—** Any ordinance dedicating or accepting any plat or subdivision in the city saved from repeal, § 1-10(a)(12).*

Sec. 118-321. - Purpose, standards and procedure.

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.

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.

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.

A. *Procedure.*

(1) 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.

(2) Any applicant requesting a public hearing on any application pursuant to this section shall pay upon submission all applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

B. *Review criteria.* In reviewing an application for the division of lot and lot split, the planning board shall apply the following criteria:

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5)

Whether the building site that would be created would be free of encroachments from abutting buildable sites.

(6) 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).

(7) The structure and site complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

C. *Final decision.* 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 B above, and the board's authority under section 118-51. 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.

The decision of the planning board shall be final and there shall be no further review thereof except by resort to an appellate court of competent jurisdiction by petition for writ of certiorari.

(Ord. No. 89-2665, § 5-8, eff. 10-1-89; Ord. No. 91-2768, eff. 11-2-91; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 95-2993, eff. 5-27-95; Ord. No. 2001-3325, § 1, 10-17-01; Ord. No. 2007-3564, § 1, 7-11-07; Ord. No. 2009-3625, § 1, 1-28-09; Ord. No. 2009-3637, § 1, 5-13-09; Ord. No. 2015-3978, § 6, 12-9-15, eff. 4-1-16; Ord. No. 2017-4123, § 4, 7-26-17)

Sec. 118-322. - Conformance with regulations.

In case of division or combination of property, no residual lot or parcel shall be created that does not meet the requirements of these land development regulations.

(Ord. No. 89-2665, § 3-2, eff. 10-1-89)

Sec. 118-323. - Revocation procedures.

(a) *Revocation procedures.* The board may revoke or modify a lot split 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 lot split applications as set forth in section 118-321 shall be applicable, with the addition of notice to the applicant;

(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.

All other provisions applicable to revocation procedures as set forth in section 118-194 shall be applicable to revocation procedures pursuant to this section.

(b) *Notice of public hearing requirements.* The notice of public hearing requirements for this subsection (b) shall be as set forth in section 118-193.

(Ord. No. 2001-3325, § 2, 10-17-01)

Editor's note— Ord. No. 2001-3325, § 2, adopted October 17, 2001, amended § 118-323 in its entirety read as herein set out. Formerly, § 118-323 pertained to appeals procedure and derived from Ord. No. 89-2665, § 17-6, effective October 1, 1989; Ord. No. 91-2768, effective November 2, 1991; Ord. No. 94-2959, effective December 17, 1994; Ord. No. 96-3047, § 2, adopted July 3, 1996.

Secs. 118-324—118-350. - Reserved.

ARTICLE VIII. - PROCEDURE FOR VARIANCES AND ADMINISTRATIVE APPEALS

Sec. 118-351. - Determination of jurisdiction.

(a) The applicable board's jurisdiction, pertaining to a variance request or administrative appeal, shall be in accordance with the following:

(1) *Board of adjustment.*

a. Variance requests authorized by the City Code that are not within the land development regulations, except as provided in section 118-351(a)(2) or 118-351(a)(3).

b. Variance requests for applications exempted from design review procedures pursuant to

section 118-252(b)(1), (2) or (3).

c. Variance requests from the criteria of section 142-1302.

d. Administrative appeals.

e. Variance requests authorized by the land development regulations not described or listed in section 118-351(a)(2) or (3).

(2) *Historic preservation board.*

a. Variance requests of the land development regulations for applications concerning properties within the jurisdiction of the historic preservation board, except those variances listed in section 118-351(a)(1).

b. Variance requests of the floodplain management regulations permitted in chapter 54, division 5 of the City Code, concerning properties within the jurisdiction of the historic preservation board.

c. Variance requests filed in conjunction with an application that requires approval from the historic preservation board, except those variances listed in section 118-351(a)(1) or (3).

(3) *Design review board.*

a. Variance requests of the land development regulations for applications concerning properties within the jurisdiction of the design review board, except those variances listed in section 118-351(a)(1).

b. Variance requests of the floodplain management regulations permitted in chapter 54, division 5 of the City Code, concerning properties within the jurisdiction of the design review board.

c. Variance requests filed in conjunction with an application that requires approval from the design review board, except those variances listed in section 118-351(a)(1) or (2).

(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.

(Ord. No. 89-2665, § 16-6, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 2014-3914, § 3, 12-18-14)

Sec. 118-352. - Reserved.

Editor's note— Sec. 14 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-352, which pertained to procedure, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 2014-3889, July 23, 2014; and Ord. No. 2014-3914, adopted Dec. 18, 2014.

Sec. 118-353. - Variance applications.

(a) 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. Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

(b) A variance for hotels of more than 20 percent of the total amount of required parking is prohibited; should the board grant a variance pursuant to subsection 130-32(25), the parking impact fee program shall not be required.

(c) Notwithstanding the terms of subsection 118-353(a) hereof, for purposes of effectuating a lot split for a site (1) within an historic district, and (2) 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:

(1) The resulting lots each contain a contributing building;

(2) 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;

(3) 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

(4) 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.

(d) In order to authorize any variance from the terms of these land development regulations and sections 6-4 and 6-41(a) and (b), the applicable board shall find that:

(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; and

(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. The planning and zoning director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or any time prior to the board voting on the applicant's request.

(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 133, article II, as applicable.

(Ord. No. 89-2665, § 16-8(A)(2), eff. 10-1-89; Ord. No. 90-2684, eff. 3-3-90; Ord. No. 90-2685, eff. 3-3-90; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 98-3107, § 5, 1-21-98; Ord. No. 98-3156, § 1, 11-18-98; Ord. No. 2006-3503, § 1, 2-8-06; Ord. No. 2007-3555, § 1, 4-11-07; Ord. No. 2014-3914, § 3, 12-18-14; Ord. No. 2015-3978, § 7, 12-9-15, eff. 4-1-16; Ord. No. 2017-4123, § 5, 7-26-17)

Sec. 118-354. - Variance conditions and safeguards.

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.

(Ord. No. 89-2665, § 16-8(A)(3), eff. 10-1-89; Ord. No. 2014-3914, § 3, 12-18-14)

Sec. 118-355. - Variance time limits; decisions.

(a) The applicable board may prescribe a reasonable time limit within which the action for which the variance is required shall begin or be completed or both. 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 variance 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 board may be filed. If the applicant fails to obtain a full building permit within 18 months, or such lesser time as is specified, of the board meeting date at which a variance was granted and/or construction does not commence and proceed in accordance with such permit and the requirements of the applicable Florida Building Code, the variance 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 applicable board, provided the applicant submits a request in writing to the planning and zoning director no later than 90 calendar days after the expiration of the original variance(s) showing good cause for such an extension. At the discretion of the planning director, an applicant may have up to 30 days (not to extend beyond 30 months from the date of original approval) to complete the building permit review process and obtain a full building permit, provided that within the time provided by the board to obtain a full building permit a valid full building permit application and plans have been filed with the building department, a building permit process number has been issued and the planning department has reviewed the plans and provided initial comments. Notwithstanding the foregoing, 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 and/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) Under no circumstances shall the 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.

(c) The board shall fix a reasonable time for the hearing of the variance request after a complete application as determined by the planning director, give public notice thereof as well as due notice to the parties in interest, and decide same within a reasonable time. The decision of the board shall be in writing and shall be mailed promptly to the applicant.

(d) A building permit shall not be issued until the applicant records the final order against the property in the public records of the county.

(e)

Timeframes in development agreements. The time period to obtain a full building permit set forth in subsection (a) may be superseded and modified by a development agreement approved and fully executed pursuant to section 118-4 of this Code, so long as the modified time period is expressly negotiated and set forth in the executed development agreement.

(Ord. No. 89-2665, § 16-8(A)(4)—(8), eff. 10-1-89; Ord. No. 2000-3269, § 2, 9-27-00; Ord. No. 2003-3416, § 3, 6-11-03; Ord. No. 2008-3599, § 3, 3-12-08; Ord. No. 2014-3914, § 3, 12-18-14; Ord. No. 2019-4254, § 4, 4-10-19)

Sec. 118-356. - 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 118-134 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/her discretion, revoke or suspend the certificate of use for the subject property and/or the applicant's occupational license applicable to the business conducted at the subject property.

(Ord. No. 89-2665, § 16-8(A)(9), eff. 10-1-89; Ord. No. 96-3047, § 1, 7-3-96; Ord. No. 2001-3314, § 3, 7-18-01; Ord. No. 2014-3914, § 3, 12-18-14; Ord. No. 2020-4337, § 2, 5-13-20)

Sec. 118-357. - Reserved.

Editor's note— Sec. 7 of Ord. No. 2015-3978, adopted Dec. 9, 2015, effective Apr. 1, 2016, repealed § 118-357 which pertained to fees, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 90-2722, effective Nov. 21, 1990; Ord. No. 91-2767, effective Nov. 2, 1991; Ord. No. 92-2820, effective Oct. 31, 1992; Ord. No. 94-2959, effective Dec. 17, 1994; Ord. No. 95-2992, effective May 27, 1995; Ord. No. 95-2993, effective May 27, 1995; and Ord. No. 96-3047, effective July 3, 1996.

Sec. 118-358. - Reserved.

Editor's note— Sec. 15 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-358, which pertained to appeal of variance decision, and derived from Ord. No. 2014-3914, adopted Dec. 18, 2014.

Secs. 118-359—118-389. - Reserved.

ARTICLE IX. - NONCONFORMANCES

Sec. 118-390. - Purpose/applicability.

(a) Nothing contained in this article shall be deemed or construed to prohibit the continuation of a legally established nonconforming use, structure, or occupancy, as those terms are defined in section 114-1. The intent of this section 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 this article. 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 occupant content 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, and/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 it was established.

(4) A building, use and/or site improvement that had received final approval through a public hearing pursuant to this chapter; or through administrative site plan review and had a valid building permit.

(5) There shall be no variance of the nonconforming use(s) section of this article IX.

(Ord. No. 2017-4076, § 1, 3-1-17)

Sec. 118-391. - Nonconforming use of land.

(a) In any district where vacant land is being used as a nonconforming use, and such use is the main use and not accessory to the main use conducted in a building, such use shall be discontinued not later than two years from the effective date of these land development regulations. During the two-year period, such nonconforming use shall not be extended or enlarged either on the same or adjoining property. Any building incident and subordinate to such use of land shall be removed at the end of the two-year period or, if such building is so constructed as to permit the issuance of a permit for a use not excluded from the district, such building may remain as a conforming use; thereafter, both land and building shall be used only as conforming uses.

(b) A use approved as a conditional use pursuant to article IV of this chapter shall be considered a conforming use as long as the conditions of the approval are met.

(Ord. No. 89-2665, § 13-1, eff. 10-1-89)

Sec. 118-392. - Nonconforming signs.

Nonconforming signs shall be repaired or removed as provided in section 138-10. No permits for additional signs shall be issued for any premises on which there are any nonconforming signs.

(Ord. No. 89-2665, § 13-2, eff. 10-1-89; Ord. No. 93-2867, eff. 8-7-93)

Sec. 118-393. - 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).

(d) Notwithstanding the provisions of this article, 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 l and development regulations.

(Ord. No. 89-2665, § 13-3, eff. 10-1-89; Ord. No. 2017-4133, § 2, 9-25-17; Ord. No. 2020-4352, § 1, 7-29-20)

Sec. 118-394. - 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, and/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 or designee 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;

(3) Property records, including executed lease or sales contracts.

(Ord. No. 89-2665, § 13-4, eff. 10-1-89; Ord. No. 2017-4076, § 1, 3-1-17)

Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

(a) *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.

(b) *Nonconforming buildings.*

(1) Nonconforming buildings which are repaired or rehabilitated by less than 50 percent of the value of the building as determined by the building official shall be subject to the following conditions:

a. 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.

b. Such repairs or rehabilitation shall meet the requirements of the city property maintenance standards, the applicable Florida Building Code, and the Fire Safety Code.

c. If located within a 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 article X 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.

d. 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 nonconforming in height, provided such balconies meet applicable FAR 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.

(2) 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:

a. 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.

b. 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.

c. 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. Notwithstanding the foregoing, for multifamily residential structures, the existing floor area, height, setbacks, minimum and average unit size, open space, as well as any parking credits, may remain, if all the following conditions are satisfied:

1. All portions of the entire building shall remain fully intact and retained, and no new floor area may be added.
2. The building shall meet or exceed the minimum structural, life-safety, and electrical requirements of the Florida Building Code.
3. Increases in the size exterior window and door openings shall not be permitted unless required by the Florida Building Code.

d. Development regulations for buildings located within a designated historic district or for an historic site:

1.

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:

i. At least 75 percent of the front and street side walls, exclusive of window openings;

ii. 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

iii. All architecturally significant public interiors.

2. For the replication or restoration of contributing buildings, but not for noncontributing buildings, the historic preservation board may, at their discretion, waive the requirements of subsection (b)(2)d.1. 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:

i. The structure is architecturally significant in terms of design, scale, or massing;

ii. The structure embodies a distinctive style that is unique to Miami Beach or the historic district in which it is located;

iii. The structure is associated with the life or events of significant persons in the city;

iv. The structure represents the outstanding work of a master designer, architect or builder who contributed to our historical, aesthetic or architectural heritage;

v. The structure has yielded or is likely to yield information important in prehistory or history; or

vi. 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 (b)(2)d.1. 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.

3. 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 article X of these land development regulations.

4. 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.
5. 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.
6. Contributing structures shall be subject to all requirements in section 118-503 of these land development regulations.
7. 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 133.

e. Development regulations for buildings not located within a designated historic district and not an historic site.
    1. 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:
        i. At least 75 percent of the front and street side facades, exclusive of window openings;
        ii. At least 50 percent of all upper level floor plates; and
        iii. At least 50 percent of the interior side walls, exclusive of window openings.
    2. 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.
    3. 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 133; however, the sustainability fee for such buildings shall be valued at three percent of the total construction valuation of the building permit.
    4. 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 133.
    5. For purposes of this subsection, the planning director, or designee shall make a determination as to whether a building is architecturally significant according to the

following criteria:

i. 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;

ii. The exterior of the structure is recognizable as an example of its style and/or period, and its architectural design integrity has not been modified in an irreversible manner; and

iii. Exterior architectural characteristics, features, or details of the subject structure remain intact.

A property owner may appeal any determination of the planning director, or designee relative to the architectural significance of a building constructed prior to 1965 to the board of adjustment, in accordance with the requirements and procedures pursuant to the requirements of section 118-9.

6. 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 (b)(2)a—c herein.

f. Any new construction identified in subsections d. and e., 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 FAR 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.

(3) As applicable to the restoration of a contributing building located within a designated local historic district, the historic preservation board may, at its discretion and subject to the certificate of appropriateness criteria in chapter 118, article X of this Code, approve the reconstruction of original interior floor plates in accordance with historical documentation and/or building permit records if, prior to June 4, 1997, such floors were removed, even if the underlying lot is currently nonconforming as to floor area ratio (FAR).

(4) There shall be no variances from any of the provisions herein pertaining to maximum floor area ratio and to parking credits.

(5) 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.

(6) 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 (b)(1)a.—d. herein are met. However, the structure's first floor elevation shall be required to meet all applicable provisions of these land development regulations.

(7) 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.

(8) Gasoline service stations.

a. Notwithstanding the foregoing provisions, 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:

1. 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.
2. 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.
3. No new floor area may be added if the floor area ratio is presently at maximum or exceeded.

b. Necessary repairs to add an emergency electrical generator and related facilities to a nonconforming gasoline service station shall be permitted.

c. 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.

(9) *Single-family districts.* Notwithstanding the above, the following provisions shall apply to existing single-family structures in single-family districts:

a. 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.

b. 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:

1. The yard elevation of the property shall be raised to a minimum of adjusted grade;
2. 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
3. The structure shall be rebuilt to be harmonious with the primary structure.

(10) *Hotel and accessory uses.* Notwithstanding the foregoing provisions, nonconforming buildings containing a nonconforming hotel use located on the north side of Belle Isle, and not within a local historic district, may be reconstructed to a maximum of 50 percent of the floor area of the existing building, provided that the uses contained within the hotel are not expanded in any way, including, but not limited to, the number of hotel units and accessory food and beverage uses, the nonconformity of the building is lessened, and required parking for the reconstruction is satisfied within the property, resulting in an improved traffic circulation in the surrounding neighborhoods with a minimum reduction of 50 percent of the daily trips on adjacent two-lane, arterial roadways, and improving the resiliency of the building. The nonconforming use may remain.

(Ord. No. 89-2665, § 13-5, eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 94-2927, eff. 5-14-94; Ord. No. 98-3108, § 12, 1-21-98; Ord. No. 2005-3493, § 1, 9-8-05; Ord. No. 2006-3523, § 1, 7-12-06; Ord. No. 2007-3566, § 1, 9-5-07; Ord. No. 2015-3921, § 1, 2-11-15; Ord. No. 2015-3977, § 16, eff. 12-19-15; Ord. No. 2017-4083, § 3, 4-26-17; Ord. No. 2017-4118, § 1, 7-26-17; Ord. No. 2017-4136, § 1, 9-25-17; Ord. No. 2019-4272, § 1, 6-5-19; Ord. No. 2020-4371, § 2, 11-18-20; Ord. No. 2020-4383, § 1, 12-9-20; Ord. No. 2021-4446, § 1, 10-13-21)

Sec. 118-396. - Intermittent or illegal uses.

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.

(Ord. No. 89-2665, § 13-6, eff. 10-1-89; Ord. No. 2005-3493, § 1, 9-8-05)

Sec. 118-397. - Existence of a nonconforming building or use.

(a) The planning and zoning 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 and zoning director, the question shall be decided by appeal to the board of adjustment pursuant to the requirements of section 118-9. 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.

(Ord. No. 89-2665, § 13-7, eff. 10-1-89; Ord. No. 2005-3493, § 1, 9-8-05; Ord. No. 2015-3977, § 16, eff. 12-19-15)

Sec. 118-398. - Building nonconforming in height, density, parking, floor area ratio or bulk.

Except as provided in chapter 118, article IX, herein, 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.

(Ord. No. 89-2665, § 13-8, eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 2005-3493, § 1, 9-8-05)

Sec. 118-399. - Reserved.

Editor's note— Sec. 8 of Ord. No. 2015-3978, adopted Dec. 9, 2015, effective Apr. 1, 2016, repealed § 118-399 which pertained to the procedure for retention of illegally subdivided units, undersized units or illegally installed kitchens, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 90-2722, effective Nov. 21, 1990; Ord. No. 91-2767, effective Nov. 2, 1991; Ord. No. 92-2820, effective Oct. 31, 1992; Ord. No. 94-2959, effective Dec. 17, 1994; and Ord. No. 2005-3793, effective Sept. 8, 2005.

Secs. 118-400—118-500. - Reserved.

ARTICLE X. - HISTORIC PRESERVATION

Footnotes:
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***Cross reference—** Building regulations, ch. 14; environment, ch. 46; zoning districts and regulations, ch. 142.*

DIVISION 1. - GENERALLY

Sec. 118-501. - 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.

(Ord. No. 89-2665, § 19-1, eff. 10-1-89)

Sec. 118-502. - 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.

(Ord. No. 89-2665, § 19-2, eff. 10-1-89; Ord. No. 97-3095, § 1, 9-24-97)

Sec. 118-503. - Scope, policies and exemptions.

(a) *Scope.* Unless expressly exempted by subsection (c) of this section, 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.

(b) *Policies.*

(1) *After-the-fact certificates of appropriateness for demolition.* In the event any demolition as described above or in subsection (c) of this section 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.

(2) *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. The policy of the City of Miami Beach shall be a presumption that a contributing building that is demolished without obtaining a certificate of appropriateness from the historic preservation board, shall be replicated.

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 under chapter 118, article IX, of these land development regulations.

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 a new design in accordance with subsection (b)(3) below, if it is established to the satisfaction of the historic preservation board that any of the following criteria are satisfied:

a. A full replication or contemporary depiction is not required to understand and interpret a property's historic value (including the recreation of missing components in a historic district or site);
b. Other properties with the same associative value have survived; or
c. Sufficient historic documentation does not exist to ensure an accurate reproduction.

(3) *Replacement of existing structures.* In the event the historic preservation board does not require replication as outlined in subsection (b)(2), 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.

(c) *Exemptions.* The following permits are exempt from the regulations of subsection (a):

(1) 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.

(2) 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.

(3) Any permit issued for an existing structure in a designated historic district which has been specifically excluded from the district.

(Ord. No. 89-2665, § 19-3, eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 97-3095, § 1, 9-24-97; Ord. No. 2000-3254, § 1, 7-12-00; Ord. No. 2000-3262, § 2, 7-26-00; Ord. No. 2001-3314, § 4, 7-18-01; Ord. No. 2005-3495, § 1, 10-19-05; Ord. No. 2020-4336, § 1, 5-13-20; Ord. No. 2022-4486, § 1, 5-4-22; Ord. No. 2022-4529, § 1, 12-14-22)

Secs. 118-504—118-530. - Reserved.

DIVISION 2. - HISTORIC PRESERVATION BOARD REVIEW OF PROJECTS

Footnotes:
*--- (**8**) ---*
***Editor's note—** Ord. No. 2000-3262, § 3, adopted July 26, 2000, changed the designation of div. 2 from "historic preservation board and design review board joint review of projects" to "historic preservation board review of projects."*
***Cross reference—** Boards, committees, commissions, § 2-61 et seq.*

Sec. 118-531. - 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.

(Ord. No. 89-2665, § 19-7, eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 99-3167, § 1, 1-20-99; Ord. No. 2000-3262, § 3, 7-26-00)

Cross reference— Decisions of the design review board, § 118-254(e)

Sec. 118-532. - Proceedings before the historic preservation board.

(a) *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.

(b) *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.

(c)

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.

(d) *Recording of certificate of appropriateness.* After a certificate of appropriateness has been ordered by the board, the applicant 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, assuming the condition is no longer applicable.

(e) *Deferrals and continuances.*

(1) 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.

(2) 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.

(3) In the event the application is continued due to the excessive length of an agenda or in order for the applicant to address specific concerns expressed by the board and/or staff, the applicant shall present for approval to the board a revised application inclusive of all required exhibits which attempt to address the concerns of the board and/or staff for the date certain set by the board, which shall be no more than 120 days after the date on which the board continues the matter.

(4) 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.

(5)

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.

(f) *Timetables.*

(1) *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 phased 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 or a phased development permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which a certificate of appropriateness was granted and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the 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 118-9 relating to appealed orders and tolling.

(2) *Timeframes in development agreements.* The time period to obtain a full building permit or phased development permit set forth in subsection (f)(1) may be superseded and modified by a development agreement approved and fully executed pursuant to section 118-4 of this Code, so long as the modified time period is expressly negotiated and set forth in the executed development agreement.

(g) *Maintenance of designated properties and demolition by neglect.*

(1) 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.

a. *Required minimum maintenance standards.* It is the intent of this article 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 sections 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:

   1. Deteriorated or decayed facades or facade elements, including, but not limited to, facades which may structurally fail and collapse entirely or partially;
   2. Deteriorated or inadequate foundations;
   3. Defective or deteriorated flooring or floor supports or any structural members of insufficient size or strength to carry imposed loads with safety;
   4. 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;
   5. Structural members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
   6. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or missing windows or doors;
   7. 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;
   8. Any structure which is not properly secured and is accessible to the general public; or
   9. Any fault or defect in the property that renders it structurally unsafe or not properly watertight;
   10. The spalling of the concrete of any portion of the interior or exterior of the building.

b. *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 and/or architectural integrity, and/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 and/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.

c. *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.

d. *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.

(3) 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.

(4) 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.

a. *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.

b. *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 subsection 118-532(g) of these land development regulations, such premises shall be subject to all maintenance and enforcement provisions of subsection 118-532(g) of these land development regulations 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.

c. *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.

(5) 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 Fla. Stat. Ch. 86 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 Fla. Stat. Ch. 173, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. The owner and/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.

(6) There shall be no variances, by either the board of adjustment or the historic preservation board, from any of the provisions contained in subsection 118-532(g) of this article.

(Ord. No. 89-2665, § 19-8, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 97-3095, § 1, 9-24-97; Ord. No. 2000-3262, § 3, 7-26-00; Ord. No. 2002-3388, § 1, 12-11-02; Ord. No. 2003-3416, § 4, 6-11-03; Ord. No. 2008-3599, § 4, 3-12-08; Ord. No. 2015-3977, § 18, eff. 12-19-15; Ord. No. 2019-4254, § 5, 4-10-19)

Sec. 118-533. - 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.

(Ord. No. 89-2665, § 19-9, eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 3, 7-26-00)

Sec. 118-534. - 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 subparagraph. 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).

(Ord. No. 89-2665, § 19-10, eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 3, 7-26-00)

Sec. 118-535. - Reserved.

Editor's note— Ord. No. 2000-3262, § 3, adopted July 26, 2000, repealed § 118-535, which pertained to the city center/historic convention village redevelopment and revitalization area, and derived from Ord. No. 89-2665, § 19-11, eff. 10-1-89, and Ord. No. 94-2926, eff. 4-14-94.

Sec. 118-536. - Variances prohibited.

No variances shall be granted by the zoning board of adjustment from any of the provisions or requirements of this section; 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.

(Ord. No. 89-2665, § 19-12, eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 96-3056, § 1, 9-25-96; Ord. No. 2000-3262, § 3, 7-26-00; Ord. No. 2015-3977, § 19, eff. 12-19-15)

Sec. 118-537. - Reserved.

Editor's note— Sec. 20 of Ord. No. 2015-3977, effective Dec. 19, 2015, repealed § 118-537, which pertained to rehearings and appeals, in its entirety. See Code Comparative Table for legislative history.

Secs. 118-538—118-560. - Reserved.

DIVISION 3. - ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION

Sec. 118-561. - General requirements.

(a) 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.

(b) 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.

(Ord. No. 89-2665, § 19-6, eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 4, 7-26-00; Ord. No. 2001-3314, § 5, 7-18-01; Ord. No. 2007-3566, § 2, 9-5-07)

Sec. 118-562. - Application.

(a) 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.

(b) All applications for historic preservation board review 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:

(1) Written description of proposed action.

(2) Survey.

(3) Complete site plan.

(4) Materials containing detailed data as to architectural elevations and plans showing proposed changes and existing conditions to be preserved.

(5) Preliminary plans showing new construction in cases of demolition.

(6) An historic resources report, containing all available data and historic documentation regarding the building, site or feature.

(7)

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.

(8) 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.

(9) 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.

(Ord. No. 89-2665, § 19-6(A), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 4, 7-26-00; Ord. No. 2005-3495, § 2, 10-19-05; Ord. No. 2008-3597, § 1, 2-13-08; Ord. No. 2016-3986, § 2, 1-13-16; Ord. No. 2019-4306, § 2, 10-16-19; Ord. No. 2022-4481, § 2, 4-6-22)

Sec. 118-563. - Review procedure.

Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

(a) 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.

(b) The historic preservation board shall decide, based upon the criteria set forth in subsection 118-564(f)(4), 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(f)(6):

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.

(c) 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 118-8.

(d) Notwithstanding subsections 118-563(a) through (c) 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 or designee) 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. For purposes of this subsection, the application requirement for certificate of appropriateness review shall be satisfied by the submission of a corresponding building permit application, or such other permit application form required by the planning department. Such minor repairs, alterations and improvements include 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 (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 ten percent of the floor area of the existing structure or primary lot, whichever is less, with a maximum total floor area not to exceed 5,000 square feet.

(2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.

(3) Facade and building 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.

(4) 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.

(5) 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.

(e) For certificates of appropriateness issued pursuant to subsections 118-563(d), with the exception of certificates of appropriateness for awnings, canopies. exterior surface colors, storm shutters, and signs, the applicant shall mount a laminated posting, in a form prescribed by the planning director, at the front of the property, in a manner and location clearly visible from the public right-of-way, indicating that an application for a certificate of appropriateness has been filed. The applicant shall provide evidence to the planning director that the posting has been installed on site prior to the issuance of a building permit. The posting shall be for informational purposes only and the validity of any building permit or certificate of appropriateness shall not be affected by any failure to mount or continuously maintain the posting throughout any applicable appeal period established in section 118-9(b)(1)D. Any certificate of appropriateness issued pursuant to subsections 118-563(d)(1) and/or 118-563(d)(3), may be appealed to the board of adjustment pursuant to the requirements of section 118-9.

(f)

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).

(g) 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:

(1) 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.

(2) 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.

(h) 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 118-563(c). 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.

(i) 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.

(Ord. No. 89-2665, § 19-6(B), eff. 10-1-89; Ord. No. 90-2697, eff. 6-30-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 2000-3262, § 4, 7-26-00; Ord. No. 2001-3285, § 1, 1-10-01; Ord. No. 2002-3349, § 2, 2-20-02; Ord. No. 2010-3711, § 4, 12-8-10; Ord. No. 2015-3937, § 1, 5-6-15; Ord. No. 2015-3976, § 5, eff. 12-19-15; Ord. No. 2015-3977, § 21, eff. 12-19-15; Ord. No. 2015-3978, § 9, 12-9-15, eff. 4-1-16; Ord. No. 2017-4083, § 4, 4-26-17; Ord. No. 2022-4481, § 2, 4-6-22)

Sec. 118-564. - Decisions on certificates of appropriateness.

Any applicant requesting a public hearing on any application pursuant to this section shall pay, upon submission, the applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid.

(a) A decision on an application for a certificate of appropriateness shall be based upon the following:

(1) 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 may be amended from time to time; and

b. The Secretary of Interior's Standards for Reconstruction as may be amended from time to time; and

c.

Other guidelines/policies/plans adopted or approved by resolution or ordinance by the city commission.

(2) 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.

(3) 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, and/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 133, article II, as applicable.

(b) Reserved.

(c) 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:

(1) The amount paid for the property, the date of purchase and the party from whom purchased;

(2) The assessed value of the land and improvements thereon according to the three most recent assessments;

(3) Real estate taxes for the previous five years;

(4) All appraisals obtained within the previous five years by the owner or applicant in connection with his purchase, financing or ownership of the property;

(5) Any listing of the property for sale or rent, price asked and offers received, if any;

(6) Any consideration by the applicant as to profitable adaptive uses for the property;

(7) 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

(8) 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.

(d) 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 and/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.

(e) 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 magistrate 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.

(f) Certificate of appropriateness for demolition.

(1) 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.

(2) 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.

(3) 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 118-564(f)(4). 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.

(4)

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 and/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, and/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.

(5) 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.

(6) 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.

(7) Reserved.

(8) 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.

(9) 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.

(10) 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.

(11) *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 or a phased 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 or a phased development permit within 18 months, or such lesser time as may be specified by the board, of the board meeting date at which a certificate of appropriateness for demolition was granted and/or construction does not commence and proceed in accordance with said permit and the requirements of the applicable Florida Building Code, the 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 [section] 118-9 relating to appealed orders, and tolling.

(Ord. No. 89-2665, § 19-6(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 95-2993, eff. 5-27-95; Ord. No. 96-3056, § 1, 9-25-96; Ord. No. 97-3095, § 1, 9-24-97; Ord. No. 2000-3262, §§ 4, 6, 7-26-00; Ord. No. 2003-3416, § 4, 6-11-03; Ord. No. 2007-3566, § 2, 9-5-07; Ord. No. 2008-3597, § 1, 2-13-08; Ord. No. 2008-3599, § 4, 3-12-08; Ord. No. 2015-3924, § 5, 2-11-15; Ord. No. 2015-3937, § 1, 5-6-15; Ord. No. 2015-3977, § 22, eff. 12-19-15; Ord. No. 2015-3978, § 9, 12-9-15, eff. 4-1-16; Ord. No. 2017-4123, § 6, 7-26-17; Ord. No. 2021-4431, 7-28-21; Ord. No. 2022-4529, § 1, 12-14-22)

Sec. 118-565. - 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 section 118-9, rehearing and appeal procedures.

(Ord. No. 89-2665, § 19-6(D), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2000-3262, § 4, 7-26-00; Ord. No. 2015-3977, § 23, eff. 12-19-15)

Secs. 118-566—118-590. - Reserved.

DIVISION 4. - DESIGNATION

Sec. 118-591. - Historic designation procedure.

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.

(a) *Requests for designation.*

(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.

(b) *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 and/or designation report.

(c) *Requests for demolition permits.* Following a vote of the historic preservation board, after a public hearing noticed according to the requirements of section 118-164, 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 section 118-591, or (ii) to extend the interim procedures imposed under subsection (d) 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:

(1) The proposed historic preservation designation is approved by the city commission and a certificate of appropriateness is awarded by the board pursuant to division 3 of this article;

(2) The proposed historic preservation designation is denied by the city commission; or

(3) 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 division 3 of this article. 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.

(d) *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 (b) 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.

(e) *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, or designee, 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 presents 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 (c) 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 and/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 (c) 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.

(f) *Public hearing.* A quasi-judicial public hearing on a proposed 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 section 118-8.

(g)

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:

(1) Procedures. 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 section 118-592. 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.

(2) Reserved.

(3) Reserved.

(4) 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 section 118-592, 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 article X of the land development regulations, with the exception of the interior areas of the structure, which shall not be subject to such regulations.

(5) Notwithstanding the requirements of article X 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 section 118-564 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.

(Ord. No. 89-2665, § 19-5(A), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 2000-3262, § 5, 7-26-00; Ord. No. 2001-3299, § 1, 3-14-01; Ord. No. 2003-3414, § 1, 6-11-03; Ord. No. 2005-3482, § 1, 5-18-05; Ord. No. 2007-3550, § 1, 3-14-07; Ord. No. 2007-3578, § 1, 10-17-07; Ord. No. 2010-3711, § 4, 12-8-10; Ord. No. 2015-3976, § 6, eff. 12-19-15; Ord. No. 2015-3978, § 10, 12-9-15, eff. 4-1-16)

Sec. 118-592. - Criteria for designation.

(a) 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:

(1) Association with events that have made a significant contribution to the history of the city, the county, state or nation.

(2) Association with the lives of persons significant in the city's past history.

(3) Embody the distinctive characteristics of a historical period, architectural or design style or method of construction.

(4) Possess high artistic values.

(5) 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.

(6) Have yielded, or are likely to yield information important in pre-history or history.

(7) Be listed in the National Register of Historic Places.

(8)

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.

(b) 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.

(c) 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 133, art II, as applicable.

(Ord. No. 89-2665, § 19-5(B), eff. 10-1-89; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 2017-4123, § 7, 7-26-17)

Sec. 118-593. - Historic preservation designation.

(a) *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.

(b) *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 chapter 118, article III.

(c) *City commission action.* 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 118-591(f) of these land development regulations, which shall not require city commission approval. A listing of such single family homes shall be kept on file in the planning department.

(d) *Reserved.*

(e) *Delineation on zoning map.* 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. Such 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.

p. RM-1/HPS-16: International Inn, 2301 Normandy Drive, as more particularly described as Lots 15 through 18, Block 40 of Miami View Section - Isle of Normandy Part 3, as recorded in Plat Book 40, page 33 of the Public Records of Miami-Dade County, Florida.

q. GU/HPS-17: North Beach Bandshell. 7275 Collins Avenue, as more particularly described as Lot 81 which was reserved for Coast Guard purposes by the President of the United States by Proclamation No. 1589, of March 11, 1921, containing 21 acres more or less, and which constitutes a part of original Lot 61 Section 2, Township 53 South, Range 42 East, Tallahassee Meridian, Florida, excepting that portion of Lot 8 granted to the City of Miami Beach, Florida, by the United States by quitclaim deed dated June 16, 1937, recorded in Book 1821 of Deeds at page 461 of the land records of Dade County, Florida, but including the reversion in said portion reserved to the United States by such deed. Said Lot 8 and its exceptions thereof are more particularly described by metes and bounds as follows:

   Commence at the point of intersection of the northerly projection of the west line of Block 9 with the westerly projection of the north line of said Block 9 of "Normandy Beach South", according to the plat thereof, as recorded in Plat Book 21 at page 54 of the public records of Dade County, Florida; thence N87"36'01"E along said westerly projection of the north line of Block 9 for 2.44 feet; thence along the easterly right-of-way line of State Road A-1-A (Collins Avenue) for the following fifteen (15) courses; Thence N03"17'52"W for 19.09 feet to a point of curvature of a circular curve concave to the southwest; thence northwesterly along the arc of said curve having a radius of 450.00 feet and a central angle of 05"35'40" for 43.94 feet to the point of tangency; thence N08"53'32"W for 32.28

feet to a point of curvature of a circular curve concave to the east; thence northerly along the arc of said curve having a radius of 85.00 feet and a central angle of 15"53'27" for 23.70 feet to the point of tangency; thence N01"04'56"E for 6.59 feet to a point of curvature of a circular curve concave to the northwest; thence northeasterly along the arc of said curve having a radius of 85.00 feet and a central angle of 12"26'52" for 18.47 feet to the point of tangency; thence n05"21'5611w for 16.00 feet to a point of non-tangent intersection with a circular curve concave to the southwest, with said point of non-tangent intersection bearing N73"42'14"E from the center of said curve; thence northwesterly along the arc of said curve having a radius of 624.63 feet and a central angle of 09"35'01" for 104.48 feet toa point of non-tangent intersection with a line bearing N26"16'11"W and with said point of non-tangent intersection bearing N64"07'13"E from the center of the last described curve; thence N26"16'11"W for 18.64 feet to a point of curvature of a circular curve concave to the southwest; thence northwesterly along the arc of said curve having a radius of 413.00 feet and a central angle of 04"74'37" for 30.59 feet to a point of compound curve said point also being the point of beginning; thence continue northwesterly along the arc of said curve having a radius of 413.00 feet and a central angle of 02"13'11" for 16.00 feet to the point of tangency; thence N32"43'59"W for 22.76 feet to a point of curvature of a circular curve concave to the northeast; thence northwesterly along the arc of said curve having a radius of 145.00 feet and a central angle of 19"01'13" for 48.14 feet to the point of tangency; thence N13"42'46"W for 4.55 feet to a point of curvature of a circular curve concave to the northeast; thence northwesterly and northerly along the arc of said curve having a radius of 598.49 feet and a central angle of 10"43'21" for 112.00 feet to a point of intersection with the southerly right-of-way line of 73rd Street, with said point of intersection bearing S87"00'35"W from the center of said curve; thence N87"03'37"E along said southerly right-of-way line of 73rd Street and its easterly projection thereof for 223.17 feet; thence S02"56'23"E for 87.18 feet; thence S24"2S'35"W for 120.94 feet; thence S87"03'37"W for 120.49 feet to the intersection with said easterly right-of-way line of State Road A-1-A (Collins Avenue) also being the point of beginning.

(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-1, CD-2, CD-3, RO, GU/HPD-4: Flamingo Park Historic Preservation District, generally bounded by the centerline of Sixth Street on the south; centerline of Lenox Court (as extended) on the west including lots 7 and 8, Block 46 Commercial Subdivision and excluding Lots 1—6 Block 46, Commercial Subdivision; centerline of Lincoln Lane North on the north; and Ocean Drive/Collins Avenue Historic District on the east; and, excluding properties within the Espanola Way Historic District. (Complete legal description available on file with the designation report). The boundaries of the Flamingo Park Historic District Westward Expansion Area commence at the point of intersection of the center line of 8 th Street and the east right-of-way line of Alton Road, as shown in THE MIAMI OCEAN VIEW COMPANY'S LENOX MANOR, recorded in Plat Book 7, at Page 15, 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 easterly right-of-way line of said Alton Road to the point of intersection with the center line of 14 th Street, as shown in Ocean Beach FLA. ADDITION NO. 3, recorded in Plat Book 2, at Page 81, Public Records of Miami-Dade County, Florida; thence run easterly, along the center line of said 14 th Street to the point of intersection with the center line of a 20-foot alley known as Lenox Court; thence run southerly, along the center line of said 20-foot alley known as Lenox Court and its southerly extension to the point of intersection with the center line of the above mentioned 8 th Street; thence run westerly, along the center line of said 8 th Street to the POINT OF BEGINNING. LESS that portion thereof bounded in the north by center line of 12 th Street, as 12 th Street is shown in the abovementioned OCEAN BEACH FLA. ADDITION NO. 3 and bounded in the south by center line of 11 th Street, as 11 th Street is shown in the above mentioned THE MIAMI OCEAN VIEW COMPANY'S LENOX MANOR. Said lands located, lying and being in Sections 3 and 4, Township 54 South, Range 42 East, City of Miami Beach, Miami-Dade County, Florida. The boundaries of the Flamingo Park Historic District Westward Expansion South of 8 th Street commence at the point of intersection of the center lines of 6 th Street and Pear Avenue (now Lenox Avenue), as shown in OCEAN

BEACH, FLA. ADDITION N° 3, Plat Book 2, Page 81, Public Records of Miami-Dade County, Florida; thence run westerly, along the center line of said 6 th Street to the point of intersection with the center line of an unnamed 20-foot alley known as Lenox Court. Said point being the POINT OF BEGINNING of the tract of land herein described; thence continue westerly, along the center line of 6 th Street to the point of intersection with the east right-of-way line of Alton Road; thence run northerly, along the east right-of-way line of Alton Road to the point of intersection with the center line of 8 th Street; thence run easterly along the center line of said 8 th Street to the point of intersection with the center line of the above mentioned 20-foot alley known as Lenox Court; thence run southerly along the center line of said Lenox Court to the POINT OF BEGINNING. Said lands located, lying and being in Section 3, Township 54 South Range 42, East, City of Miami Beach, Miami-Dade County, Florida and containing 3.3058 acres more or less.

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, RM-2, RM-3, CD-3, ROS, PF, P/HPD-9: The boundaries of the Collins Waterfront Historic District commence at the intersection of the easterly extension of the centerline of 22nd Street and the Erosion Control line of the Atlantic Ocean. Said intersection being the POINT OF BEGINNING of the tract of land herein described, thence run northerly, along the Erosion Control Line of the Atlantic Ocean to the intersection with a line that runs parallel to, and 75.00 feet (measured at right angle) north of the north line of Lot 1, Block 39 and its easterly and westerly extension, as shown in AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, recorded in Plat Book 5, at Page 8, Public Records of Miami-Dade County, Florida; thence run westerly, along the last described course to the point of intersection with the centerline of Collins Avenue; thence southerly, along the centerline of Collins Avenue for a distance of 40.45 feet; thence westerly, along a line parallel to, and 34.55 feet (measured at right angle) north of the north line of Lot 1, Block 40 and its easterly and westerly extension, as shown in the above mentioned AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY to the point of intersection with the east bulkhead line of Indian Creek; thence continue westerly, along the last described course and across Indian Creek to a point located on the east line of Lot 11, as shown in FLAMINGO BAY SUBDIVISION No. 1, recorded in Plat Book 6, at Page 101, Public Records of Miami-Dade County, Florida; thence run southerly, along the east line of Lots 11 through 1 of the above mentioned FLAMINGO BAY SUBDIVISION No. 1, and its southerly extension to the northeast corner of Lot 29, Block 3, FLAMINGO TERRACE SUBDIVISION, recorded in Plat Book 10, at Page 3, Public Records of Miami Dade County, Florida; thence continue southerly, along the east line of said Block 3 and its southerly extension, to the northeast corner of Lot 1, Block 2 of the above mentioned FLAMINGO TERRACE SUBDIVISION; thence continue southerly, along the east line of said Block 2 to the northeast corner of Lot 1, Block 9, FLAMINGO TERRACE EXTENSION, recorded in Plat Book 38, at Page 61, Public Records of Miami-Dade County, Florida; thence continue southerly along the easterly line of said Block 9, to the southeast corner of Lot 5 of said Block 9; thence

westerly, along the south line of said Lot 5 and its westerly extension, to the point of intersection with the centerline of Flamingo Drive as shown in the above mentioned FLAMINGO TERRACE EXTENSION; thence, northerly along the centerline of Flamingo Drive to the point of intersection with the centerline of West 25th Street; thence westerly along the centerline of west 25th Street to the point of intersection with the centerline of Pine Tree Drive; thence run southerly and south westerly, along the centerline of Pine Tree Drive, to the point of intersection with a line that runs northwesterly from the most westerly corner of Block 3 and perpendicular to the easterly right-of-way of Collins Canal, as shown on Plat entitled 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 northeasterly, along the easterly right-of-way of Collins Canal, to the northeast corner of Lot 10 of Block 3, as shown in AMENDED MAP OF THE OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, recorded in Plat Book 5, at Page 7, Public Records of Miami-Dade County, Florida; thence southerly, along the east line of said Lot 10 to the northwest corner of Lot 9 of said Block 3; thence easterly, along the northerly line of said Lot 9, and its easterly extension to the point of intersection with the centerline of Collins Avenue; thence southerly, along the centerline of Collins Avenue to the point of intersection with the centerline of 22nd Street; thence easterly along the centerline of 22nd Street and its easterly extension to the POINT OF BEGINNING. Said lands located lying and being in the City of Miami Beach, County of Miami-Dade, 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.

l.

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.

m. 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 are hereby expanded to include the Tatum

Waterway Expansion, the boundaries of which 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 Addition 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. For the avoidance of doubt, the Tatum Waterway Expansion is part of the North Shore Historic District.

n. RM-1, RM-2, CD-2, RO/HPD-14: The boundaries of the Normandy Historic District Commence at the point of intersection of the centerline of Normandy Court and the centerline of Bay Drive, as shown in the OCEANSIDE SECTION OF ISLE OF NORMANDY,

recorded in Plat Book 25, at Page 60, 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 Bay Drive to a point of intersection with the centerline of South Shore Drive, thence run Westerly along the centerline of South Shore Drive to a point of intersection with the Southerly extension of the East line of Lot 17, Block 56, of NORMANDY GOLF COURSE SUBDIVISION, recorded in Plat Book 44, at Page 62, of the Public Records of Miami-Dade County, Florida; thence Northerly along said East line of lot 17 to the Northeast corner of said Lot 17, said point being on the North line of Block 56 of the aforementioned NORMANDY GOLF COURSE SUBDIVISION; thence Northerly along the North line of Block 56 to a point of intersection with the centerline of Ray street; thence Southerly along the centerline of Ray Street to a point of intersection with the North right-of-way line of Normandy Waterway; thence continue Southerly over the Normandy Waterway to a point, said point being the intersection of the South right-of-way line of Normandy Waterway and the centerline Rue Notre Dame; thence continue Southerly along the centerline of Rue Notre Dame to a point of intersection with the Westerly extension of the South line of Lot 1, Block 9, as shown in 2ND REVISED PLAT OF A PORTION OF OCEAN SIDE SECTION AND TROUVILLE SECTION OF ISLE OF NORMANDY, recorded in Plat Book 40, at Page 35, of the Public Records of Miami-Dade County, Florida; thence run Easterly along said extension of Lot 1 and along the South line of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 to a point, said point being the Southeast corner of lot 15 and also being the Northwest corner of lot 25, block 9 as shown in the OCEANSIDE SECTION OF ISLE OF NORMANDY, recorded in Plat Book 25, at Page 60, of the Public Records of Miami-Dade County, Florida; thence Southerly along the West line of said Lot 25 to a point of intersection with the North right-of-way line of Normandy Drive (71st Street); thence Northerly along said North right-of-way line the same line also being the South line of Lots 23, 24 and 25 of said block 9 to a point of intersection of the East line of lot 25 and the North right-of-way line of Normandy drive, thence Northerly along the East line of lot 23 to the Northeast corner of said lot 23, said point being the intersection of the East line of lot 23 and the South line of lot 19, Block 9 of the aforementioned 2ND REVISED PLAT OF A PORTION OF OCEAN SIDE SECTION AND TROUVILLE SECTION OF ISLE OF NORMANDY; thence Easterly along the South line of lots 19 and 20 of said block 9 to a point of intersection on the West right-of-way line of Rue Versailles, thence continue Easterly to a point of intersection of the centerline of Rue Versailles and the centerline of Normandy Court, thence continue Easterly along said centerline of Normandy Court to a point of intersection with the centerline of Bay Drive, said point being the POINT OF BEGINNING. Said lands located, lying and being in Section 3, Township 53 South, Range 42 East, and in Section 10, Township 53 South, Range 42 East, City of Miami Beach, Florida.

AND

Another Boundary of the Normandy Historic District commences at the point of intersection of Rue Versailles and the bulkhead line of Biscayne Bay, as shown in the OCEANSIDE SECTION OF ISLE OF NORMANDY, recorded in Plat Book 25, at Page 60, 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 easterly and northwesterly along said bulk head line of Biscayne Bay, said bulkhead line also being the southern and eastern boundary line of Block 1 of the aforementioned Oceanside Section of Isle of Normandy to a point of intersection with the centerline of 71 street; thence run Westerly along the centerline of 71 street to a point of intersection with the centerline of Bay Drive; thence southerly along the centerline of Bay Drive a point of intersection with the centerline of Brest Esplanade; thence run northwesterly along the centerline of Brest Esplanade to a point of intersection with the northerly extension of the West line of lot 13, block 6 of the aforementioned Oceanside Section of Isle of Normandy, thence Southerly along said west line of lot 13 to a point being 138 feet north of the south line of lot 14 of said block 6; thence run westerly along a line 138 feet north and parallel to the south line of lot 14 a distance of 50 feet to a point on the east line of lot 15 of said block 6, said point being 2 feet south of the north line of lot 15, thence run north along said east line of lot 15 for a distance of 2 feet to the north line of lot 15, thence run westerly along the north line of lots 15, 16, 17, 18, 19, 20, 21, 22, 23 and the westerly extension of lot 23 to the centerline of Rue Versailles; thence run Southerly along the centerline of Rue Versailles to a point of intersection with the Bulkhead line of Biscayne Bay, 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.

(f) *Compliance with zoning regulations.* Compliance with all other zoning regulations is required when not specifically addressed in this section.

(g) *Application of equitable estoppel to permits other than demolition.* Historic preservation designations shall be enforced against all applications and/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 118-168(a) of this Code shall apply with the following exceptions:

(1) All references to recommendations by the planning board in subsection 118-168(a) 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.

(Ord. No. 89-2637, eff. 4-15-89; Ord. No. 89-2665, § 19-5, eff. 10-1-89; Ord. No. 90-2698, eff. 6-30-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 92-2821, eff. 11-14-92; Ord. No. 92-2832, eff. 1-30-93; Ord. No. 94-2926, eff. 4-14-94; Ord. No. 95-2977, eff. 2-25-95; Ord. No. 96-3037, eff. 3-1-96; Ord. No. 96-3057, § 2, 9-25-96; Ord. No. 97-3088, § 2, 7-16-97; Ord. No. 99-3186, § 2, 6-9-99; Ord. No. 99-3217, § 2, 11-17-99; Ord. No. 99-3312, § 2, 10-20-99; Ord. No. 2000-3262, § 5, 7-26-00; Ord. No. 2001-3292, § 2, 1-31-01; Ord. No. 2001-3299, § 1, 3-14-01; Ord. No. 2001-3310, § 2, 6-6-01; Ord. No. 2002-3354, § 1, 3-20-02; Ord. No. 2002-3355, § 2, 3-20-02; Ord. No. 2003-3414, § 1, 6-11-03; Ord. No. 2004-3438, § 2, 3-17-04; Ord. No. 2005-3475, § 2, 2-23-05; Ord. No. 2005-3481, § 2, 4-20-05; Ord. No. 2008-3592, § 2, 1-16-08; Ord. No. 2009-3627, § 2, 1-28-09; Ord. No. 2009-3661, § 2, 10-14-09; Ord. No. 2009-3662, § 2, 10-14-09; Ord. No. 2015-3947, § 1, 6-10-15; Ord. No. 2016-4015, § 2, 6-8-16; Ord. No. 2018-4168, § 2, 1-17-18; Ord. No. 2018-4198, § 1, 5-16-18; Ord. No. 2021-4399, § 2, 2-10-21; Ord. No. 2021-4426, § 1, 6-23-21; Ord. No. 2021-4449, § 2, 10-27-21)

Secs. 118-594—118-599. - Reserved.

DIVISION 5. - SINGLE-FAMILY AD VALOREM TAX EXEMPTION

Sec. 118-600. - 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.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-601. - 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.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-602. - Eligible properties and improvements.

(a) A single-family property is qualified for an exemption under this division if:

(1) 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.

(2) The historic preservation board has certified to the city commission that the property for which an exemption is requested satisfies subsection (a)(1).

(b) 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:

(1) Consistent with the United States Secretary of the Interior's standards for rehabilitation; and

(2) Consistent with the certificate of appropriateness criteria in section 118-564 of the City Code.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-603. - 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.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-604. - 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 118-564 of the City Code.

(5) Other information identified in the filing instructions provided by the planning department.

(6) Notwithstanding the foregoing, the owner of any individually designated historic property where construction or demolition has commenced (but not completed) prior to the effective date of this ordinance [Ordinance No. 2004-3469] may file an application for an ad valorem tax exemption under this section.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-605. - 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.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-606. - 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.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-607. - 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 F.S. § 212.12(3).

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-608. - 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 section 118-564 of the City Code. Major amendments to the approved plans must be reviewed and approved by the historic preservation board.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-609. - Completion of work.

(a) 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.

(b) 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.

(c) A request for review of completed work shall be submitted to the planning department. The planning director, or designee, 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.

(d) If the planning director, or designee, 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.

(e) If the planning director, or designee 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 Section 118-9.

(Ord. No. 2004-3469, § 1, 12-8-04; Ord. No. 2009-3639, § 1, 5-13-09; Ord. No. 2015-3977, § 24, eff. 12-19-15)

Sec. 118-610. - 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.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-611. - Revocation proceedings.

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(Ord. No. 2004-3469, § 1, 12-8-04)

Sec. 118-612. - 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 F.S. § 212.12 shall be imposed by the county tax collector for violation of the terms, conditions and standards of the historic preservation exemption covenant.

(Ord. No. 2004-3469, § 1, 12-8-04)

Secs. 118-613—118-700. - Reserved.

ARTICLE XI. - NEIGHBORHOOD CONSERVATION DISTRICTS (NCD)

Sec. 118-701. - Intent.

(a) A neighborhood conservation district (NCD) is a protective land use tool that provides criteria and a mechanism to be implemented when desired for the maintenance of neighborhood characteristics. It is an umbrella land use designation overlay that will allow for the tailoring of a master plan and/or design guidelines for any specifically defined area that meets the criteria listed in section 118-704, Qualification.

(b) The master plan and/or design guidelines can, among other things, include additional overlay zoning, site, architectural and landscape guidelines, conservation and preservation strategies, streamlining of development review processes, community development strategies, and incentive programs.

(c) It is further intended that such districts and the regulations adopted for them shall be consistent with, and promote the policies set out in, the Miami Beach Comprehensive Plan and other officially adopted plans and regulations in accordance therewith.

(Ord. No. 2004-3457, § 1, 9-8-04)

Sec. 118-702. - Objective.

The purpose of creating a neighborhood conservation district (NCD) is to:

(1) Provide a land-use or zoning tool to conserve established neighborhood scale and character and to promote compatible development through the sensible regulation of new construction and major alterations/additions to existing buildings. An NCD can also serve to implement a neighborhood plan and serve as a catalyst for the rehabilitation of existing buildings.

(2)

Protect neighborhoods or districts that have significant architectural and historic merit and a distinct character but do not qualify for, or have not yet received, historic designation.

(3) Protect structures that contribute to the urban architectural heritage of the city but may not have received historic designation. Valuable buildings in the district that meet certain criteria may be subject to further review prior to receiving a demolition permit.

(Ord. No. 2004-3457, § 1, 9-8-04)

Sec. 118-703. - Effect of district establishment.

NCD districts may either:

(1) Supplement underlying and overlay zoning districts or portions of such zoning districts otherwise applicable to the land included in a particular NCD district; or

(2) Have the effect of modifying requirements, regulations, and procedures applying to the extent indicated in the particular NCD amendment.

(Ord. No. 2004-3457, § 1, 9-8-04)

Sec. 118-704. - Qualification.

(a) In order for a NCD to be officially designated, the area must satisfy one of the following five criteria:

(1) A special urban scale and context, or historic or architectural character present in the defined area;

(2) Natural or historic landscape features such as water features, golf course and/or open space areas, public or private landscape themes prevalent in the area;

(3) Specialized commerce. For example, a concentration of residential office, gallery or design districts, or specific economic development objectives;

(4) A unique development plan that is specifically noteworthy for its design concept and because it serves the community in some qualitative way; or

(5) Other cultural or significant features such as monuments, notable infrastructure improvements, or special public amenities that directly contribute to the aesthetic character and quality of life of a community.

(b) When an area is determined to meet the necessary criteria for an NCD, the objectives for the community need to be defined so a master plan and/or design guidelines can be developed.

(Ord. No. 2004-3457, § 1, 9-8-04)

Sec. 118-705. - Procedures for adoption of specific NCD overlay districts.

(a) *Requests for NCD overlay districts.*

(1) Requests for the creation of NCD districts may be initiated by a majority of the neighborhood residents and/or property owners, the planning board, the design review board, the historic preservation board, the city manager or the city commission.

(2) Proposals for NCD overlay districts shall include a completed application form available from the planning department. Such proposals shall include a location map showing the general boundaries of the proposed district as well as a general statement of its purpose and intent.

(3) Fees for requests shall be as follows: A request initiated by any entity other than the city commission, a city board or other city official as set out in subsection 118-705(a)(1) for district designation shall include an application fee as provided in Appendix A.

(b) *Preliminary review.*

(1) Upon receipt of a completed application, and fees if applicable, the planning department shall prepare a preliminary evaluation and recommendation and schedule a referral request before the city commission, unless such request is initiated by the city commission. The city commission shall hold a preliminary public hearing to consider the merits of the proposed NCD.

(2) Notification of the preliminary public hearing shall be advertised in accordance with section 118-164(2)(b) regardless of acreage and, in addition, all property owners within the proposed district as well as within a 375-foot radius of the proposed district shall be notified by individual mail notice with a description prepared in plain English, and postmarked not less than 30 days in advance of the hearing.

(3) If the city commission chooses to continue the NCD process, it shall direct the planning department to prepare a draft neighborhood conservation district plan and development regulations in collaboration with the property owners from the neighborhood.

(c) *Preparation of NCD plan and development regulations.* The planning department draft NCD plan and development regulations shall include the following information:

(1) A statement of intent, specifying the nature of the special district and substantial public interests involved and the objectives to be promoted by special regulations and/or procedures within the district as a whole, or within subareas of the district, if division into such subareas is reasonably necessary for achievement of regulatory purposes.

(2) The boundaries of the NCD district and any subareas established within the district for purposes of NCD regulations.

(3) The proposed zoning indicated by the NCD prefix and a number identifying the particular district, as for example NCD-1, together with whatever other identification appears appropriate.

(4) The zoning designations of all portions of underlying districts and regulations, if any, which will remain after NCD zoning is superimposed. Where it is proposed to change the boundaries or zoning designation of remaining underlying districts affected in the same action by which NCD zoning is applied, the map shall show the nature and location of such change.

(5) The regulations for the NCD overlay district, shall be designed to promote the special purposes of the district and shall be appropriate to the neighborhood as set out in the statement of intent. Such regulations may include, but are not limited to, zoning, design guidelines and procedures for development review and approval.

(d) *Discussion and recommendations by the design review board.*

(1) Prior to the city commission's final adoption of an NCD, the design review board shall discuss and make advisory recommendations on the proposed district to the city commission.

(2) Notification of this public meeting shall be advertised in a newspaper of general circulation at least 30 days prior to the meeting.

(e) *Final adoption of NCD overlay districts.* Adoption of NCD overlay districts and accompanying regulations shall be by the same procedures as for amendments to the Code generally, as set forth in article III of chapter 118 of these land development regulations including planning board review except that regardless of acreage, all property owners within the proposed district as well as within a 375-foot radius of the proposed district shall be notified by individual mail notice with a description prepared in plain English, and postmarked not less than 30 days in advance of the first public hearing. Each individual NCD overlay district shall be codified in chapter 142, article III, overlay districts, of the land development regulations of the Code.

(Ord. No. 2004-3457, § 1, 9-8-04; Ord. No. 2010-3711, § 5, 12-8-10)

Sec. 118-706. - Administering NCD overlay districts.

New construction, additions and alterations to existing structures within any NCD district will require that a certificate of compliance (COC) be granted in writing in advance from the design review board (DRB), or staff to the board, in accordance with COC regulations and guidelines as specified through individual NCD designation. A DRB approved COC may be required for major demolition as defined by the pertinent NCD designation. The COC must be granted before the owner applies for a building permit.

(Ord. No. 2004-3457, § 1, 9-8-04)

Sec. 118-707. - Repeal of or modification to NCD overlay district.

Repeal of or modification to an NCD overlay district shall be by ordinance and pursuant to City Code chapter 118, article III, amendment procedures.

(Ord. No. 2004-3457, § 1, 9-8-04)

Sec. 118-708. - Enforcement of NCD regulations and criteria; application of equitable estoppel to permits and approvals.

(a) Following the preliminary review public hearing, a referral by the city commission to the planning department to pursue a proposed NCD designation shall impose the requirement that all applications and/or requests for design and/or development review approval within a proposed NCD shall be consistent with the character and intent of the proposed NCD as defined by the criteria set forth in the preliminary evaluation and recommendation prepared by the planning department.

(b) Such requirement in (a) above shall expire upon the earlier of either the favorable recommendation of the NCD designation by the planning board, the effective date of the adopted NCD, a final vote of the city commission declining to adopt the NCD, or six months following the referral, unless the requirement in (a) is extended for an additional period of time by action of the city commission.

(c) In the event a property owner has obtained (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, or (iv) a full building permit as defined in section 114-1 where no design review approval, certificate of appropriateness or variance approval is required, prior to the referral in (a) above, the NCD criteria provided for in (a) above shall not be enforced against such project or application.

(Ord. No. 2004-3465, § 1, 11-10-04)

Secs. 118-709—118-800. - Reserved.

ARTICLE XII. - MAINTENANCE AND SECURITY BONDS

Sec. 118-801. - Purpose and intent.

Unsecured, vacant, neglected, unmaintained, and abandoned sites and buildings present a danger to the health, safety, morals and welfare of the public, and to the safety and the welfare of public safety officers, and as such, constitute a public risk, hazard or nuisance. This article is enacted to promote the health, safety, morals and welfare of the public; to minimize hazards to public safety personnel inspecting or entering such sites and buildings; and to prevent unauthorized persons from gaining access to such sites and buildings. This article is intended to secure a fund for advance payment for reimbursable maintenance and security actions taken by the city pursuant to City of Miami Beach Code chapter 58, article III or Miami-

Dade County Code [section] 8-5. The maintenance and security bond shall not be subject to call by the city or its designee for structural or other building repair, emergency shoring and bracing or emergency demolition.

(Ord. No. 2012-3769, § 1, 6-6-12)

Sec. 118-802. - Definitions.

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

Extension of time means a modification of a condition in a land use board final order that grants additional time to perform an act under the final order.

Final order means the order of a land use board on an application before it.

Land use board means the design review board, historic preservation board, board of adjustment or planning board.

Maintenance and security bond for the purpose of this article means a securities instrument in a form approved by the city attorney, which may be in the form of a bond, escrow agreement, certified letter of credit, or other instrument approved by the city attorney.

Qualifying project means any one of the following:

(a) A project within an existing vacant building;

(b) A project which requires a building to become vacant anytime before, during or after construction until such building has attained a certificate of completion or certificate of occupancy;

(c) A new building construction project on one or more vacant lots;

(d) A construction project that requires the removal of a substantial amount (50 percent or more) of the windows and/or exterior doors and/or the removal of sections of exterior walls that would enable unauthorized egress;

(e) A construction project that requires substantial structural repairs, or substantial restoration and/or renovation; or

(f) A construction project that requires substantial structural repairs that may result in a structure becoming unsecured or subject to the elements, including, without limitation, the removal of all or a part of the roof.

Qualifying projects include projects requiring review and approval by either a city land use board, or the city administration, or both.

Vacant building means a building or structure, or a substantial portion of a building or structure, or any incomplete building, or any building on which construction has begun, at which any one of the following conditions has existed for 30 or more consecutive days:

(a) A lack of the habitual presence of human beings who have a legal right to be on the premises;

(b) The cessation of substantially all lawful business or construction activity or residential occupancy; or

(c) The substantial abandonment or absence of contents.

Vacant site means a lot on which there are no substantial permanent buildings that are in continuous and active use.

(Ord. No. 2012-3769, § 1, 6-6-12)

Sec. 118-803. - Requirements.

(a) *Evidence to be submitted and confirmed before processing and hearing.* As part of an application for land use board approval of a qualifying project, the applicant shall simultaneously file a letter and photographic evidence, respectively dated and taken not more than ten days before such filing, verifying that the subject property, including its land and any and all buildings and structures, is being properly maintained, is secure and that there are no outstanding or current security issues or property maintenance violations that would constitute a public risk, hazard or nuisance. This evidence shall be confirmed by the planning director or designee to the extent possible pursuant to a windshield inspection of the property by city staff no more than 14 days prior to the date of the land use board hearing or a continuance of such public hearing. The burden of proof that the subject property is being properly maintained and is secure is the sole responsibility of the applicant. No application for a land use board approval shall be finally processed, reviewed, or otherwise finally prepared for hearing by the planning department until such letter and evidence are placed in the related application file.

(b) *Requirement of filing and approval of maintenance and security bond.* As part of an approval by a land use board for a qualifying project, the applicant shall file a bond or other security (hereinafter, a "maintenance and security bond", which term includes both the initial maintenance and security bond and any successor maintenance and security bond), in form or substance approved by the city attorney, to indemnify and hold harmless the city from and against costs and expenses incurred by the city in performing any of the actions described in City of Miami Beach Code chapter 58, article III or Miami-Dade County Code [section] 8-5. Such maintenance and security bond shall be filed in compliance with the following requirements:

(1) The maintenance and security bond shall be received by the planning director or designee, subject to city attorney approval, within 45 days of the issuance of the land use board final order. No related application, related building permit or related certificate or authorization

shall be approved by the planning department until an approved maintenance and security bond has been received by the planning director, or designee.

(2) If the pending approval is an administrative level approval, rather than a land use board approval, no related application shall be approved by the planning department until an approved maintenance and security bond has been received by the planning director, or designee.

(3) If at any time the maintenance and security bond is not provided or maintained in full force and effect in compliance with the requirements of this article XII, by either the applicant or any subsequent owner, the land use board approval and/or building permit and all construction work shall be suspended until such time as evidence of such compliance is furnished to the planning director or designee and approved by the city attorney. A requirement to provide and maintain the maintenance and security bond, as provided in this article XII, shall be a condition of the final order.

(4) The bond or security shall be in an amount in accordance with the schedule as follows:

Parcel Size (sq. ft.)	Security Amount—Noncontributing/Non-Historically Designated Building or Structure	Security Amount—Contributing Building or Structure (located within a locally designated or nationally listed historic district or site)
Single-Family Parcels Within Miami Beach (located within RS 1, 2, 3, 4)		
Less than 8,000	$4,000.00	$4,000.00
Greater than 8,000	$5,000.00	$5,000.00
Multifamily and Commercial Parcels Within Miami Beach		
Less than 8,000	$5,000.00	$10,000.00
8,000 to 20,000	$9,000.00	$15,000.00
Greater than 20,000	$11,000.00	$20,000.00

(5) The maintenance and security bond shall be issued by a recognized licensed insurance or bonding company with offices in the State of Florida.

a. As an alternate to a maintenance and security bond which is issued by an insurance or bonding company, the applicant may submit another form of security subject to the written approval of the city attorney. Such forms may include a certified letter of credit from a licensed financial institution with offices in the State of Florida, or escrow agreement providing for funds to be held by an attorney licensed in the State of Florida, a licensed financial institution with offices in the State of Florida or by the city (no interest accrues to applicant), and such form shall be subject to call solely by the city;

b.

At the inception of the maintenance and security bond, and throughout the period of its being in effect, the maintenance and security bond shall be issued and maintained in full force and effect by the issuer.

(6) In addition to the other requirements of this article XII, the maintenance and security bond shall:

a. Require its issuer to obtain written approval from the planning director 30 days in advance of any proposed cancellation, reduction in the principal amount, or any other material change in the terms and conditions of the maintenance and security bond;

b. The issuer shall provide to the planning director or designee written justification for any proposed material change in the terms and conditions of the maintenance and security bond;

c. Require its issuer to maintain the maintenance and security bond in full force and effect continuously until the issuance by the city of a final certificate of occupancy or certificate of completion;

d. Require its issuer to continue the maintenance and security bond in full force and effect, notwithstanding the transfer of the property to a new owner, until the property transfer is complete and a new, approved maintenance and security bond has been accepted by the planning director; and include such other provisions, consistent with this article XII, as the planning director and/or city attorney may reasonably require, taking into account applicable law and sound and customary bonding practices.

(c) *Extensions of time.*

(1) A qualifying project approved prior to the adoption of this article that requests an extension of time from a land use board after this article is adopted will be required to file a maintenance and security bond which complies with the requirements of this article XII.

(2) No extension of time shall be granted by a land use board unless the applicant has furnished the board with documentary evidence that a maintenance and security bond that complies with all the requirements of this article XII either is in full force and effect or will automatically become effective upon the granting of the extension of time.

(3) Any extension of time granted to a qualifying project as a result of authorized actions by non-city governmental authorities shall require the filing of a maintenance and security bond that complies with the requirements of this article XII if there is not already on file such a maintenance and security bond.

(d) *Calls upon the bond.* The maintenance and security bond shall be subject to call, either for its full principal amount or from time to time for a portion thereof, to fund action authorized by the city pursuant to chapter 58, article III, of this Code or section 8-5 of the Miami-Dade County Code.

(e)

Transfer of the property. In the event of any transfer of property to a new owner or to any subsequent new owner, no land use board shall approve a modification to a final order recognizing such transfer unless the new property owner files, as part of its application for the reissuance or modification of the final order to reflect the new ownership, a successor maintenance and security bond that fully complies with the requirements of this article XII and which becomes fully effective upon such reissuance or modification.

(f) *[Return of unexpended funds.]* Any unexpended amount remaining of the security shall be released back to the person(s) posting the maintenance and security bond or successors in interest or assigns upon the issuance of a final certificate of occupancy or certificate of completion.

(g) *[Assessment of lien.]* All deficiencies in the maintenance and security bond in covering the city's costs under chapter 58, article III, division 3 of this Code, shall be a liability of the property owner and result in a lien for that amount assessed against the property as provided in City of Miami Beach Code chapter 58, article III or Miami-Dade County Code [section] 8-5. Providing a maintenance and security bond under this article does not relieve the owner(s) of the property of liability for costs incurred under City of Miami Beach Code chapter 58, article III or Miami-Dade County Code [section] 8-5.

(h) *Nonprejudice of other rights of the city.* Nothing in this article XII shall be interpreted or applied to preclude or in any way limit the rights of the city to take any action against any property owner or any other responsible party, including without limitation the rights of the city to take its own abatement and remedial actions; to file actions and suits for collection, injunction, and other remedies as permitted by law; to cause the initiation of prosecutions for violations of any law, ordinance, or regulation; and to file, prosecute, foreclose upon, collect the proceeds of, or take any other action by lien or otherwise, as permitted by law.

(Ord. No. 2012-3769, § 1, 6-6-12)

Secs. 118-804—118-819. - Reserved.

ARTICLE XIII. - TEMPORARY EMERGENCY USES

Sec. 118-820. - Purpose and intent.

It is the purpose and objective of this article 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.

(Ord. No. 2021-4403, § 2, 3-17-21)

Sec. 118-821. - 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 122 through 148 of the 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 article.

(i) The city commission may, by resolution adopted following a duly noticed public hearing, authorize the city manager to extend any or all temporary emergency use permit approved pursuant to this article for a period of up to one additional year.

(Ord. No. 2021-4396, § 2, 1-13-21)

Chapter 122 - CONCURRENCY MANAGEMENT AND MOBILITY FEES

Footnotes:

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***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.*

ARTICLE I. - PURPOSE AND GENERAL PROVISIONS

Sec. 122-1. - 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.

(Ord. No. 2019-4306, § 3, 10-16-19)

Sec. 122-2. - Definitions.

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

Active use means a use for which a business tax receipt, certificate of occupancy, or certificate of use has been issued. This term "active use" shall not include a use that is authorized pursuant to a special event permit.

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:

(1) *Nonresidential developments:* The number of square feet of gross floor area or seats, as applicable;

(2) *Residential developments:* The number of dwelling units, or the number of square feet of floor area, as applicable;

(3) *Hospitals and clinics:* The number of beds, and/or the number of square feet of gross floor area, as applicable;

(4) *Educational facilities:* The number of students, or floor area, as applicable;

(5) *Hotels and motels:* The number of rooms; and

(6) *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.

Legally established use means the following, for purposes of calculating capacity credits under article II of this chapter, and for purposes of calculating mobility fees under article III of this chapter:

(1) For existing structures that have an active use, the current use shall be used as the basis for calculating capacity credits or mobility fees.

(2) For vacant structures or structures undergoing construction, the most recent active use shall be used as the basis for calculating capacity credits or mobility fees.

(3) For vacant land, the most recent active use, within the preceding ten years, shall be used as the basis for calculating capacity credits or mobility fees.

(4) For restaurant and sidewalk cafe uses that previously reduced the total number of seats, subsequent to the initial mobility fee and/or concurrency determination for the use, the greatest number of legally established seats during the two years prior to a re-introduction of seats shall be used as the basis for calculating capacity credits or mobility fees, provided no intervening change of use or change of ownership has occurred.

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.

(Ord. No. 2019-4306, § 3, 10-16-19; Ord. No. 2022-4482, § 1, 4-6-22)

Sec. 122-3. - 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.

(Ord. No. 2019-4306, § 3, 10-16-19)

Sec. 122-4. - 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.

(Ord. No. 2019-4306, § 3, 10-16-19)

Sec. 122-5. - 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 or workforce housing developments.

(Ord. No. 2019-4306, § 3, 10-16-19; Ord. No. 2021-4416, § 2, 5-12-21; Ord. No. 2022-4513, § 2, 9-28-22)

Sec. 122-6. - 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:

(1) Name of applicant;

(2) Location, size, legal description, folio number, and existing use of the parcel or portion thereof proposed for development;

(3) 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;

(4) Schedule for phased developments;

(5) Description of any proposed on-site or off-site infrastructure improvements;

(6) Any building permit documents that may be required by the planning department;

(7) The date of demolition permit, if applicable;

(8) Any other documents which may be requested by the planning department; and

(9) 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.

(Ord. No. 2019-4306, § 3, 10-16-19)

Sec. 122-7. - 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:

(1) The calculation, exemption, or payment of a mobility fee or concurrency mitigation fee;

(2) The entitlement to a refund; or

(3) The proposal, negotiation, terms, or performance of obligations pursuant to a concurrency mitigation program or agreement.

(c) Penalties and enforcement.

(1) A violation of this chapter shall be subject to the following civil fines, in addition to any outstanding fees owed pursuant to this chapter:

a. If the violation is the first violation, a person or business shall receive a civil fine of $1,000.00;

b. 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;

c. 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;

d. 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.

(2) 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.

(3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

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 service 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 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.

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 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.

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. 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.

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 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.

g. 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.

(Ord. No. 2019-4306, § 3, 10-16-19; Ord. No. 2021-4431, 7-28-21)

Secs. 122-8—122-10. - Reserved.

ARTICLE II. - CONCURRENCY

Sec. 122-11. - 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:

(1) In existence at the time of a determination of concurrency;

(2) 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

(3) 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:

(1) In existence at the time of a determination of concurrency.

(2) 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

(3)

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

(4) 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

(5) 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.

(Ord. No. 2019-4306, § 3, 10-16-19)

Sec. 122-12. - 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 a legally established use as defined in section 122-2.

(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.

(Ord. No. 2019-4306, § 3, 10-16-19; Ord. No. 2022-4482, § 2, 4-6-22)

Secs. 122-13—122-20. - Reserved.

ARTICLE III. - MOBILITY FEES

Sec. 122-21. - Legislative intent.

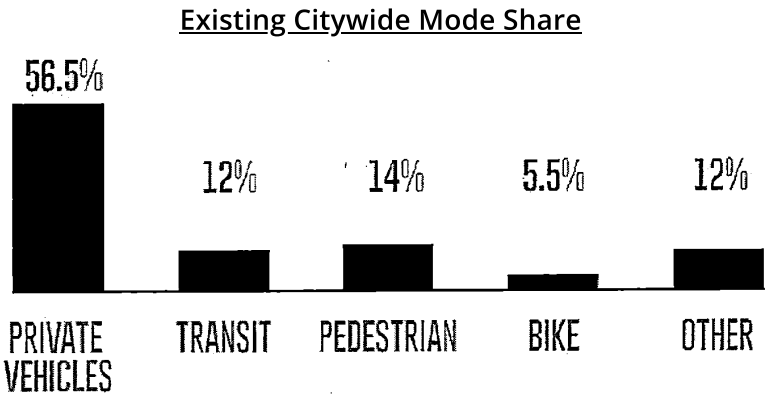
The city commission hereby finds, determines, as declares as follows:

(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.

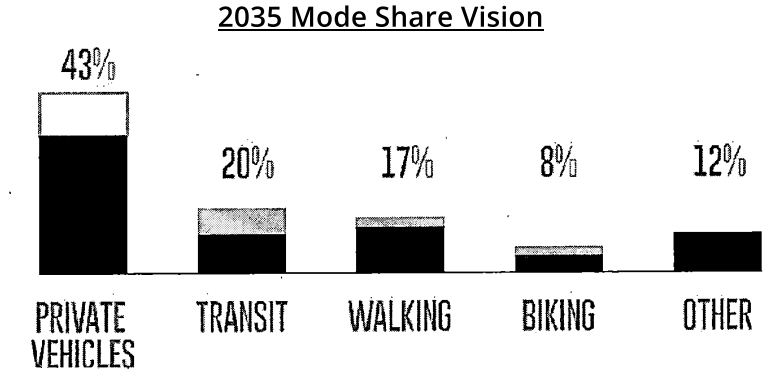
(b)

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:



(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:



(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.

(Ord. No. 2019-4306, § 3, 10-16-19)

Sec. 122-22. - 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.

(Ord. No. 2019-4306, § 3, 10-16-19)

Sec. 122-23. - 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 122-22.

(1) 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.

(2) 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 legally established use as defined in section 122-2.

(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.

(Ord. No. 2019-4306, § 3, 10-16-19; Ord. No. 2022-4482, § 3, 4-6-22)

Sec. 122-24. - 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.

———

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 appendix A, fee schedule.

(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.

(f) The mobility fee and mobility fee administration fee shall be subject to annual adjustment by the city manager, effective October 1 of each year, to reflect increases in the Consumer Price Index, pursuant to section 1-15 and appendix A to this Code.

(Ord. No. 2016-4306, § 3, 10-16-19; Ord. No. 2021-4416, § 3, 5-12-21; Ord. no. 2022-4510, § 1, 9-14-22)

Sec. 122-25. - 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.

(Ord. No. 2016-4306, § 3, 10-16-19)

Sec. 122-26. - 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.*

(1) Single-family with a unit size less than 3,500 square feet.

(2) Single-family with a unit size between 3,500 and 7,000 square feet.

(3) Single-family with a unit size greater than 7,000 square feet.

(4) Multifamily apartments (market rate): Per unit.

(5) Affordable housing: Per unit.

(6) Workforce housing: Per unit.

(7) Co-living: Per unit.

(b) *Recreation and entertainment.*

(1) Marina (including dry storage)—Per berth.

(2) Golf course—Per hole.

(3) Movie theater—Per screen.

(4) Outdoor commercial recreation—Per acre.

(5) Community center/civic/gallery/lodge/museum.

(6) Indoor commercial recreation/health club/fitness.

(c) *Institutional.*

(1) Continuing care facility/nursing home/memory care/congregate care facility/assisted/independent living—Per bed.

(2) Private school (Pre-K-12).

(3) Place of worship, including ancillary and accessory buildings.

(4) Day care center.

(d) *Industrial.*

(1) Warehousing/manufacturing/industrial/production.

(2) Mini-warehousing/boat/RVs and other outdoor storage.

(3) Distribution/fulfillment center/package delivery hub.

(e) *Office.*

(1) General office/research/higher education/financial/bank.

(2) Medical/dental/clinic/veterinary/hospitals.

(f) *Service/retail/nonresidential.*

(1) Retail sales/personal and business services.

(2) Pharmacy/medical cannabis treatment center/pain management clinic.

(3) Supermarket.

(4) Takeout restaurant with no seating.

(5) Restaurant with seating—Per seat.

(6) Restaurant drive-through—Per drive-through.

(7) Bar/night club/pub without food service.

(8) Motor vehicle and boat sales/service/repair/cleaning/parts.

(9) Hotel/lodging—Per room.

(10) Convenience retail.

(11) Motor vehicle fueling—Per fuel position.

(12)

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.

(Ord. No. 2016-4306, § 3, 10-16-19)

Sec. 122-27. - Mobility fee benefit district.

Miami Beach shall have a single citywide mobility fee benefit district.

(Ord. No. 2016-4306, § 3, 10-16-19)

Sec. 122-28. - 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.

(Ord. No. 2016-4306, § 3, 10-16-19)

Sec. 122-29. - 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:

(1) Carpools;

(2) Van pools;

(3) Demand response service;

(4) Paratransit services (for special needs population);

(5) Public/private provision of transit service, bike sharing, or shared car initiatives;

(6) Provision of short-term and long-term bicycle parking, showers, and changing facilities;

(7) Provision of parking for carpools;

(8)

Alternative hours of travel, including flexible work hours, staggered work shifts, compressed work weeks and telecommuting options;

(9) Subsidy of transit fares;

(10) Use of long-term parking to be developed at or near the city's entry points;

(11) Shared vehicular and pedestrian access for compatible land uses, where possible;

(12) Shared parking agreements for compatible land uses, where possible;

(13) Provision of transit amenities;

(14) Car share vehicle parking;

(15) Traffic management and traffic monitoring programs;

(16) Incident management;

(17) Congestion management;

(18) Access management;

(19) Parking policies which discourage single-occupancy vehicles;

(20) The encouragement of carpools, vanpools, or ridesharing;

(21) Programs or projects that improve traffic flow, including projects to improve signalization;

(22) On road bicycle lanes, bicycle parking, and bicycle amenities at commercial and residential uses;

(23) Improve intersections, and implement Intelligent Transportation Systems (ITS) strategies, including pedestrian oriented intersection design strategies;

(24) Pedestrian countdown signals;

(25) Medians for pedestrian refuge and curb extensions; and

(26) 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.

(Ord. No. 2016-4306, § 3, 10-16-19)

Chapter 126 - LANDSCAPE REQUIREMENTS

Footnotes:
--- (1) ---
Editor's note— *Sec. 1 of Ord. No. 2016-4042, adopted Oct. 19, 2016, amended ch. 126 in its entirety to read as herein set out. Former ch. 126 pertained to similar subject matter, consisted of §§ 126-1—126-6, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 90-2722, effective Nov. 21, 1990; Ord. No. 91-2767, effective Nov. 2, 1991; Ord. No. 93-2831, effective Jan. 16, 1993; and Ord. No. 98-3108, adopted Jan. 21, 1998.*
Cross reference— *Building regulations, ch. 14; environment, ch. 46; zoning districts and regulations, ch. 142.*

Sec. 126-1. - Intent and purpose.

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.

(g) Ameliorate noise impacts and light pollution.

(h) Promote the use of canopy trees to sequester carbon dioxide emissions.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-2. - 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"): A tree manual which establishes performance standards for the care and maintenance of trees, shrubs, and other woody plants.

Applicant: 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: A 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: 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: 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: 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:* The upper part of a tree, measured from the lowest branch, including all branches and foliage.

Energy conservation zone: 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: 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: A plant species that has been introduced from other regions, and is not native to the region to which it is introduced.

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

Grass, artificial: 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: 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: 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: 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:* 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: 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: the total horizontal area within the lot lines of the lot.

Owner: 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: The tree part containing the organs used for extracting water, gases and nutrients from the soil and atmosphere.

Site plan: 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: The procedures of landscape nursery work that comply with the standards set by the state department of agriculture and consumer services.

Spread: The average diameter of the crown of a tree.

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

Tree: 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: 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: 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.

(Ord. No. 2016-4042, § 1, 10-19-16; Ord. No. 2018-4183, § 1, 4-11-18)

Sec. 126-3. - 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.

(Ord. No. 2016-4042, § 1, 10-19-16; Ord. No. 2021-4394, § 1, 1-13-21)

Sec. 126-4. - 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.

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.

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.

Where a vegetation survey and landscape plan is required, a tree disposition plan shall be submitted concurrently and shall:

(1) Be drawn to scale and include property boundaries, north arrow, graphic scale, and date;

(2) 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;

(3) 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;

(4) Graphically show the location of the tree protection fence to the dripline for existing trees and palms to remain on the plan;

(5) Provide a drawing of the city approved tree protection fence detail on the plan; and

(6) 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.

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:

(1) The plan shall be drawn to scale and include property boundaries, north arrow, graphic scale, and date;

(2) 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;

(3) All landscape features and non-living landscape materials shall be identified;

(4) All geologic, historic and archeological features to be preserved shall be illustrated;

(5) 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

(6) The critical layout dimensions for all trees, plant beds and landscape features shall be provided;

(7) Method(s) to protect and relocate trees and native plant communities during construction;

(8) Planting details and specifications; and

(9) The landscape legend form shall be affixed to the plan and shall include, but not be limited to, the following:

a. The minimum number of required trees per lot, pursuant to section 126-6;

b. The minimum number of required street trees, pursuant to section 126-6;

c. Provided trees per lot;

d. Provided street trees;

e. Provided shrubs; and

f. 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.

Where a landscape plan is required, an irrigation plan shall be submitted concurrently and shall:

(1) Be drawn on a base plan at the same scale as the landscape plan(s);

(2) Delineate landscape areas, major landscape features and hydrozones:

(3) Include water source, design operating pressure, flow rate/volume required per zone and application rate;

(4) Include locations of pipes, controllers, valves, sprinklers, back flow prevention devices, rain switches or soil moisture sensors, electric supply; and

(5) 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.

Where a landscape plan is required, a site and landscape lighting plan may be submitted concurrently and shall:

(1) Be drawn on a base plan at the same scale as the landscape plan(s);

(2) Delineate landscape areas, major landscape features and electrical zones;

(3) Include existing and proposed lighting equipment and fixture locations with sizes and mounting heights; and

(4) Lighting equipment details and specifications.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-5. - 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.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-6. - 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.

(1) *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.

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.

(2) *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.

(3) *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.*

(1) 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.

(2) Exclusions from maximum permitted lawn areas:

a. Stabilized grassed areas used for parking.

b. Grassed areas designated on landscape plans and actively used for sports, playgrounds or picnic areas.

c. Grassed areas in the right-of-way.

d. Stormwater retention/detention areas planted in grasses which are very drought tolerant, as well as tolerant to wet soils.

e. Very drought tolerant grasses and low growing native plants, including grasses and forbs may be used as groundcover beyond the maximum permitted grass areas.

(3) Artificial grass areas may be permitted within required rear yards in single-family zoning districts, in accordance with the following:

a. Artificial grass shall be allowed as an alternative to lawn grass and shall count towards the maximum lawn area as described in Table A.

b. 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.

c. Landscape permit plans shall be provided with artificial grass system specifications, sections and details for review and approval by planning department staff.

d. 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.

e. 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.

(4) 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
	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.				

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) No less than 30 percent of the required trees shall be native species.

(8) No less than 50 percent of the required trees shall be low maintenance or drought and salt tolerant species.

(9) 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:

a. One to five required trees: Two tree species.

b. Six to ten required trees: Three tree species.

c. 11 to 15 required trees: Four tree species.

d. 16 to 20 required trees: Five tree species.

e. 21 to 30 required trees: Six tree species.

f. 31 or more required trees: Seven tree species.

(10) 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.

(11) 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.

(12) 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. No one species of shrub shall constitute more than 25 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.

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.

(f)

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.

(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.

(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.

(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.

(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 property.

(Ord. No. 2016-4042, § 1, 10-19-16; Ord. No. 2018-4183, § 1, 4-11-18)

Sec. 126-7. - 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 options:

(1) Seek authorization from the city to install the trees off-site, on public land near or adjacent to the applicant's property; and/or

(2) 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 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 applicant's property, the applicant can either seek authorization from the city to install the large shrubs, and small trees and shrubs off-site on nearby or adjacent public land; or be

required to 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.

(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).

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-8. - Landscape neighborhood overlays.

(a) *Purpose.* The purpose of this section is to identify unique neighborhoods and areas of the city, which contain distinct and character-defining landscaping features that contribute to the special identity of the particular neighborhood or area of the city.

(b) *Minimum standards and criteria.*

(1) The city commission may, by ordinance amending this section, establish landscape neighborhood overlays applicable to defined areas or neighborhoods of the city. There shall be no fees associated with the planning board's review and/or transmittal of any such ordinance.

(2) The species of the particular plant material, trees, palms and/or significant landscape features that define the neighborhood shall be identified within the regulations for each landscape neighborhood overlay.

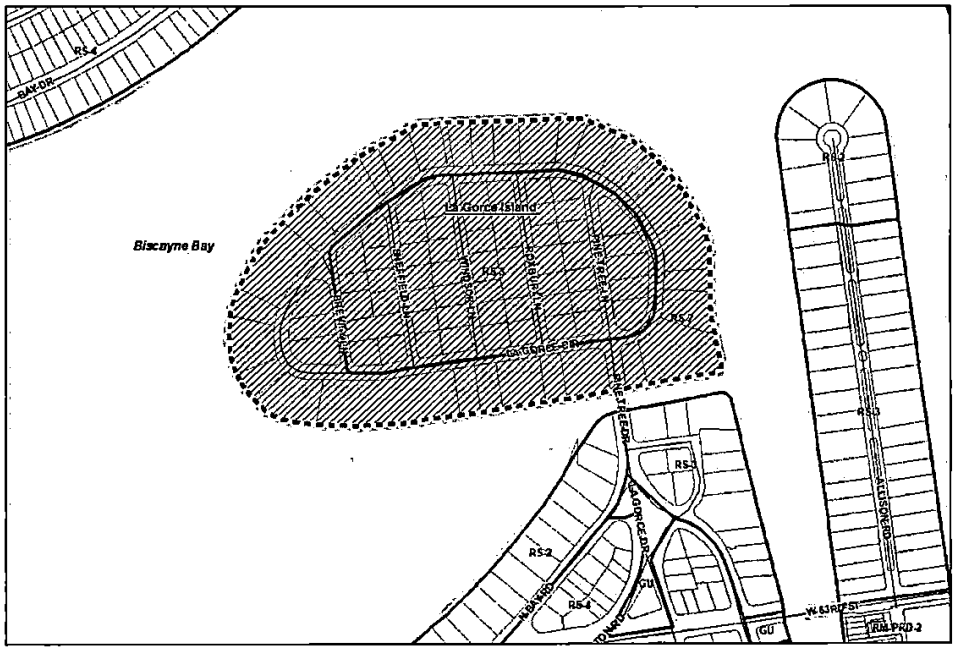
(3) Areas of the city identified in landscape neighborhood overlays shall be subject to all applicable regulations in chapter 126 and chapter 46 of this Code. Notwithstanding the foregoing, in the event of a conflict between the provisions of this section and the provisions of chapter 126 and/or chapter 46, the provisions of this section 126-8 shall control.

(4) Landscape neighborhood overlay regulations shall be adhered to during all types of construction that take place within the overlay.

(c) *Landscape neighborhood overlays.*

(1) *La Goree Island Landscape Neighborhood Overlay.*

a. *Location:* The regulations for the "La Goree Island Landscape Neighborhood Overlay" shall apply to properties and rights-of-way located on La Goree Island. as indicated in the map below:



b. *Regulations:* Royal palms and Canary Island date palms planted within the rights-of-way have created an established iconic landscape feature within the streetscape and provide a unique character to this particular neighborhood. All development and improvements in the rights-of-way within this overlay shall retain the established and iconic features of the original streetscape design and shall comply with the following regulations:

   i. No species of tree or palm other than royal palms and Canary Island date palms shall be planted in the rights-of-way within this overlay.

   ii. Existing royal palms and Canary Island date palms shall be preserved and protected during any proposed construction.

   iii. Any alteration to a right-of-way within the overlay that impacts the location of existing palms shall require the relocation of such palms within the neighborhood's rights-of-way.

   iv. Newly planted royal palms shall have a minimum of 15 feet of clear or grey wood. Canary Island date palms shall have a minimum of 15 feet of clear or grey wood at the time of planting, unless the date palms are set back within the right of way in accordance with the La Goree Island Historic Landscape Plan on file with the planning department, in which case such Canary Island date palms shall have a minimum of eight feet of clear or grey wood at the time of planting. All new plantings shall be consistent with the spacing of the existing species within this right-of-way overlay.

   v. A right-of-way permit shall not be required for the replacement of a palm tree at the same location within this overlay, provided, however, that the La Goree Island Neighborhood Association or property owner, as applicable, shall (1) provide the city's urban forester with email notification at least 48 hours prior to a replanting, and (2) be

solely responsible for all costs, expenses and liability associated with the installation, including costs for repair or replacement of any infrastructure or utilities in the right-of-way which are damaged as part of the installation.

(Ord. No. 2022-4465, § 1, 1-20-22)

Sec. 126-9. - 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.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-10. - 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.

(b) Trees with a minimum height of 12 feet shall be planted at a maximum average spacing of 20 feet on center.

(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.

(d) Groundcovers shall be planted as understory to the trees and shrubs within the landscaped buffer strip.

(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.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-11. - 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 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.

(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 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 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) 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.

(g) 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.

(h) 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.

(i) These requirements are in addition to any applicable required open space as provided in these regulations.

(j) 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.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-12. - 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:

(1) 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.

(2) 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.

(3)

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.

(4) 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. A continuous concrete curb may also be considered as permitted by subsection 130-61(1).

(5) 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.

(6) 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.*

(1) 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 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. 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.

(2) 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 feet of frontage.

(3) An in-ground irrigation system that covers 100 percent of the landscaped areas shall be required.

(4) 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.

(5) 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.

(Ord. No. 2016-4042, § 1, 10-19-16; Ord. No. 2019-4258, § 1, 5-8-19)

Sec. 126-13. - Landscape installation.

Landscape installation procedures are pursuant to the City of Miami Beach Landscape Installation and Specifications Standards.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-14. - 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:

(1) *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.

(2) *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.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-15. - 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.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-16. - 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:

(1) 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.

(2) Removal of dead wood, crossing branches, weak or insignificant branches, and sucker shall be accomplished simultaneously without any reduction in crown.

(3) 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.

(4) 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.

(5) No more than one-third of a tree's living canopy shall be removed within a one-year period.

(6) 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.

(Ord. No. 2016-4042, § 1, 10-19-16)

Sec. 126-17. - Enforcement and penalties.

(a) *Penalties.*

(1) 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.

a. If the violation is the first violation: $500.00.

b. If the violation is the second violation within the preceding 12 months: $1,000.00.

c. If the violation is the third violation within the preceding 12 months: $1,500.00.

d. If the violation is the fourth or subsequent violation within the preceding 12 months: $2,000.00.

(2) [Reserved.]

(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) 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:

1. Pay the civil fine in the manner indicated on the notice of violation; or
2. 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.

(b) *Enhanced penalties.* The following enhanced penalties shall be imposed, in addition to any mandatory fines set forth in subsections (a)(1) and (a)(2) above, for violations of this chapter:

(1) *Enhanced penalties for subsection (a)(1):*

a. 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.

b. 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.

c. 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.

d. The planning director may withhold approval of a final building inspection if landscape installations do not comply with the approved landscape plans and details.

(Ord. No. 2016-4042, § 1, 10-19-16; Ord. No. 2021-4431, 7-28-21)

Chapter 130 - OFF-STREET PARKING

> *Footnotes:*
> *--- (**1**) ---*
> ***Cross reference—** Businesses, ch. 18; business parking lots, § 18-306 et seq.; streets and sidewalks, ch. 98; traffic and vehicles, ch. 106; metered parking, § 106-41 et seq.; public off-street parking facilities, § 106-116 et seq.*

ARTICLE I. - IN GENERAL

Secs. 130-1—130-29. - Reserved.

ARTICLE II. - DISTRICTS; REQUIREMENTS

Sec. 130-30. - Variances for off-street parking requirements.

Variances for off-street parking requirements shall be prohibited unless explicitly authorized in this chapter.

(Ord. No. 2016-4033, § 1-9-27-16)

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Sec. 130-31. - Parking districts established.

(a) For the purposes of establishing off-street parking requirements, the city shall be divided into the following parking districts:

(1) *Parking district no. 1.* Parking district no. 1 is that area not included in parking districts nos. 2, 3, 4, 5, 6, and 7.

(2)

Parking district no. 2. Parking district no. 2 includes those properties with a lot line on Lincoln Road from the west side of Washington Avenue to the east side of Alton Road and those properties north of Lincoln Road and south of 17th Street from the west side of Washington Avenue to the east side of Lenox Court, as depicted in the map below:

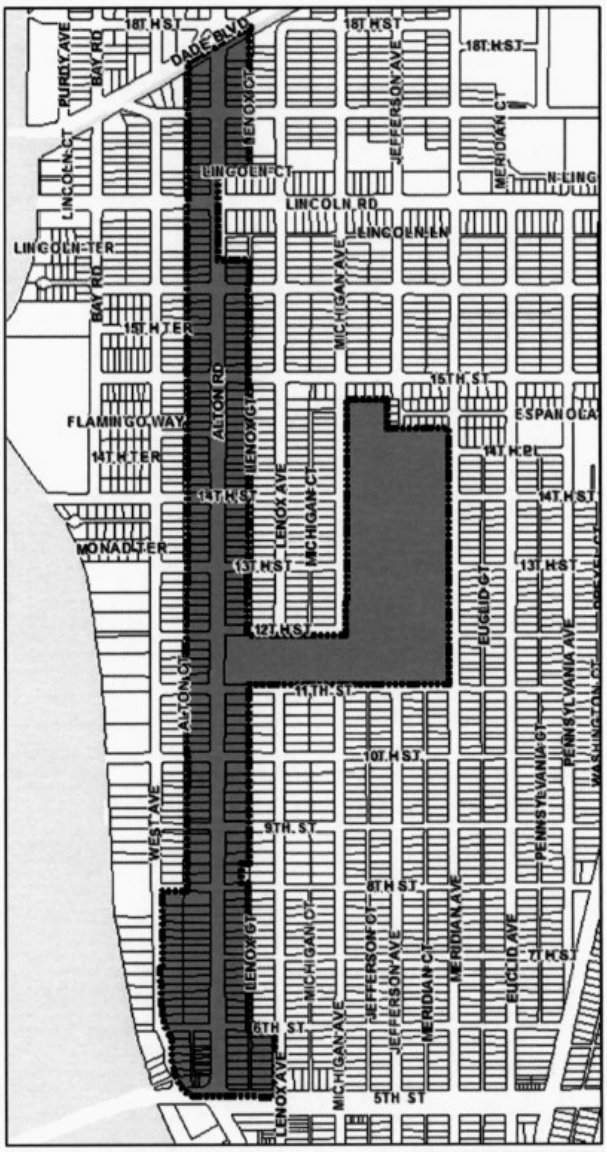
(3) *Parking district no. 3.* Parking district no. 3 includes those properties in the CD-3 commercial high density zoning district within one block north or south of Arthur Godfrey Road from the east side of Alton Road to west side of Indian Creek Waterway, as depicted in the map below:

(4) *Parking district no. 4.* Parking district no. 4 includes those properties in CD-2 districts with a lot line on 71st Street, or between 67th Street and 72nd Street, from the west side of Collins Avenue to the east side of Rue Notre Dame, and those properties with a lot line on Normandy Drive from the west side of the Indian Creek Waterway to the east side of Rue Notre Dame, and those properties in the CD-2 and MXE districts between 73rd Street and 75th Street, as depicted in the map below:

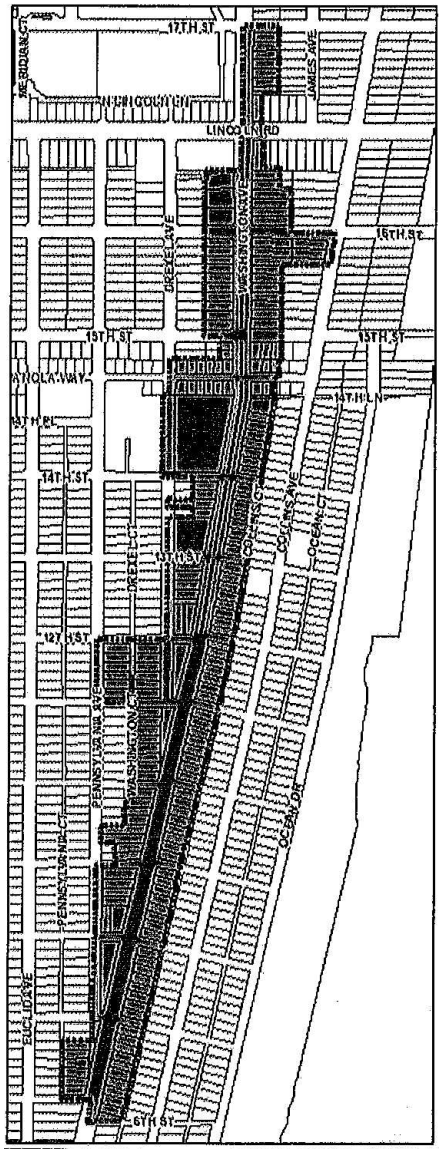
(5) *Parking district no. 5 - Sunset Harbour Neighborhood.* Parking district no. 5 includes those properties generally bounded by Purdy Avenue on the west, 20th Street on the north, Alton Road on the east and Dade Boulevard on the south, as depicted in the map below:

(6) *Parking district no. 6.* Parking district no. 6 includes those properties between Alton Court (alley) and Lenox Court (alley) or with a lot line on Alton Road, where an alley does not exist, from 5 Street on the south to Dade Boulevard on the north, with the exception of properties

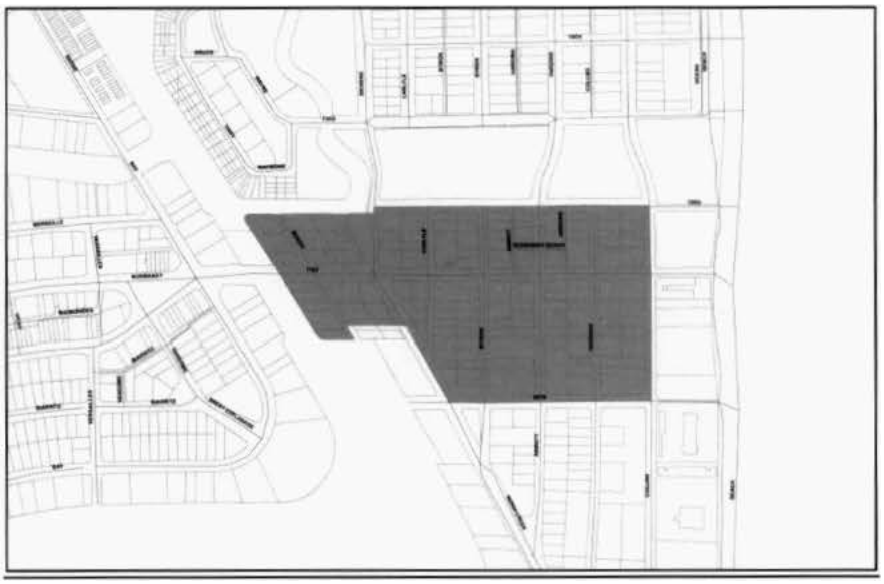
included in parking district no. 2, as depicted in the map below:



(7) *Parking district no. 7.* Parking district no. 7 includes those properties with a lot line on Washington Avenue from 5th Street to 17th Street, excluding those properties in parking district no. 2, as depicted in the map below:

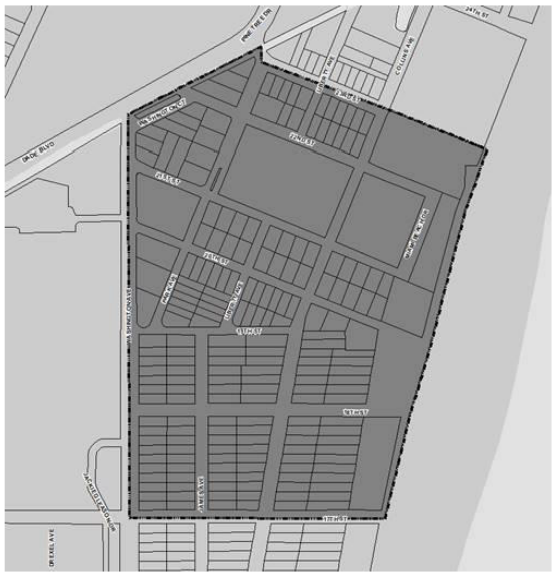


(8) *Parking district no. 8.* Parking district no. 8 includes those properties within the TC-C, TC-1, TC-2, and TC-3 districts, as depicted in the map below:



(9)

Parking district no. 9. Collins Park District. Parking district no. 9 includes those properties within the area bounded by the erosion control line on the east, the east side of Washington Avenue on the west, 23rd Street on the north, and 17th Street on the south, as depicted in the map below:



(b) There shall be no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are:

(1) Located within the architectural district,

(2) A contributing building within a local historic district, or

(3) Individually designated historic building.

This provision shall not apply to renovations and new additions to existing buildings which create or add floor area, or to new construction which has a parking requirement.

(c) The off-street parking requirements associated with the new construction of residential and hotel units, including allowable accessory uses, that are located in CD-2 zoning districts within the Normandy Isles National Register Conservation District shall be as follows:

(1) One space per residential unit and one-half space per hotel unit.

(2) There shall be no parking requirement for the following:

a. Development sites of six units (hotel or residential) or fewer.

b. Properties located within 1,500 feet of a public transit stop, or within 1,500 feet of any public or private parking garage. Additionally, the first level of the structure shall be fully activated at the ground level with non-office and non-financial institution uses.

(3) Additions to existing buildings. For existing buildings, which are classified as "contributing" and of which at least 75 percent of the front and street side elevations, and 25 percent of interior side elevations, are substantially retained, preserved, and/or restored, there shall be no parking requirement for the existing building, or for any new residential or hotel units, whether attached or detached, regardless of lot width or number of units. Any proposed

addition to the existing building shall be subject to the certificate of appropriateness or design review criteria set forth in chapter 118, as applicable. and shall include a renovation plan for the existing building that is fully consistent with the Secretary of the Interior's Guidelines and Standards for the Rehabilitation of Historic Buildings.

(4) Waiver. The off-street parking requirements set forth in subsection (c)(1) may be waived by the design review board or historic preservation board, pursuant to the design review or certificate of appropriateness criteria, as may be applicable, upon a finding that off-street parking is not necessary to support the construction of new residential or hotel units within the respective local historic district or conservation district.

(5) Minimum bicycle parking requirements. Secure off-site storage for bicycles shall be required as follows:

a. Short-term bicycle parking: Four spaces per building or one space per ten units. whichever is greater.

b. Long-term bicycle parking: One space per unit.

(d) Any building or structure erected in within a local historic district, historic site, or conservation district may provide required parking on-site as specified in the regulations applicable to parking district no. 1. Such required parking, if provided, shall be exempt from the definition of "floor area," in accordance with the regulations specified in chapter 114 of these land development regulations.

(e) The off-street parking requirements associated with new residential construction, including allowable accessory uses within the new construction, within areas zoned MXE and located in the Ocean Drive/Collins Avenue local historic district, shall be as follows:

(1) Requirement. One space per residential unit. All accessory uses shall comply with the minimum requirements applicable to Parking District No. 1.

(2) Voluntary residential parking incentive program. There shall be no parking requirement associated with new residential construction, including allowable accessory uses, for the following developments, provided that the owner of the property elects, at the owner's sole discretion, to voluntarily execute a restricted covenant running with the land, in a form approved by the city attorney, affirming that, for a term of 30 years, (i) the use of the development shall be limited to residential purposes only (including permitted accessory uses), and (ii) none of the residential units on the property shall be leased or rented for a period of less than six months and one day:

a. Lots with a width of 100 feet or less.

b. Development sites of six residential units or fewer.

c.

New buildings on development sites with existing buildings for which off-street parking is not currently provided, where the total number of new residential units does not exceed the number of existing residential units.

d. Properties located within 1,500 feet of a public transit stop, or within 1,500 feet of any public or private parking garage.

(3) Minimum bicycle parking requirements. Secure off-site storage for bicycles shall be required as follows:

a. Short-term bicycle parking: Four spaces per building or one space per ten units, whichever is greater.

b. Long-term bicycle parking: One space per unit.

(Ord. No. 89-2665, § 7-1, eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 94-2901, eff. 1-29-94; Ord. No. 98-3108, § 4, 1-21-98; Ord. No. 2011-3728, § 3, 5-11-11; Ord. No. 2011-3738, § 1, 9-14-11; Ord. No. 2012-3786, § 1, 12-12-12; Ord. No. 2013-3812, § 1, 9-11-13; Ord. No. 2015-3974, § 2, eff. 10-24-15; Ord. No. 2016-4033, § 1, 9-27-16; Ord. No. 2018-4159, § 1, 1-17-18; Ord. No. 2018-4224, § 3, 11-14-18; Ord. No. 2018-4228, § 2, 12-12-18; Ord. No. 2019-4275, § 1, 6-5-19; Ord. No. 2020-4343, § 1, 6-4-20; Ord. No. 2021-4401, § 1, 2-10-21; Ord. No. 2021-4412, § 1, 5-12-21)

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Sec. 130-32. - Off-street parking requirements for parking district no. 1.

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 1, accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows:

(1) *Adult booth,* as defined in section 142-1271: One space per one adult booth.

(2) *Assisted living facility, adult family care home, birth center, community residential home, day/night treatment community housing, homes for special services, hospice facility, intermediate care facility for the developmentally disabled, residential treatment facility, residential treatment center, transitional living facility:* One space per two beds.

(2A) *Adult day care center:* One space per 300 square feet of floor area.

(2B) *Alcoholic beverage establishment:* One space per four seats and one space per 60 square feet of area not utilized for seating.

(3) *Alcoholic beverage establishment which permits partial nudity:* One on-site space per every three seats.

(4) *Amusement place, video arcade, dance hall, skating rink, auditorium or exhibition hall without fixed seats:* One space per every 60 feet of floor area available for seats where there is no seating.

(5) *Animal hospital:* One space per every 400 square feet of floor area.

(6) Apartment building and apartment-hotel:

a. Apartment buildings in RM-1 or RM-2 zoning districts on lots that are 65 feet in width or less: There shall be no parking requirement, provided secure storage for alternative transportation such as scooters, bicycles, and motorcycles, is provided.

b. Apartment buildings in RM-1 or RM-2 zoning districts on lots wider than 65 feet: One space per unit for units between 550 and 1,600 square feet; two spaces per unit for units above 1,600 square feet.

c. Apartment units in all other zoning districts:

1. One and one-half spaces per unit for units between 550 and 999 square feet;
2. One and three-quarters spaces per unit for units between 1,000 and 1,200 square feet;
3. Two spaces per unit for units above 1,200 square feet.

d. Designated guest parking: Developments of 20 units or less shall have no designated guest parking requirements. Multi-family buildings and suites-hotels with more than 20 units shall be required to provide supplemental designated guest parking equal to ten percent of the required residential parking spaces.

e. When located within the North Beach National Register Conservation Overlay District the following parking requirements shall apply:

1. Zero spaces per unit for:

A. Buildings on lots that are 65 feet in width or less;

B. development sites with six units or less, regardless of lot width;

C. New buildings on development sites with existing buildings that do not contain off-street parking, where total number of new units does not exceed the number of existing units.

2. One space per unit for buildings on lots greater than 65 feet in width. In the event that the property owner can substantiate that the proposed new construction will not need to provide off-street parking, the design review board or historic preservation board, as applicable, may waive the parking requirement.

3. For existing apartment, apartment-hotel and hotel buildings, which are classified as "contributing" and of which at least 75 percent of the front and street side elevations, and 25 percent of interior side elevations, are substantially retained, preserved and restored, there shall be no parking requirement for the existing structure, and any new additions, whether attached or detached, regardless of lot width and number of units. Any proposed addition to the existing structure shall be subject to the review

and approval of the design review board or historic preservation board, whichever has jurisdiction, and shall include a renovation plan for the existing structure that is fully consistent with the Secretary of the Interior Guidelines and Standards for the Rehabilitation of Historic Buildings.

(6A) Housing for low and/or moderate income non-elderly and elderly persons: As defined in chapter 58, article V.

a. Elderly housing unit(s) have no parking space requirement.

b. The parking requirements shall be the same as specified in subsection 130-32(6) above, or one-half of a parking space per dwelling unit, whichever is less, for non-elderly low and/or moderate income housing. Notwithstanding the above, if an existing building is renovated and the number of units is increased, or if units are added on a lot with an existing building that is retained and renovated, there shall be no parking requirement for the newly constructed units, and existing buildings shall be exempt from the requirements of subsection 118-395(b), entitled "repair and/or rehabilitation of nonconforming buildings and uses." Additionally, there is no parking requirement for workforce housing units if said units are provided in a main use parking garage.

c. Reserved.

d. Reserved.

e. Reserved.

f. A covenant running with the land restricting the use of the property for housing for low and/or moderate income non-elderly and elderly persons for a period of no less than 30 years shall be executed by the owner of the property, approved as to form by the city attorney, recorded in the public records of the county and shall be submitted prior to the issuance of a building permit. The declarations within the covenant are not severable. If a subsequent judicial determination invalidates the age restriction in this section, or the covenant, the city shall not issue a certificate of use and occupancy for a new use until the property owner satisfies the then applicable parking requirements under this Code. The property owner may satisfy the parking requirements by actually providing the additional parking spaces or by reducing the number of residential units. However, a property owner shall not be able to satisfy the parking requirements by the payment of a fee in lieu of providing parking. At the time of development review, the property owner shall submit a statement of intent to construct housing for low and/or moderate income non-elderly and elderly persons in accordance with this section.

g. After approval of the decrease in parking spaces, the premises shall not be used other than as housing for the non-elderly and elderly persons unless and until any parking requirements and all other requirements or limitations of this Code for the district involved and applying to the new use shall have been met.

(6B) Workforce housing shall have the same parking requirements as specified in subsection 130-32(6), above, or alternatively, one-half parking space per unit, whichever is less. Notwithstanding the above, if an existing building is renovated and the number of units is increased, or if units are added on a lot with an existing building that is retained and renovated, there shall be no parking requirement for the newly constructed units, and existing buildings shall be exempt from the requirements of subsection 118-395(b), entitled "repair and/or rehabilitation of nonconforming buildings and uses." Additionally, there is no parking requirement for workforce housing units if said units are provided in a main use parking garage.

(7) Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: One space per every four seats or one space per every 60 square feet of floor area available for seats. For ballrooms and meeting rooms in buildings associated with a hotel located in the RM-3 district (subject to the requirement that such hotel property be located within 100 feet of the ballroom and meeting room property), one space per every eight seats or one space per every 120 square feet of floor area available for seats.

(8) *Bar:* One space per every four seats and one space per every 60 square feet of area not utilized for seating.

(9) *Bowling alley or pool room:* One space per every alley, billiard or pool table.

(10) *Bus station:* One space per 60 square feet of floor area.

(11) *Cabana:* One space per every two cabanas.

(12) *Cafe, beachfront:* Shall have no parking requirement.

(13) *Cafe, outdoor:* One space per every four seats.

(14) *Cafes, sidewalk:* Shall have no parking requirement.

(15) *Church, synagogue or temple:* One space per every six seats or bench seating spaces in main auditorium. The planning board, through the conditional use process, may waive some or all required parking for new construction for religious institutions in the RM-1 district, provided the property is less than 8,000 square feet. Said conditional use application shall include a traffic operations plan.

(16) *College:* One space per every five seats in the main auditorium or one space per every three seats per classroom, whichever is greater.

(16A) *Dance hall:* One space per every four seats, and one space per every 60 square feet of area not utilized for seating.

(17) *Dormitory:* One space per every two beds, or one space per every 150 square feet of floor area, whichever is greater.

(17A)

Entertainment establishment: One space per every four seats, and one space per every 60 square feet of area not utilized for seating.

(18) *Financial institutions:* One space per 300 square feet of floor area.

(19) *Funeral home:* One space per every six seats or bench seating spaces in chambers and chapels.

(20) *Furniture store, hardware, machinery, equipment and automobile and boat sales and service:* One space per every 400 feet of floor area.

(21) *General service or repair establishment, printing, publishing, plumbing, heating, broadcasting:* One space per every 1,000 square feet of floor area.

(22) *Grocery stores, supermarket, fresh fruit, fish, meat, poultry:* One space per every 250 square feet of floor area.

(23) *High school:* One space per every 12 seats in the main auditorium or one space per every six seats in a classroom, whichever is greater.

(24) *HD hospital districts:* The following parking regulations shall apply to structures situated in the HD hospital district. The number of off-street parking spaces required for any structure shall be determined by the primary use of the structure in accordance with the requirements as follows:

a. Hospital: One and one-half spaces per hospital bed.

b. Educational facility: One space per five seats in the main auditorium or one space per three seats per classroom, whichever is greater.

c. Offices and clinics as identified in subsections 142-452(2)g and h: One space per 400 square feet of floor area.

d. Hospital staff offices as identified in subsection 142-452(2)i: One space per 350 square feet of floor area.

e. Research facility: One space per 1,000 square feet of floor area.

f. When not listed above, the parking requirement for uses listed in this section shall apply.

(25) *Hotel, convention:* For structures of less than 250 units, one space per unit; for structures with 250—499 units, 0.75 space per unit; for structures with 500 units or more, 0.50 space per unit. Required parking for convention hotel accessory uses shall be as follows:

a. Retail: Required parking shall be computed at one space per 500 square feet, minus 7.5 square feet per unit.

b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: Required parking shall be one space per every seven seats or one space per every 105 square feet of floor area where there is no seating, minus one seat or 15 square feet per unit.

c. Restaurant or other establishment for consumption of food or beverages on the premises: Required parking shall be one space per every seven seats or one space per every 105 square feet of floor area where there is no seating, minus one seat or 15 square feet per two units.

d. Required parking for all other uses shall be as set forth in this section.

The zoning board of adjustment may grant a variance for the total amount of parking required for a hotel and related accessory uses by up to ten percent.

(25A) *CCC civic and convention center district:* The following parking regulations shall apply to structures situated in the CCC civic and convention center district. The number of off-street parking spaces required for any structure shall be determined by the primary use of the structure in accordance with the requirements as follows:

a. Auditorium, convention hall or meeting rooms: One space per every 1,000 square feet of floor area available for seats.

b. Hotel, convention: 0.4 spaces per unit.

c. When not listed above, the parking requirement for primary uses listed in this section shall apply.

d. Accessory uses not listed above shall have no parking requirement.

e. Notwithstanding the requirements of section 130-101 pertaining to off-street loading, the off-street loading requirement for hotels and accessory uses to hotels shall be four spaces. However, additional loading spaces may be provided on site.

The city commission may waive the total amount of required parking for uses in the CCC district by up to 20 percent. Valet and tandem parking shall not be required to comply with the stacking limits in subsection 130-251(b).

(26) *Hotel, suites hotel, motel, or motor lodge:* One space per unit, except as follows:

Properties located within a local historic district or National Register Historic District		
	New floor area for hotel rooms, associated with retaining, preserving and restoring a building or structure that is classified as "contributing" as of March 13, 2013, as defined below	.5 spaces per unit, up to a maximum of 100 units and 1 space per unit for all units in excess of 100 units

	Other (e.g., new construction or substantial demolition of contributing building)	1 space per unit
Properties abutting Lincoln Lane South, between Drexel Avenue and Lenox Avenue		No off-street parking requirement
Properties bounded by 62nd Street on the south, 73rd Street on the north, Indian Creek on the west and the Atlantic Ocean on the east		.5 spaces per unit, up to a maximum of 100 units and 1 space per unit for all units in excess of 100 units
Properties located south of Fifth Street and properties zoned residential and located south of 17th Street, west of Alton Court, east of Biscayne Bay and north of 6th Street		1 space per unit
Properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as an historic site		.5 spaces per unit
Properties not listed above:		
	Hotels, limited by covenant to no restaurants or pools open to the public, no outdoor bar counters, entertainment or special events, and located in a commercial zoning district within 1,000 feet of the boundary of an area that is (1) zoned CD-3 and (2) part of an historic district	.5 spaces per unit, up to a maximum of 100 units and 1 space per unit for all units in excess of 100 units, up to a maximum cap of 150 rooms total
	Within 150 feet of a single-family district or RM-1 district, notwithstanding the above	1 space per unit

	Other	1 space per unit

;adv=1;For purposes of this section, "retaining, preserving and restoring a building or structure that is classified as 'contributing'" means that the following portions of such building or structure must remain substantially intact:

i. At least 75 percent of the front and street side facades;

ii. At least 75 percent of the original first floor slab;

iii. For structures that are set back two or more feet from interior side property line, at least 66 percent of the remaining interior side walls; and

iv. All architecturally significant public interiors;

or if approved by the historic preservation board, pursuant to section 118-395(b)(2)d.2.

In addition to the above, in order for any hotel to receive the reduced rate of .5 spaces per unit, a hotel guest shuttle service shall be provided and maintained, and a hotel employee parking plan is required, which shall be subject to the review and approval of the planning department. Such hotel employee parking plan shall include mandatory measures to address employee parking, including, but not limited to, provision of transit passes, carpool or vanpool programs, off-site parking when available, monthly city parking passes, and/or other measures intended to limit the impact of employee parking on surrounding neighborhoods.

However, suites hotel units as defined in section 142-1104 that are greater than 550 square feet and that contain full cooking facilities on lots that are greater than 50 feet in width, shall have the same parking requirement as apartment buildings in [subsections] (6)b. and c. above. Required parking for hotel accessory uses shall be as follows:

a. Retail—Required parking shall be computed at one space per 400 square feet, minus seven and one-half square feet per unit.

b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly—Required parking shall be one space per every four seats or one space per 60 square feet of floor area where there is no seating, minus one seat or 15 square feet per unit.

c. Restaurant or other establishment for consumption of food or beverages on the premises —Required parking shall be one space per four seats minus one seat for every two units.

d. Required parking for all other uses shall be as set forth in this section.

These parking requirements for hotel accessory uses are only applicable to structures that are being newly constructed or substantially rehabilitated as hotels.

The zoning board of adjustment may grant a variance for the total amount of parking required for a hotel and related accessory uses by up to 20 percent.

(26A) *Oceanfront lots zoned RM-3 in the architectural district, between 15th Street and 23rd Street,* containing a contributing structure, where the main or primary use is a hotel, the following shall apply to new construction:

a. *Hotel units.* There shall be no parking requirement for new construction containing hotel units where the total number of hotel units is not increased from the existing business tax receipt (BTR).

b. *Retail, meeting rooms or other places of assembly.* There shall be no parking requirements for individual accessory use establishments, that are accessory to hotel uses of 3,000 square feet or less. For individual accessory use establishments over 3,000 square feet, there shall be one space for every 300 square feet of floor area. A covenant running with the land, approved by the city attorney, shall be recorded to ensure that individual accessory use establishments will not be reconfigured internally in a way that would increase the minimum parking impact requirements without conditional use approval and payment of a one-time parking impact fee for each required parking space. Notwithstanding the above, when the total aggregate square footage of the above-mentioned accessory uses in this subsection b. exceeds ten percent of the gross floor area on the property, then parking shall be required for all of the uses.

c. *Restaurant, dining area, lounge, outdoor café or bar.* There shall be no parking requirement for individual accessory establishments, that are accessory to hotel use, of 3,000 square feet per hotel. For individual accessory establishments over 3,000 square feet there shall be one space per four seats or one space per 60 square feet of space not used for seating. A covenant running with the land, approved by the city attorney, shall be recorded to ensure that individual accessory establishments will not be reconfigured internally in a way that would increase the minimum parking requirement without conditional use approval and payment of a one-time parking impact fee for each required parking space. Notwithstanding the above, when the total aggregate square footage of the above-mentioned accessory uses in this subsection c., exceeds 20 percent of the gross floor area on the property, then parking shall be required for all of the uses.

d. *Gymnasiums, spas or saunas.* There shall be no parking requirement for accessory gymnasiums, spas or saunas, for registered hotel guests only. The use of gymnasiums, spas or saunas by the general public shall comply with all applicable parking requirements.

(27) *Junior high, elementary or nursery school:* One space per 15 seats in main assembly room, plus one space per classroom.

(28) *Laundry:* One space per 500 square feet of floor area.

(29) *Major cultural dormitory facility:* One space per unit.

(30) *Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse or similar establishment:* One space per 1,000 square feet of floor area.

(31) *Marina:* One space per every two wet slips; one space per every ten slips in dry dock storage facility.

(32) *Medical cannabis treatment center, pharmacy store:* One space per 300 square feet of floor area.

(32A) *Medical office, optician, retail clinic, electrology facility, ambulatory surgical center, laboratory, comprehensive outpatient rehabilitation facility, end-stage renal disease center, health care clinic, intensive outpatient treatment facility, prescribed pediatric extended care center, urgent care center, women's health clinic, pathologist, rehabilitation agency:* One space per 300 square feet of floor area.

(33) *Nursing homes:* One space for each two beds.

(34) *Office or office building:* One space per 400 square feet of floor area; however, offices located on the ground floor shall provide one space per 300 square feet.

(35) *Private clubs, country clubs, fraternities, sororities and lodges:* One space per every 250 square feet of floor area.

(36) *Restaurants or other establishment for consumption of food or beverages on the premises:* One space per every four seats; take out restaurant with no seats: One space per every 300 square feet of floor area; take out restaurant and home delivery with no seats: One space per every 200 square feet of floor area. Parking requirements for restaurants offering a combination of services shall be cumulative. Restaurants that have an occupational license for an alcoholic beverage establishment, dance hall or entertainment establishment shall meet the parking requirement indicated for those uses.

(37) *Retail store, coin laundry, dry cleaning receiving station, stock brokerage or personal service establishment:* One space per every 300 square feet of floor area.

(38) *Roominghouse, boardinghouse or lodginghouse:* One space per every hotel unit, plus two additional spaces for the building.

(39) *Single-family detached dwelling:* Two spaces.

(40) *Shopping center:* One space per every 300 square feet; however, the parking requirements for eating and drinking uses shall be as established under subsection (32) of this section.

(41) *Theatre:* One space per every four seats.

(42)

Telephone exchanges or equipment buildings: One space per every 1,500 square feet of floor area.

(43) *Townhouse:* Two spaces for each unit plus one designated guest space per every five units.

(44) *[Contributing building on oceanfront lot:]* Any contributing building on an oceanfront lot, located within a local historic district, or individually designated historic site, which is located in parking district no. 1, may provide parking on the site for any use listed in subsections (2A), (6), (7), (8), (9), (11), (12), (13), (16A), (17), (17A), (22), (26), (28), (31), (36), (37) and (41) above. Such parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations. Any such parking shall be for the exclusive use of the contributing building or designated site and shall not be in excess of the parking required under the provisions of paragraphs (2A), (6), (7), (8), (9), (11), (12), (13), (16A), (17), (17A), (22), (26), (28), (31), (36), (37) and (41) above.

(Ord. No. 89-2665, § 7-2(A), eff. 10-1-89; Ord. No. 90-2684, eff. 3-3-90; Ord. No. 90-2685, eff. 3-3-90; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 94-2934, eff. 8-7-94; Ord. No. 98-3108, § 5(A), 1-21-98; Ord. No. 99-3222, § 3, 12-15-99; Ord. No. 2003-3410, § 1, 5-21-03; Ord. No. 2006-3503, § 2, 2-8-06; Ord. No. 2007-3567, § 1, 9-5-07; Ord. No. 2011-3744, § 1, 10-19-11; Ord. No. 2013-3795, § 1, 3-13-13; Ord. No. 2014-3878, § 1, 6-11-14; Ord. No. 2015-3919, § 1, 1-14-15; Ord. No. 2017-4119, § 1, 7-26-17; Ord. No. 2017-4122, § 1, 7-26-17; Ord. No. 2017-4133, § 3, 9-25-17; Ord. No. 2017-4148, § 3, 10-18-17; Ord. No. 2017-4149, § 2, 10-18-17; Ord. No. 2018-4161, § 1, 1-17-18; Ord. No. 2018-4170, § 1, 1-17-18; Ord. No. 2018-4184, § 1, 4-11-18; Ord. No. 2018-4187, § 3, 4-11-18; Ord. No. 2019-4250, § 2, 3-13-19; Ord. No. 2019-4276, § 2, 6-5-19; Ord. No. 2020-4351, § 1, 7-29-20; Ord. No. 2020-4368, § 2, 10-14-20; Ord. No. 2020-4376, § 1, 11-18-20)

Sec. 130-33. - Off-street parking requirements for parking districts nos. 2, 3, 4, 5, 6, 7, 8, and 9.

(a) *Parking district nos. 2, 3, and 4.* Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking districts nos. 2, 3, and 4 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. There shall be no off-street parking requirement for uses in this parking district except for those listed below:

(1) *Apartment building and apartment-hotel:*

a. Apartment buildings on lots that are 50 feet in width or less: 1.5 spaces per unit;

b. Apartment buildings on lots wider than 50 feet:

One and one-half spaces per unit for units between 550 and 999 square feet;

One and three-quarters spaces per unit for units between 1,000 and 1,200 square feet;

Two spaces per unit for units above 1,200 square feet.

c.

Designated guest parking: Developments of 20 units or less shall have not designated guest parking requirements. Multifamily buildings and suites-hotels with more than 20 units shall be required to provide supplemental designated guest parking equal to ten percent of the required residential parking spaces.

d. For apartment buildings located within parking district no. 5, there shall be no designated guest parking requirement; there shall be no parking requirement for existing structures utilized for residential apartments; one space per unit for new construction and/or additions utilized for residential apartments.

e. For existing apartment and apartment-hotel buildings, which are classified as "contributing", are located within the Normandy Isles National Register District, and which are being substantially retained, preserved and restored, there shall be no parking requirement for the existing structure, and any addition up to a maximum of 2,500 square feet, whether attached or detached. The proposed addition to the existing structure shall be subject to the review and approval of the design review board or historic preservation board, whichever has jurisdiction, and shall include a renovation plan for the existing structure that is fully consistent with the Secretary of the Interior Guidelines and Standards for the Rehabilitation of Historic Buildings.

(1A) *Housing for low and/or moderate income non-elderly and elderly persons,* as defined in chapter 58, article V of the city Code.

a. Zero parking space per dwelling unit for elderly housing.

b. The parking requirements shall be the same as specified in section 130-32(6) above, or one-half parking spaces per unit, whichever is less, per dwelling unit for non-elderly low and/or moderate income housing. Notwithstanding the above, when an existing building is renovated and the number of units is increased, or when units are added on a lot with an existing building that is retained and renovated, there shall be no parking requirement for the newly constructed units, and existing buildings shall be exempt from the requirements of subsection 118-395(b), repair and/or rehabilitation of nonconforming buildings and uses.

c. For the purposes of this section only, housing for low and/or moderate income non-elderly and elderly persons shall be publicly owned or nonprofit sponsored and owned, or developed by for-profit organizations.

d. The applicant shall submit written certification from the corresponding state or federal agency in charge of the program.

e. Reserved.

f. A covenant running with the land restricting the use of the property for housing for low and/or moderate income non-elderly and elderly persons for a period of no less than 30 years shall be executed by the owner of the property, approved as to form by the city

attorney, recorded in the public records of the county and shall be submitted prior to the issuance of a building permit. The declarations within the covenant are not severable. If a subsequent judicial determination invalidates the age restriction in this section, or the covenant, the city shall not issue a certificate of use and occupancy for a new use until the property owner satisfies the then applicable parking requirements under this Code. The property owner may satisfy the parking requirements by actually providing the additional parking spaces or by reducing the number of residential units. However, a property owner shall not be able to satisfy the parking requirements by the payment of a fee in lieu of providing parking. At the time of development review, the property owner shall submit a statement of intent to construct housing for low and/or moderate income non-elderly and elderly persons in accordance with this section.

g. After approval of the decrease in parking spaces, the premises shall not be used other than as housing for the non-elderly and elderly persons unless and until any parking requirements and all other requirements or limitations of this Code for the district involved and applying to the new use shall have been met.

(1B) *Workforce housing:* Shall have the same parking requirements as specified in section 130-32(6), or alternatively, one-half parking spaces per unit, whichever is less. Notwithstanding the above, when an existing building is renovated and the number of units is increased, or when units are added on a lot with an existing building that is retained and renovated, there shall be no parking requirement for the newly constructed units, and existing buildings shall be exempt from the requirements of section 118-395(b), Repair and/or rehabilitation of nonconforming buildings and uses.

(2) *Assisted living facility, adult family care home, birth center, community residential home, day/night treatment community housing, homes for special services, hospice facility, intermediate care facility for the developmentally disabled, residential treatment facility, residential treatment center, transitional living facility:* One space per two beds.

(2A) *Adult day care center:* One space per 300 square feet of floor area.

(3) *Hotel, convention:* One space per two units. Required parking for convention hotel accessory uses shall be as follows:

a. Retail: Required parking shall be computed at one space per 500 square feet of floor area, minus seven and one-half square feet per unit.

b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: Required parking shall be one space per seven seats or one space per 105 square feet of floor area where there is no seating, minus one seat for 15 square feet per unit.

c.

Restaurant or other establishment for consumption of food or beverages on the premises: Required parking shall be one space per seven seats or one space per 105 square feet of floor area where there is no seating, minus one seat or 15 square feet per two units.

d. Required parking for all other uses shall be as set forth in this section.

The zoning board of adjustment may grant a variance for the total amount of parking required for a convention hotel and related accessory uses of up to ten percent.

(4) *Hotel, suites hotel, motel, or motor lodge:* One space per unit, except as follows:

Properties located within a local historic district or National Register Historic District north of 63rd Street		
	New floor area for hotel rooms, associated with retaining, preserving and restoring a building or structure that is classified as "contributing" as of March 13, 2013, as defined below	.5 spaces per unit, up to a maximum of 100 units and 1 space per unit for all units in excess of 100 units
	New hotel units as part of additions to contributing buildings on Lincoln Road between Pennsylvania Avenue and Lenox Avenue	No off-street parking requirement
	Other (e.g., new construction or substantial demolition of contributing building)	1 space per unit
Properties bounded by 62nd Street on the south, 73rd Street on the north, Indian Creek on the west and the Atlantic Ocean on the east		.5 spaces per unit, up to a maximum of 100 units and 1 space per unit for all units in excess of 100 units

Properties located south of Fifth Street and properties zoned residential and located south of 17th Street, west of Alton Court, east of Biscayne Bay and north of 6th Street		1 space per unit
Properties not listed above:		
	Hotels, limited by covenant to no restaurants or pools open to the public, no outdoor bar counters, entertainment or special events, and located in a commercial zoning district within 1,000 feet of the boundary of an area that is (1) zoned CD-3 and (2) part of an historic district	.5 spaces per unit, up to a maximum of 100 units and 1 space per unit for all units in excess of 100 units, up to a maximum cap of 150 rooms total
	Within 150 feet of a single-family district or RM-1 district, notwithstanding the above	1 space per unit
	Other	1 space per unit

For purposes of this section, "retaining, preserving and restoring a building or structure that is classified as 'contributing'" means that the following portions of such building or structure must remain substantially intact:

i. At least 75 percent of the front and street side facades;
ii. At least 75 percent of the original first floor slab;
iii. For structures that are set back two or more feet from interior side property line, at least 66 percent of the remaining interior side walls; and
iv. All architecturally significant public interiors;

or if approved by the historic preservation board, pursuant to section 118-395(b)(2)d.2.

In addition to the above, in order for any hotel to receive the reduced rate of .5 spaces per unit, a hotel guest shuttle service shall be provided and maintained, and a hotel employee parking plan is required, which shall be subject to the review and approval of the planning department. Such hotel employee parking, plan shall include mandatory measures to address employee parking, including, but not limited to, provision of transit passes, carpool or vanpool programs, off-site parking when available, monthly city parking passes, and/or other measures intended to limit the impact of employee parking on surrounding neighborhoods.

However, suites hotel units as defined in section 142-1105 that are greater than 550 square feet and that contain full cooking facilities in buildings on lots that are greater than 50 feet in width shall have the same parking requirement as apartment buildings in [subsections] (1)b. and c. above. Required parking for hotel accessory uses shall be as follows:

a. Retail: Required parking shall be computed at one space per 400 square feet of floor area, minus seven and one-half square feet per unit.
b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: Required parking shall be one space per four seats or one space per 60 square feet of floor area where there is no seating, minus one seat or 15 square feet per unit.
c. Restaurant or other establishment for consumption of food or beverages on the premises: Required parking shall be one space per four seats minus one seat for every two units.
d. Required parking for all other uses shall be as set forth in this section.

These parking requirements for hotel accessory uses are only applicable to structures that are being newly constructed or substantially rehabilitated as hotels. The zoning board of adjustment may grant a variance for the total amount of parking required for a hotel, suites hotel, motel or motor lodge and related accessory uses of up to 20 percent.

(4A) *Medical cannabis treatment center, pharmacy store:* One space per 300 square feet of floor area.

(4B) *Medical office, optician, retail clinic, electrology facility, ambulatory surgical center, laboratory, comprehensive outpatient rehabilitation facility, end-stage renal disease center, health care clinic, intensive outpatient treatment facility, prescribed pediatric extended care center, urgent care center, women's health clinic, pathologist, rehabilitation agency:* One space per 300 square feet of floor area.

(5) *Offices:* One space per 400 square feet of floor area, provided, however, offices located on the ground floor shall provide one space per 300 square feet of floor area.

(6)

Development on city-owned land. In addition to the off-street parking spaces required pursuant to any other applicable provision in this section 130-33, developments on city-owned land located within parking district no. 2, that are approved under a development agreement that is fully executed pursuant to section 118-4 of this Code, shall be required to provide designated accessory off-street public parking spaces in a number not to exceed 200 percent of the otherwise required accessory off-street parking spaces for the development, calculated without reduction for alternative parking incentives under section 130-40.

(7) *Theaters:* One space for every four seats.

(8) *Religious institutions, schools, nursing homes:* As per section 130-32.

(9) *Any building or structure erected in parking district no. 2, 3, or 4:* May provide required parking on site as specified in parking district no. 1. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations.

(b) *[Parking district no. 5.]* Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 5, off-street parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking district no. 1 in section 130-32.

(1) Restaurant with alcoholic beverage license or other establishment for consumption of food or beverages: No parking requirement for an individual establishment of less than 100 seats that does not exceed 3,500 square feet of floor area. To the extent that an establishment exceeds 100 seats and/or 3,500 square feet of floor area, one parking space per four seats and one parking space per 60 square feet of floor area not used for seating shall be required. Such parking may be satisfied by paying an annual fee in lieu of providing the required parking in accordance with section 130-132.

(2) Retail store, or food store, or personal service establishment: There shall be no parking requirement for individual establishments of 3,500 square feet or less. An establishment over 3,500 square feet shall provide one space per 300 square feet of floor area for retail space that exceeds 3,500 square feet of floor area. Such parking may be satisfied by paying an annual fee in lieu of providing the required parking in accordance with section 130-132.

(3) Developments greater than 10,000 square feet of new construction: For new construction that is between 10,000 to 15,000 square feet, in lieu of providing required parking on site, a one-time fee may be paid prior to the issuance of the building permit, for that portion of new construction between 10,000 and 15,000 square feet. All portions of new construction that is greater than 15,000 square feet shall provide all the required parking on site.

(4)

There shall be no parking requirement for nonresidential uses located above the ground floor, regardless of square footage. Notwithstanding the foregoing, required parking for office uses may be provided on-site, pursuant to the regulations for parking district no. 1. Such required parking, if provided for office uses, shall be exempt from FAR, in accordance with the regulations in chapter 114 of these land development regulations.

(5) Removal of existing parking spaces: No existing required parking space may be eliminated, except through the provisions of section 130-35, or through the payment of the one-time fee in lieu of providing the parking in effect at the time, which shall be paid prior to the approval of a building permit, provided such elimination of parking spaces does not result in an FAR penalty (exceeding permitted floor area ratio).

(6) Modifications to existing structures to meet raised street and sidewalk levels: There shall be no parking requirement for existing structures that raise the entire ground or first floor of the structure to meet or exceed the height of the abutting sidewalk(s). The parking requirement for any addition, up to 10,000 square feet, may be satisfied by paying an annual fee in lieu of providing the required parking in an amount equal to two percent of the total amount due for all of the uses within the proposed building. Additionally, any existing required parking spaces, which are located at the first level or open to the sky at the roof level, may be eliminated, without paying a fee in lieu of parking.

(c) *Parking district no. 6.* Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 6, off-street automobile parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking district no. 1 in section 130-32.

(1) *Apartment building and apartment-hotel:*

a. On lots that are 65 feet in width or less: There shall be no parking requirement, provided the apartment building or apartment-hotel site secures off-site storage for alternative transportation such as scooters, bicycles, and motorcycles.

b. On lots wider than 65 feet:

1. One space per unit for units between 550 and 1,600 square feet;
2. Two spaces per unit for units above 1,600 square feet.

c. Designated guest parking: Developments of 20 units or less shall have no designated guest parking requirements. Multifamily buildings and suites-hotels with more than 20 units shall be required to provide supplemental designated guest parking equal to ten percent of the required residential parking spaces.

d.

Car sharing: The minimum parking requirements listed in a.—g. above may be reduced by four parking spaces for every one parking space reserved for a vehicle owned and operated by an official car-share program sanctioned by the City of Miami Beach, not to exceed a total of four car-share parking spaces or 20 percent of the total number of required residential parking spaces, whichever is less.

(2) *Retail stores, food stores, personal service establishments:* There shall be no parking requirement for individual establishments of 2,500 square feet or less up to a total aggregate square footage of 10,000 square feet per development site. For individual establishments over 2,500 square feet or for development sites with a total aggregate square footage of more than 10,000 square feet of these uses, there shall be one space for every 300 square feet of floor area. A covenant running with the land, approved by the city attorney, shall be recorded to ensure that individual stores will not be reconfigured internally in a way that would increase the minimum parking requirement without conditional use approval and payment of a one-time parking impact fee for each required parking space.

(3) *Restaurant, outdoor cafe or bar:* There shall be no parking requirement for individual establishments of 60 seats or less or 1,500 square feet or less of eating and/or drinking areas, up to a total aggregate square footage of 5,000 square feet per development site. For individual establishments over 60 seats or 1,500 square feet of eating and/or drinking areas, or for development sites with a total aggregate square footage of more than 5,000 square feet of these uses, there shall be one space per four seats or one space per 60 square feet of space not used for seating. Notwithstanding the foregoing, for restaurants operating as of December 1, 2022, and located south of 10th Street, there shall be no parking requirement for an individual establishment of 150 seats or less. If the total number of seats exceeds 150 at any time, there shall be a minimum off-street parking requirement of one space per four seats or one space per 60 square feet of space not used for seating, for the entire restaurant.

(4) *Hotel, suites hotel, motel or motor lodge:* One space per two units; however, suites hotel units as defined in section 142-1105 that are greater than 550 square feet and that contain full cooking facilities shall have the same parking requirement as apartment buildings in (1) above. Required parking for hotel accessory uses shall be the same as for (2) and (3) above:

(5) *Offices:* One space per 400 square feet of floor area. However, medical offices and clinics or offices located on the ground floor shall provide one space per 300 square feet of floor area. The minimum parking requirements for office uses may be reduced by up to 20 percent in cases where the developer voluntarily proffers a restrictive covenant running with the land, form approved by the city attorney, ensuring that the required office parking spaces shall be shared by all users in the building and shall not be reserved for individual persons or tenants.

(6) *All nonresidential uses:* The minimum parking requirement may be reduced as follows:

a.

Centralized parking: The minimum parking requirement may be reduced for properties located near a publicly accessible off-street parking facility according to the following formulas: Up to 30 percent within 500 feet, up to 20 percent within 1,000 feet, up to ten percent within 1,200 feet. Such reduction shall be subject to a finding by the planning director based upon a parking study provided by the applicant that documents the availability of parking spaces within the publicly accessible parking facility to serve the residual demand resulting from the reduced number of on-site parking spaces, and the availability of safe and convenient pedestrian access routes to the off-site parking supply. Distances shall be measured along the pedestrian pathway between the pedestrian access points for the subject uses and the parking facility. Additionally, in order for any use to receive the above-reduced rates a shuttle service shall be provided and maintained and an employee parking plan required which shall be subject to the review and approval of the planning department. Such employee parking plan shall include mandatory measures to address employee parking including, but not limited to, provision of transit passes carpool or vanpool programs, off-site parking when available, monthly city parking passes and/or other measures intended to limit the impact of employee parking on surrounding neighborhoods.

b. *Shared parking:* Mixed use development is encouraged to utilize the shared parking calculations in section 130-221. Parking for residential uses may be included in the shared parking calculation at a rate of 50 percent for daytime weekdays, 70 percent for daytime weekends and 100 percent for all other times. Shared parking shall be designated by appropriate signage and markings. The shared parking facility may be located off-site within 600 feet of the uses served, subject to section 130-36.

c. *Carpool/vanpool parking:* The minimum parking requirement may be reduced by three parking spaces for every one parking space reserved for carpool or vanpool vehicles registered with South Florida Commuter Services, not to exceed a reduction of more than ten percent of the off-street parking spaces that would otherwise be required. The property manager must submit an annual report to the planning director documenting the carpool/vanpool registration and ongoing participation by registered users.

(7) *Bicycle parking:* Short-term and long-term bicycle parking shall be provided for new construction or substantial rehabilitation over 1,000 square feet, according to the minimum standards in the table below and the "Guidelines for the Design and Management of Bicycle Parking Facilities" available from the planning department.

a. Short-term bicycle parking (bicycle racks) serves 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 near the main entrance to the use.

b. Long-term bicycle parking includes 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.

Land use	Minimum short-term bicycle parking spaces (whichever is greater)	Minimum long-term bicycle parking spaces (whichever is greater)
Commercial non-retail	4 per project or 1 per 10,000 square feet	1 per 10 percent of employees; or 2 for 5,000 square feet and under; 3 for 5,001—20,000 square feet; 6 for 20,001—50,000 square feet; 10 for 50,000 square feet and over
Retail	1 per business, 4 per project or 1 per 10,000 square feet	1 per 10 percent of employees; or 2 per 5,000 square feet and under; 3 per 5,001—20,000 square feet; 6 for 20,001—50,000 square feet; 10 for 50,000 square feet and over
Restaurants, bars, nightclubs	1 per 10 seats or occupants	1 per 10 percent of employees
Hotel	2 per hotel or 1 per 10 rooms	1 per 10 percent of employees
Multifamily residential	4 per project or 1 per 10 units	1 per unit

c. Developers are encouraged to provide more than the minimum requirement as appropriate for the particular uses in a building. The minimum required vehicular parking shall be reduced by: One space for every five long-term bicycle parking spaces and one

space for every ten short-term bicycle parking spaces, not to exceed a total of 30 vehicular parking spaces or 15 percent of the required vehicle parking spaces whichever is less.

d. Nonresidential uses that provide showers and changing facilities for bicyclists shall be exempted from vehicle parking requirements at a rate of two vehicle parking spaces for each separate shower facility up to a maximum of eight parking spaces.

e. Short-term bicycle parking spaces may be provided in the public right-of-way subject to design review, in situations where suitable space near the entrance to the building or storefront is not available on private property. Bicycle parking in the public right-of-way shall be subject to review and approval by the public works department and shall not encroach on the pedestrian throughway zone.

(8) *Lincoln West parking subzone.* For sites within the Lincoln West Parking Subzone, which is located between 16th Street and Collins Canal, the following additional provisions shall apply to unified developments that provide at least 200 parking spaces on site:

a. Hotel rooms shall require no parking.

b. There shall be no parking requirement for individual dining areas, lounges, outdoor café or bar establishments of 60 seats or less, or eating and/or dining areas of 1,500 square feet or less, that are accessory to a hotel use, up to a total aggregate square footage of 5,000 square feet per hotel. For hotel uses with more than 5,000 square feet of these accessory uses, there shall be one space per four seats and one space per 60 square feet of space not used for seating. A covenant running with the land, approved by the city attorney, shall be recorded to ensure that individual stores will not ne reconfigured internally in a way that would increase the minimum parking requirement without condition use approval and payment of a one-time parking impact fee for each required parking space.

c. Any building or structure erected in the Lincoln West Parking subzone may provide required parking on site as specified in parking district no. 6. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations.

(d) *Parking district no. 7.* Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 7, off-street automobile parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking district no. 1 or parking district no. 2, as applicable.

(1) Co-living units. No parking requirement.

(2) Hotel and hostel: No parking requirement. For accessory uses to a hotel or hostel, the minimum parking is as set-forth in parking district no. 1.

(3) Office: No parking requirement.

(4) Retail:

a. Retail existing as of the date of adoption of parking district no. 7 shall have no parking requirement.

b. For new retail construction, one space per 300 square feet of floor area.

c. Notwithstanding the above, there shall be no parking requirement for retail uses, provided that a parking garage with publicly accessible parking spaces is located within 500 feet.

(5) Quality restaurants (i.e. full service eating establishments 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): No parking requirement.

(6) Café, outdoor: No parking requirement.

(7) Approved parklets shall have no parking requirement.

(8) Any building or structure erected in parking district no. 7 may provide required parking on site as specified in parking district no. 1. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations.

The parking requirements in this subsection 130-33(d)(1), (2), (3), (4), (5), (6), and (7) shall only apply to projects that have obtained a full building permit or business tax receipt by September 1, 2027.

(e) *Parking district no. 8.* Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 8, off-street automobile parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking district no. 4, as applicable.

(1) Apartment units and townhouses:

a. One-half space per unit for units between 550 and 850 square feet.

b. Three-quarters space per unit for units between 851 and 1,250 square feet.

c. One space per unit for units above 1,250 square feet.

(2) Affordable housing and workforce housing: No parking requirement.

(3) Co-living and live-work units less than 550 square feet: No parking requirement. For co-living and live-work units greater than 550 square feet, the parking requirement shall follow the per unit requirement specified under apartment units and townhomes.

(4)

Hotel: No parking requirement. For accessory uses to a hotel, no parking requirement provided a facility with publicly accessible parking spaces is located within the TC-C district, or 1,500 feet of the site, provided the parking is not located within a residential district; otherwise, as per parking district no. 4.

(5) Office: No parking requirement provided a facility with publicly accessible parking spaces is located within the TC-C district or 1,500 feet of the site, provided the parking is not located within a residential district; otherwise, as per parking district no. 4.

(6) In order to encourage the use of alternative modes of transportation, the limitation for the sum of all parking reductions in subsection 130-40(g) shall not apply in parking district no. 8.

(7) In order to encourage the use of centralized parking locations, required off-street parking may be located within 2,000 feet of a development site.

(8) Any building or structure erected in parking district no. 8 may provide required parking on site as specified in parking district no. 1. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 114 of these land development regulations.

(9) New construction of any kind may satisfy their parking requirement by participation in the fee in lieu of parking program for pursuant to subsection 130-132(a) of the City Code.

(10) Short-term and long-term bicycle parking shall be provided for development in parking district no. 8 as follows:

a. Commercial uses in parking district no. 8 shall provide, at a minimum, bicycle parking as follows:

1. Short-term bicycle parking: One per business, four per project, or one per 10,000 square feet, whichever is greater.
2. Long-term bicycle parking: One per business, or two per 5,000 square feet.

b. Hotel uses in parking district no. 8 shall provide, at a minimum, bicycle parking as follows:

1. Short-term bicycle parking: Two per hotel or one per ten rooms, whichever is greater.
2. Long-term bicycle parking: Two per hotel or one per 20 rooms, whichever is greater.

c. Residential uses in parking district no. 8 shall provide, as a minimum, bicycle parking as follows:

1. Short-term parking: Four per building, or one per ten units, whichever is greater.
2. Long-term parking: One unit.

The above noted requirement bicycle parking shall be permitted to apply towards vehicle parking reductions identified in section 130-40.

(f)

Parking district no. 9. Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 9, off-street automobile parking spaces shall be provided for the building, structure or additional floor area as set forth in this subsection (f).

For uses not listed below, the off-street parking requirement shall be the same as the requirements for parking district no. 1, as set forth in section 130-32.

(1) Hotel units: No parking requirement.

(2) Restaurant, outdoor café or bar: No parking requirement for an individual establishment of less than 100 seats, provided that the restaurant, outdoor café, or bar use is within 1,200 feet of any public or private parking garage. If a restaurant, outdoor café or bar exceeds 100 seats, the parking requirement shall be one space for every four seats or bar stools, or one space per 60 square feet of space not used for seating in excess of the foregoing limitation. Such parking may be satisfied by paying an annual fee in lieu of providing the required parking, in an amount equal to two percent of the total amount due for parking associated with all of the uses within the proposed building.

(3) Retail store, or food store, or personal service establishment: There shall be no parking requirement for individual establishments of 5,000 square feet or less, whether as a primary or accessory use, provided that the use is within 1,200 feet of any public or private parking garage. If the use exceeds 5,000 square feet, the parking requirement shall be one space for every 300 square feet of floor area in excess of the foregoing limitation. Such parking may be satisfied by paying an annual fee in lieu of providing the required parking, in an amount equal to two percent of the total amount due for parking associated with all of the uses within the proposed building.

(4) Any building or structure erected in parking district no. 9 may provide required parking on site, consistent with the off-street parking requirements for parking district no. 1, as set forth in section 130-32.

The parking requirements in this subsection 130-33(d)(1), (2), (3), (4) and (5) shall only apply to projects that have obtained a full building permit or business tax receipt by September 1, 2020.

(Ord. No. 89-2665, § 7-2(B), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2901, eff. 1-29-94; Ord. No. 98-3108, § 5(B), 1-21-98; Ord. No. 2003-3410, § 2, 5-21-03; Ord. No. 2006-3503, § 3, 2-8-06; Ord. No. 2007-3567, § 2, 9-5-07; Ord. No. 2011-3744, § 2, 10-19-11; Ord. No. 2012-3786, § 2, 12-12-12; Ord. No. 2013-3795, § 1, 3-13-13; Ord. No. 2013-3802, § 1, 6-5-13; Ord. No. 2013-3812, § 1, 9-11-13; Ord. No. 2014-3878, § 1, 6-11-14; Ord. No. 2014-3905, § 1, 11-19-14; Ord. No. 2015-3974, § 2, eff. 10-24-15; Ord. No. 2017-4097, § 1, 5-17-17; Ord. No. 2017-4129, § 1, 9-25-17; Ord. No. 2017-4133, § 3, 9-25-17; Ord. No. 2017-4148, § 4, 10-18-17; Ord. No. 2017-4149, § 3, 10-18-17; Ord. No. 2018-4159, § 1, 1-17-18; Ord. No. 2018-4170, § 1, 1-17-18; Ord. No. 2018-4224, § 3, 11-14-18; Ord. No. 2019-4231, § 2, 1-16-19; Ord. No. 2019-4275, § 1, 6-5-19; Ord. No.

2019-4293, § 1, 9-11-19; Ord. No. 2019-4303, § 1, 10-16-19; Ord. No. 2019-4312, § 2, 10-16-19; Ord. No. 2021-4437, § 3, 7-28-21; Ord. No. 2022-4494, § 1, 6-22-22; Ord. No. 2022-4498, § 1, 6-22-22; Ord. No. 2022-4504, § 1, 7-20-22; Ord. No. 2023-4539, § 1, 2-22-23)

Sec. 130-34. - Zoning districts exempted from providing parking.

There shall be no required parking for any use located in the dune overlay district or waterway district 1.

(Ord. No. 89-2665, § 7-2(C), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 98-3108, § 5(C), 1-21-98)

Cross reference— Zoning districts and regulations, ch. 142.

Sec. 130-35. - Removal of existing parking spaces.

Except as provided for within subsection 130-132(c), no existing required parking space, which is legally conforming, may be eliminated for any use. However, notwithstanding the forgoing, the elimination of any such legal conforming, required parking space for the purposes of addressing Americans with Disabilities Act (ADA) compliance or for the creation of an enclosed dumpster/trash area when there has been a determination by the planning and zoning director of no feasible alternate location shall be permitted without the need to replace such space or payment of in lieu of required parking.

(Ord. No. 98-3108, § 5(D), 1-21-98; Ord. No. 2016-4033, § 1, 9-27-16)

Sec. 130-36. - Off-site parking facilities.

(a) All parking spaces required in this article shall, be provided on a self-park basis or valet parking basis in accordance with section 130-251, and shall be located on the same lot with the building or use served, or offsite if one of the following conditions is met:

(1) The parking is within a distance not to exceed 1,200 feet of the property with the use(s), if located in the architectural district or a local historic district.

(2) The parking is within a distance not to exceed 500 feet of the property with the use(s), when the use is not located in the architectural district or a local historic district.

(3) For properties south of Fifth Street, the parking is within a distance not to exceed 1,500 feet of the property with the use(s). For purposes of this subsection, the property with the uses(s) shall be located south of Fifth Street and the parking facility may be located north of Fifth Street.

(4) For properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as an historic site, the parking is within a distance not to exceed 2,500 feet of the property if the use is within city limits, or is within a distance not to exceed one mile of the property if the use is outside city limits.

The foregoing distance separation shall be measured by following a straight line from the property line of the lot on which the main permitted use is located to the property line of the lot where the parking lot or garage is located.

(b) Where the required parking spaces are not located on the same lot with the building or use served and used as allowed in section 130-32, a unity of title or for nonadjacent lots, either a unity of title or a covenant in lieu of unity of title for parking unification shall be required for the purpose of insuring that the required parking is provided. Such unity of title or restrictive covenant shall be executed by owners of the properties concerned, approved as to form by the city attorney, recorded in the public records of the county as a covenant running with the land and shall be filed with the application for a building permit. Alternatively, for a change of use in an existing building, or a property located north of Normandy Drive having a lot area greater than 30,000 square feet and which is individually designated as an historic site, a lease for the purpose of insuring that the required parking for the new use is provided may be utilized, in accordance with the following:

(1) The subject lease shall be executed by the owner of the properties providing the required parking and the user of the required spaces; such lease to be approved as to form and necessary minimum requirements by the city attorney.

(2) The required parking spaces provided off site shall be for the sole use of the user of the spaces and shall not be available for underutilized parking or subleased to a third party. Subleases of any kind shall be prohibited.

(3) All required parking spaces provided on the off-site properties shall be dedicated and clearly marked for the user of the establishment 24 hours a day, seven days a week. This 24-hour dedicated use requirement shall be an explicit term in the lease agreement.

(4) The exact location of the required spaces provided off-site shall be clearly delineated on site and floor plans, prepared by a registered architect or engineer, and shall be incorporated into the lease as an exhibit.

(5) A copy of the renewal of all leases shall be provided to the city within 60 days of such renewal. In the event the terms of a lease should change, such changes shall be approved as to form and necessary minimum requirements by the city attorney.

(6) The lease shall be for at least a minimum of a calendar year.

(7) The lease shall require that the tenant and landlord notify the City of Miami Beach Planning Department of early termination of the parking leasehold.

(8) A copy of all lease renewals shall be submitted to the planning department. In the event that a required lease renewal is not provided within 60 days of the expiration of the lease, the subject use shall be considered in default and a fee in lieu of parking in accordance with chapter 130, article V, herein, shall be assessed.

The aforementioned lease criteria in subsections (b)(1) through (b)(8) shall not be applicable to properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as an historic site.

(Ord. No. 89-2665, § 7-3, eff. 10-1-89; Ord. No. 98-3108, §§ 5(D), 6, 1-21-98; Ord. No. 2002-3346, § 1, 1-30-02; Ord. No. 2016-4033, § 1, 9-27-16; Ord. No. 2020-4376, § 2, 11-18-20)

Sec. 130-37. - Interpretation of off-street parking requirements.

(a) The parking required herein is in addition to space for storage of trucks or other vehicles used in connection with a business, commercial, or industrial use.

(b) Where fractional spaces result, the number of required parking spaces required shall be rounded up to the nearest whole number.

(c) The parking space requirements for a use not specifically listed in this section shall be the same as for a listed use which generates a similar level of parking demand.

(d) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except when the amount of required parking spaces is computed under the shared parking provisions as set forth in section 130-221.

(e) Whenever a building or use, constructed or established after the effective date of these land development regulations, is changed or enlarged in floor area, number of apartment or hotel units, seating capacity or otherwise, to create a requirement for an increase in the number of required parking spaces, such spaces shall be provided, or the impact fee paid, whichever is permitted under these land development regulations, on the basis of the enlargement or change, pursuant to the procedures for establishing parking credits described in section 130-161.

(f) Whenever a proposed use does not indicate the specific number of persons to occupy such area, the required parking shall be computed on the basis of one person per 15 square feet of floor area, the parking requirement shall then be calculated as listed in sections 130-32 through 130-34.

(g) Accessible parking facilities shall be provided as required by the Florida Building Code. These spaces shall be included within the amount of parking that is required under these land development regulations.

(h) For nonresidential uses, the parking calculation shall be the gross floor area of the building.

(i) When multiple reductions can be applied to the required parking calculation, they shall be applied in the order in which they appear in the land development regulations.

(j) When applying parking credits or reductions, any fractional spaces shall be rounded down to the nearest whole number.

(Ord. No. 89-2665, § 7-4, eff. 10-1-89; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 98-3108, § 5(D), 1-21-98; Ord. No. 2016-4033, § 1, 9-27-16)

Sec. 130-38. - Mechanical and robotic parking systems.

(1) Definitions.

(a) *Mechanical parking* means mechanical parking lifts, robotic parking systems, and/or vehicle elevators.

(b) *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.

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

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

(2) Parking spaces to be used to satisfy accessory off-street parking requirements must conform to the provisions of article III of this chapter, entitled "design standards," with respect to all-weather surface area, minimum parking space dimensions, drive width, interior aisle width, and required markings. Therefore, the use of mechanical parking devices, robotic parking systems and vehicle elevators to satisfy accessory off-street parking requirements shall not be permitted, except as hereinafter provided.

(3) Exceptions to the mechanical parking prohibition may be considered by the planning board, pursuant to the conditional use process in chapter 118, article IV of this Code, if the proposed project meets the following conditions:

(a) Commercial main use parking garages on a separate lot.

(i) Commercial main use parking garages, open to the public, may utilize mechanical parking devices, robotic parking systems, and/or vehicle elevators, subject to all other provisions of section 130-68.

(ii) Parking spaces within commercial main use parking garages utilizing mechanical parking may be used to satisfy off street parking requirements for residential or commercial uses required within the building by section 130-68 for the cladding of such garages, as may be required by the design review procedures in chapter 118, article VI of this Code. Notwithstanding the foregoing, any accessory commercial use within commercial main use parking garages utilizing mechanical parking shall not generate an off-street parking requirement in excess of 25 percent of the total number of spaces in the garage.

(iii) Parking spaces within commercial main use parking garages utilizing mechanical parking, constructed on land that:

a.

Is located within a local historic district (except not within the Ocean Beach local historic district);

b. Was vacant as of October 17, 2008; and

c. Is located within 300 feet of a proposed new hotel development;

May be used to satisfy off street parking requirements for the proposed new hotel units and the following hotel accessory uses: retail (at a maximum of 75 square feet per hotel unit), auditorium, ballroom, convention hall, gymnasium, spa, meeting rooms or other similar places of assembly (not including restaurants or alcoholic beverage establishments). However, in order to utilize mechanical parking to satisfy off street parking requirements for the foregoing uses, the following conditions must be satisfied:

1. At least one-half of all parking spaces within the commercial main use parking garage shall be reserved for use by the general public (not to be used for valet storage for offsite valet services);
2. Mechanical parking permitted under this subsection (3)(a)(iii) shall be for the sole purpose of new hotel development. For purposes of this subsection, new hotel development means newly constructed hotel units and the following hotel accessory uses, provided that such hotel accessory uses are part of the same development project as the newly constructed hotel units: Retail (at a maximum of 75 square feet per hotel unit), auditorium, ballroom, convention hall, gymnasium, spa, meeting rooms or other similar places of assembly (not including restaurants or alcoholic beverage establishments);
3. A restrictive covenant in a form acceptable to the city attorney committing the parking garage to providing parking for the related hotel property, and maintaining such hotel property as a hotel, for at least 30 years, subject to release by the planning board if such board determines that the restriction is no longer necessary, shall be recorded prior to the issuance of a full building permit; and
4. Suite hotel units, as defined by section 142-1105, cannot satisfy their off-street parking requirements by using mechanical parking.

(iv) Except as described above in subsections 3(a)(ii) and (iii), mechanical parking systems within main use parking garages, operating either as commercial garages open to the public, or as private noncommercial garages, may not be used to satisfy off street parking requirements for uses on a separate lot. This provision may be waived through the procedures detailed in subsection (c), below.

(b) Existing multifamily buildings.

(i)

Existing multifamily buildings with a deficiency of parking may utilize mechanical parking devices within the space of the existing parking structure area. All parking lifts shall be located within a fully enclosed parking garage and shall not be visible from exterior view. No outside parking lifts shall be permitted.

(ii) The increased number of parking spaces as a result of mechanical parking under this provision shall not be used to satisfy any accessory off-street parking requirements.

(c) Projects proposing to use mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory and main use off-street parking requirements.

(i) Projects proposing to use mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory and main use off-street parking requirements shall prepare schematic floor plans prior to site plan review by the applicable land use board. Two sets of schematic floor plans shall be required:

1. One set of schematic plans sufficient to show the proposed development project with accessory and main use off-street parking requirements satisfied by traditional, nonmechanical means, meeting all aspects of the design standards for parking spaces required in article III of chapter 130, and other provisions of these land development regulations, and requiring no variances from these provisions; and
2. A second set of schematic plans, sufficient to show the same proposed development project, utilizing mechanical parking devices, robotic parking systems and/or vehicle elevators to satisfy accessory and main use off-street parking requirements.

The first set of schematic plans shall be reviewed by planning department staff for zoning compliance prior to the site plan review hearing by the applicable land use board. This first set of schematic plans may include one level of below-grade parking spaces, provided such below grade spaces are within the confines of the subject development site and are not located below city property, adjacent private property that is not part of the development site or any rights-of-way. If it is determined that these schematic plans meet the requirements of the design standards of the city Code, then the total number of parking spaces shown on the plans shall be noted. Henceforth, the project may proceed to site plan approval based on the second set of plans, using mechanical parking. However, if the first set of schematic plans includes below grade parking spaces, at least 50 percent of the number of below grade parking spaces shown in the first set of plans must be located below grade in the second set of plans utilizing mechanical parking. Further, the allowable residential density, and the intensity of the uses permitted for the proposed project, shall not exceed that which would have been permitted using the number of parking spaces noted on the first set of plans using traditional parking. No variances from these provisions shall be permitted.

(3A) Mechanical parking shall be permitted for hotels within the CCC Civic and Convention Center District as an exception to the mechanical parking prohibition, subject to the applicable review criteria of section 130-38(7).

(4) The following exceptions to the mechanical parking prohibition may be considered by the planning director or the director's designee, the design review board, or the historic preservation board:

(a) Subject to the review and approval of the design review board or historic preservation board, as applicable, apartment buildings with 20 apartment units or less may utilize mechanical lifts within an enclosed parking area, in accordance with the review criteria of section 138-38(5), provided that secure storage for alternative transportation such as scooters, bicycles, and motorcycles is provided on site.

(b) Single-family homes utilizing up to three mechanical lifts within a fully enclosed structure may be approved by the planning director or the director's designee, in accordance with the applicable review criteria of section 130-38(5).

(5) As part of the conditional use, design review board, or historic preservation board review process for the use of mechanical parking devices, robotic parking systems and/or vehicle elevators under any of the provisions of this section, the following review criteria shall be evaluated when considering each application for the use of mechanical parking systems:

(a) Whether the scale of the proposed structure is compatible with the existing urban character of the surrounding neighborhood;

(b) Whether the proposed use of mechanical parking results in an improvement of design characteristics and compatibility with the surrounding neighborhood and has demonstrated how the scale, mass, volume, and height of the building are reduced by the use of mechanical parking;

(c) Whether the proposed use of mechanical parking does not result in an increase in density or intensity over what could be constructed with conventional parking;

(d) Whether parking lifts or mechanisms are located inside, within a fully enclosed building, and not visible from exterior view;

(e) In cases where mechanical parking lifts are used for self-parking in multifamily residential buildings, whether approval is conditioned upon the proper restrictive covenant being provided limiting the use of each lift to the same unit owner;

(f) In cases where mechanical parking lifts are used for valet parking, whether approval is conditioned upon the proper restrictive covenant being provided stipulating that a valet service or operator must be provided for such parking for so long as the use continues;

(g)

Whether a traffic study has been provided that details the ingress, egress, and circulation within the mechanical parking facility, and the technical and staffing requirements necessary to ensure that the proposed mechanical parking system does not cause excessive stacking, waiting, or backups onto the public right-of-way;

(h) Whether a proposed operations plan, including hours of operation, number of employees, maintenance requirements, noise specifications, and emergency procedures, has been provided;

(i) In cases where the proposed facility includes accessory uses in addition to the parking garage, whether the accessory uses are in proportion to the facility as a whole, and delivery of merchandise and removal of refuse, and any additional impacts upon the surrounding neighborhood created by the scale and intensity of the proposed accessory uses, are adequately addressed;

(j) Whether the proximity of the proposed facility to similar size structures and to residential uses creates adverse impacts and how such impacts are mitigated; and

(k) Whether a cumulative effect from the proposed facility with adjacent and nearby structures arises, and how such cumulative effect will be addressed;

(6) Mechanical parking devices, robotic parking systems, and/or vehicle elevators must also satisfy the following conditions:

(a) The noise or vibration from the operation of mechanical parking lifts, car elevators, or robotic parking systems shall not be plainly audible to or felt by any individual standing outside an apartment or hotel unit at any adjacent or nearby property. In addition, noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions outside of the parking garage;

(b) For mechanical lifts, the parking lift platform must be fully load-bearing, and must be sealed and of a sufficient width and length to prevent dripping liquids or debris onto the vehicle below;

(c) All freestanding mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage; robotic garages and vehicle elevators must have backup generators sufficient to power the system;

(d) All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift;

(e) The ceiling heights of any parking level with parking lifts within the parking garage shall be a minimum of 11 feet by six inches;

(f)

All mechanical parking systems, including lifts, elevators and robotic systems, must be inspected and certified as safe and in good working order by a licensed engineer or the elevator authority having jurisdiction at least once per year and the findings of the inspection shall be summarized in a report signed by the same licensed engineer or firm, or the elevator authority having jurisdiction. Such report shall be furnished to the planning director and the building official; and

(g) All parking lifts shall be maintained and kept in good working order.

(7) The proposed use of mechanical parking systems, including mechanical parking lifts, robotic parking systems or vehicular elevators, for any type of development or improvement, including, but not limited to, vehicle storage, whether proposed under the provisions of section 130-38, or any other section of the city Code, shall require compliance with the provisions of subsections 130-38(4) and 130-38(5).

(Ord. No. 2008-3617, § 1, 10-7-08; Ord. No. 2014-3838, § 1, 2-12-14; Ord. No. 2017-4122, § 2, 7-26-17; Ord. No. 2019-4270, § 1, 6-5-19; Ord. No. 2019-4290, § 2, 7-31-19)

Sec. 130-39. - Electric vehicle parking.

(a) Definitions.

(1) *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.

(2) *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.

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

(4) *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.

(b)

Except in single-family residential districts, wherever off-street parking is required pursuant to the land development regulations, a minimum of two percent of the required off- street parking spaces, with a minimum of one parking space. shall contain electric vehicle parking spaces, in accordance with the following standards:

(1) In commercial zoning districts, where 20 or more off-street parking spaces are required by the land development regulations, all electric vehicle parking spaces shall be reserved for the exclusive use of electric vehicles.

(2) In commercial and residential multifamily zoning districts, electric vehicle parking spaces shall, at a minimum, be equipped with an electric vehicle charging station rated at electric vehicle charging level 2.

(3) For residential uses, electric vehicle charging stations shall be limited to the use of building residents and their invited guests.

(4) Any residential multifamily or hotel development with 20 or more units shall install and provide access to electrical power supply rated at 240 volts or greater, in all off-street parking facilities, to allow for the installation of additional electric vehicle parking spaces in the future for the exclusive use of residents, guests, invitees, and employees.

(Ord. No. 2106-3988, § 1, 1-13-16)

Secs. 130-40. - Alternative parking incentives.

In order to encourage the use of alternatives modes of transportation, the minimum off-street parking requirements identified in this article maybe reduced as follows:

(a) *Bicycle parking long-term:* The minimum off-street parking requirements may be reduced by one off-street parking space for every five long-term bicycle parking spaces provided off-street, not to exceed 15 percent of the off-street parking spaces that would otherwise be required. Notwithstanding the foregoing, in no case shall the proximity of an available bike share program be counted in any ways towards private property parking reductions.

(b) *Bicycle parking short-term:* The minimum off-street parking requirements may be reduced by one off-street parking space for every ten short-term bicycle parking spaces provided off-street, not to exceed 15 percent of the off-street parking spaces that would otherwise be required. Notwithstanding the foregoing, in no case shall the proximity of an available bike share program be counted in any ways towards private property parking reductions.

(c) *Carpool/vanpool parking:* The minimum off-street parking requirements may be reduced by three off-street parking spaces for every one parking space reserved for carpool or vanpool vehicles registered with South Florida Commuter Services, not to exceed a reduction of more

than ten percent of the off-street parking spaces that would otherwise be required. The property manager must submit an annual report to the planning director documenting the carpool/vanpool registration and ongoing participation by registered users.

(d) *Drop-off and loading zones for transportation for compensation vehicles:* The minimum off-street parking requirements may be reduced at a ratio of three off-street parking spaces for every one curb side drop off stall. Developments over 50,000 square feet may increase their drop off area to a maximum of three drop-off stalls for a maximum reduction of nine off-street parking spaces. Vehicles stopped in such areas shall not stop in the drop-off and loading zones for no more than the time necessary to drop-off or load passengers and their belongings.

(e) *Scooter, moped and motorcycle parking:* The minimum off-street parking requirements may be reduced by one off-street parking space for every three scooter, moped, or motorcycle parking space provided off-street, not to exceed 15 percent of the off-street parking spaces that would otherwise be required.

(f) *Showers:* The minimum off-street parking requirements for nonresidential uses that provide showers and changing facilities for bicyclists may be reduced by two off-street parking spaces for each separate shower facility up to a maximum of eight parking spaces. Where possible, clothes lockers should be provided for walking and biking commuters.

(g) *[Calculation of reductions:}* Each of the reductions identified above shall be calculated independently from the pre-reduction off-street parking requirement. The reductions shall then be added together to determine the overall required off-street parking reduction. The sum of all reductions shall not exceed 50 percent of the pre-reduction off-street parking requirement.

(h) *[Facilities are encouraged:]* All developments are encouraged to provide the aforementioned facilities to the extent possible. Any building or structure incorporating any of the aforementioned facilities may provide required off-street parking on site up to the level specified in its applicable parking district. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in section 114-1 (definition of FAR), of these land development regulations.

(Ord. No. 2017-4138, § 2, 10-18-17)

Secs. 130-41—130-59. - Reserved.

ARTICLE III. - DESIGN STANDARDS

Sec. 130-60. - Criteria for below grade off-street parking.

All off-street parking whether required parking or not, located below current sidewalk grade, including, but not limited to, below grade, basement or subterranean parking, shall comply with the following:

(a) Ramping and access to all below grade parking levels from adjacent streets and rights-of-way shall be provided within the confines of the property. No ramps shall encroach into the public right-of-way. Additionally, the design and dimensions of all proposed ramping and access to below grade parking levels shall be able to accommodate a minimum future elevation of 3.7 NAVD for adjacent and abutting public sidewalks, streets and public rights-of-way.

(b) The minimum setback requirements for all below grade parking levels shall meet the applicable pedestal setback requirements within the underlying zoning district.

(c) All below grade floors shall include excess water pumping capability, in a manner consistent with the Public Works Manual, as may be amended.

(d) For properties containing a "contributing" building, and located within a local historic district or designated historic site, the historic preservation board shall have the ability to waive the applicable pedestal setback requirements for below grade parking levels, in accordance with the certificate of appropriateness criteria in chapter 118, article X.

(Ord. No. 2018-4160, § 1, 1-17-18)

Sec. 130-61. - Off-street parking space dimensions.

With the exception of parking spaces that are permitted in sections 130-101, 130-251, and 130-281, a standard off-street parking space shall be an all-weather surfaced area, not in a street or alley according to the following standards:

(1) A standard perpendicular parking space shall have a width of not less than eight and one-half feet and a length of not less than 18 feet, or when located outdoors, 16 feet with two feet of pervious area overhang, in place of wheel stops and defined by continuous concrete curb, for a total length of 18 feet. The provision of having a two-foot pervious area overhang in standard parking spaces may be waived at the discretion of the planning and zoning director in those instances where said overhang is not practical. In no instance, however, shall the length of any standard off-street parking space be less than 18 feet, unless otherwise provided for under sections 130-101, 130-251, 130-281, 130-69 and 130-61(2) herein.

(2) A standard parallel parking space shall have a width of not less than eight and one-half feet and a length of not less than 21 feet.

(3) The length required for all parking spaces shall be measured on an axis parallel with the vehicle after it is parked. The width required for all parking spaces is to be column-free clear space, except for those standard perpendicular off-street parking spaces immediately

adjacent to a structural column within an enclosed parking structure which may have a width of eight feet. The required area for all parking spaces is to be exclusive of a parking aisle or drive and permanently maintained for the temporary parking of one automobile.

(4) See section 130-251 for valet parking standards.

(5) Lots which are 55 feet wide or less may have 90° parking stalls measuring eight and one-half feet by 16 feet.

(Ord. No. 89-2665, § 7-5(A), eff. 10-1-89; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 98-3108, § 7, 1-21-98; Ord. No. 99-3226, § 1, 12-15-99; Ord. No. 2016-4033, § 1, 9-27-16)

Sec. 130-62. - Drainage and maintenance.

(a) Off-street parking facilities shall be drained of excess stormwater to prevent damage to abutting property and/or public streets and alleys and surfaced with erosion-resistant material in accordance with applicable city specifications.

(b) Off-street parking areas shall be maintained in a clean, orderly, and dust free condition, at the expense of the owner or lessee, and shall not be used for the sale, repair, or dismantling or servicing of any vehicles, equipment, materials or supplies.

(Ord. No. 89-2665, § 7-5(C), eff. 10-1-89; Ord. No. 98-3108, § 7, 1-21-98; Ord. No. 2019-4252, § 3, 3-13-19)

Editor's note— Ord. No. 98-3108, § 7, adopted Jan. 21, 1998, repealed § 130-62, which pertained to valet parking in at-grade lots or structures for certain uses and derived from Ord. No. 89-2665, § 7-5(B), eff. 10-1-89. Ord. No. 98-3108, § 7(B), renumbered § 130-63 as § 130-62.

Sec. 130-63. - Interior aisles.

Interior aisles shall meet or exceed the following minimum dimensions permitted:

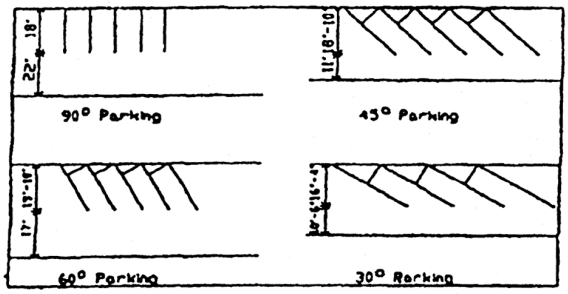
90° parking—22 feet, with columns parallel to the interior drive on each side of the required drive, set back an additional one foot six inches, measured from the edge of the required interior drive to the face of the column.

45° parking—11 feet.

60° parking—17 feet.

30° parking—Ten feet six inches.

Further defined by the following illustrations:



Interior aisles

(Ord. No. 89-2665, § 7-5(D), eff. 10-1-89; Ord. No. 98-3108, § 7(C), 1-21-98)

Sec. 130-64. - Drives.

Drives shall have a minimum width of 22 feet for two-way traffic and 11 feet for one-way traffic. Notwithstanding the foregoing, for residential buildings with fewer than 25 units, drives shall have a minimum width of 18 feet for two-way traffic. For those grade level parking areas with less than ten parking spaces, inclusive of those parking areas underneath a building or structure, the two-way curb-cut and driveway entrance shall have a minimum width of 12 feet.

(Ord. No. 98-3108, § 7(D), 1-21-98; Ord. No. 2001-3298, § 2, 3-14-01; Ord. No. 2019-4316, § 1, 10-30-19)

Sec. 130-65. - Marking.

Parking spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Each individual space shall be provided with a car stop, curb or other similar device which is at least two and one-half feet from the end of the parking space to prevent vehicular encroachment. Signs or markers shall be used as necessary to ensure efficient traffic operations of the lot.

(Ord. No. 89-2665, § 7-5(E), eff. 10-1-89; Ord. No. 98-3108, § 7(E), 1-21-98)

Sec. 130-66. - Lighting.

Adequate lighting shall be provided. The lighting shall be arranged and installed to minimize glare on property in a residential district. Parking facilities shall be illuminated from one-half hour after sunset to one-half hour before sunrise at the levels specified below with a uniformity ratio of 10:1:

Use	Minimum Illumination (FC)
Residential lots	0.4
Commercial lots	
Small (5—10 spaces)	0.4

	Medium (11—99 spaces)	0.6
	Large (100+ spaces)	0.9

(Ord. No. 89-2665, § 7-5(F), eff. 10-1-89; Ord. No. 98-3108, § 7(F), 1-21-98)

Sec. 130-67. - Screening and landscaping.

At-grade parking lots and parking garages shall conform to the minimum landscape standards as set forth in chapter 126.

(Ord. No. 89-2665, § 7-5(G), eff. 10-1-89; Ord. No. 98-3108, § 7(G), 1-21-98; Ord. No. 2016-4033, § 1, 9-27-16)

Sec. 130-68. - Commercial and noncommercial parking garages.

Commercial and noncommercial parking garages (hereinafter, "parking garages") as a main use ("main use parking garage"), shall be located on a separate lot (not considered as part of a unified development site), shall comply with section 142-1107, entitled "Parking lots or garages on certain lots," and shall be subject to the following regulations contained in this article:

(1) A parking garage located in the CD-1, CD-2, CD-3, C-PS1, C-PS2, C-PS3, C-PS4, MXE and I-1 districts, and in GU districts adjacent to commercial districts, shall comply with the following additional regulations:

a. Residential (when permitted) or commercial uses shall be incorporated at the first level along every facade facing a street, sidewalk, waterway or the ocean. For properties not having access to an alley, the required residential or commercial space shall accommodate entrance and exit drives.

b. Residential (when permitted) or commercial uses shall be incorporated above the first level along every facade facing a waterway or the ocean.

c. All façades above the first level, facing a street or sidewalk, shall include a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

However, except as may be provided for in subsection (10), the above described residential (when permitted) or commercial square footage shall not exceed 25 percent of the total square footage of the structure. Additionally, in no instance shall the amount of square footage of the structure used for parking, exclusive of the required parking for the above described residential or commercial square footage, be less than 50 percent of the total square footage of the structure, so as to ensure that the structure's main use is as a parking garage.

(2) A parking garage located in the RM-1, RM-2, RM-3, R-PS1, R-PS2, R-PS3 and R-PS4 districts, and the GU districts adjacent to residential districts, shall comply with the following additional regulations:

a. Parking garages shall incorporate the following:

1. Residential or commercial uses, as applicable, shall be provided at the first level along every facade facing a street, sidewalk, waterway or the ocean. For properties not having access to an alley, the required residential or commercial space shall accommodate entrance and exit drives.
2. Residential uses shall be provided above the first level along every facade facing a waterway or the ocean. For main use garages located within the Collins Waterfront Local Historic District, with frontage on both Indian Creek Drive and Collins Avenue, either residential or office uses shall be permitted facing Indian Creek Drive. Additionally, the historic preservation board may approve a lesser amount of residential or office uses along every facade above the first floor facing Indian Creek Drive, provided the board determines that the design of the facade satisfies the certificate of appropriateness criteria in chapter 118, article X of the city Code.
3. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential uses; however, the total amount of residential space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

b. In addition, the following additional requirements shall apply:

1. A parking garage located in the (i) RM-3 district, (ii) R-PS4 districts, (iii) on Collins Avenue between 25th and 44th Streets, or (iv) on West Avenue, south of 11th Street, in an RM-2 district where the subject site is located adjacent to an RM-3 district, may also have first floor frontage with commercial uses facing the RM-3 area.
2. A parking garage located in an RM-1 district, where the subject site is abutting a property line or separated by an alley from a CD-3 district, may provide parking spaces for adjacent commercial uses.
3. A parking garage located in an RM-2 district, where the subject site is fronting on or separated by a street, but not fronting on nor separated by an alley, nor fronting on a property boundary of a property located in a CD-2 or CD-3 district, may also have first floor frontage with commercial uses facing CD-2 or CD-3 area, and also may provide parking spaces for adjacent commercial uses.
4. Any parking structure permitted under subsections (2)b.2. and 3. that may provide parking spaces for adjacent commercial uses shall be restricted to self-parking only. No valet parking shall be allowed.

5. At least one-third of the parking spaces in any parking structures permitted under subsections (2)b.2. and 3., shall be dedicated for residential uses at all times. The planning board may, based upon the projected neighborhood demand, increase or decrease the percentage of residential parking through the conditional use approval process.
6. The following uses shall be prohibited uses within the parking garages regulated by this subsection (2): Dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open-air entertainment establishments.

Except as provided for in subsection (10), below, the above described combined residential and/or commercial space shall not exceed 25 percent of the total square footage of the structure, with the commercial space not exceeding ten percent of the total square footage of the structure; nor shall any accessory commercial space exceed 40 feet in depth. Additionally, in no instance shall the amount of square footage of the structure used for parking, exclusive of the required parking for the above described residential or commercial space, be less than 50 percent of the total square footage of the structure, so as to ensure that the structure's main use is as a parking garage.

(3) Except as provided in subsection (2), above, a parking garage located in a residential district shall serve only residential uses. If commercial uses are allowed on the first floor of the parking garage then the garage shall be required to provide the required parking for that commercial use.

(4) Parking garages within the CD-3 district may be 75 feet in height. In all other districts, the height of parking garages shall be 50 feet, unless the underlying district zoning regulations dictate a lesser height for all structures.

(5) Setbacks shall be the same as the pedestal setbacks for the underlying zoning district. For parking garages located on non-oceanfront lots within the Collins Waterfront Historic District, with frontage on both Indian Creek Drive and Collins Avenue, the required pedestal setbacks may extend up to a maximum height of eight stories and 75 feet.

(6) The volume of such commercial and noncommercial parking garages shall be limited by the required setbacks and heights described within this section and shall not be subject to the floor area ratios prescribed for in the underlying zoning district.

(7) Parking garages that are built solely with public funds may be exempt from the requirements of subsections (1) and (2), above, if meeting the requirement would affect the tax exempt status of the project. The foregoing sentence shall not be construed to limit the city commission's ability to waive development regulations for GU properties pursuant to section 142-425.

(8) For main use parking garages within the GU and CCC districts. Robotic parking systems may be used, notwithstanding the provisions of article III, "design standards," referencing minimum parking space dimensions, drive width, interior aisle width, and required markings. Robotic parking system means a mechanical garage using elevator systems to hoist individual vehicles from receiving areas to separate auto storage areas.

(9) Parking garages located in the TC-3 and GU districts of the North Beach Town Center Overlay area shall comply with the following additional regulations:

a. A garage may have first floor space occupied for commercial uses, subject to conditional use approval.

b. Residential or commercial uses shall be incorporated at the first level along every facade facing a street, sidewalk or waterway. The required residential or commercial space may accommodate entrance and exit drives for vehicles, inclusive of ramping running parallel to the street.

c. When a garage on a GU site is abutting or separated by an alley from a TC-1 district, the garage may also serve commercial uses.

d. In no instance shall the above-described combined residential and/or commercial space exceed 35 percent of the total square footage of the structure.

e. Additionally, in no instance shall the amount of square footage of the structure used for parking, exclusive of the required parking for the above-described residential or commercial space, be less than 50 percent of the total square footage of the structure.

f. Maximum height: 50 feet.

g. Setbacks shall be the same as the setbacks for the TC-3 zoning district, except that parking garages on lots with a front yard facing a street right-of-way greater than 50 feet in width, shall have a minimum front yard setback of ten feet.

h. Signage for commercial uses allowable under this provision shall be governed by the TC-3 district regulations.

(10) For main use garages that incorporate one or more of the alternative parking incentives provided for in section 130-40, entitled "Alternative parking incentives," which results in an overall reduction in the number of traditional parking spaces for the accessory uses, and a reduction in the overall gross square footage of the project, then the percentage of the project that may be used for allowable residential (when permitted) or commercial uses shall be as follows:

Percentage reduction in traditional parking for accessory uses utilizing alternative parking incentives	Percent of square footage that can be used for non-parking uses on site
15 percent	30 percent for commercial and/or residential uses (when permitted);
20 percent	35 percent for commercial and/or residential uses (when permitted)

Variances from the provisions of this subsection (10) shall not be permitted.

(11) For main use parking garages that provide workforce housing units, the percentage of square footage that can be used for non-parking uses on site shall be 35 percent of the total square footage.

(Ord. No. 98-3108, § 7(H), 1-21-98; Ord. No. 99-3194, § 1, 7-3-99; Ord. No. 2003-3399, § 1, 2-26-03; Ord. No. 2006-3510, § 1, 3-8-06; Ord. No. 2007-3563, § 1, 7-11-07; Ord. No. 2008-3608, § 2, 6-25-08; Ord. No. 2011-3728, § 3, 5-11-11; Ord. No. 2014-3900, § 1, 10-22-14; Ord. No. 2016-4033, § 1, 9-27-16; Ord. No. 2019-4252, § 3, 3-13-19; Ord. No. 2019-4276, § 1, 6-5-19)

Sec. 130-69. - Commercial and noncommercial parking lots.

Main use commercial and noncommercial parking lots shall be located on a separate lot, and shall be subject to the following regulations, in addition to section 142-1107, and in addition to the other regulations of this article:

(1) The required front and rear yards shall be those of the underlying district.

(2) The required side yards shall be as follows:

Lot Width	Side Yard Setbacks
55 feet wide or less	Two feet
Between 56 and 100 feet, inclusive	Five feet
Greater than 100 feet	Ten feet

(3) Open-air parking lots, open to the sky, shall be constructed with (i) a high albedo surface consisting of a durable material or sealant in order to minimize the urban heat island effect, or (ii) porous pavement. The provisions of this paragraph shall apply to all parking areas, and all drive lanes and ramps.

(Ord. No. 98-3108, § 7(I), 1-21-98; Ord. No. 2016-4033, § 1, 9-27-16; Ord. No. 2019-4252, § 3, 3-13-19)

Sec. 130-69.5. - Additional requirements.

In addition to any other requirements regarding parking garages and parking lots contained herein, and except where a parking garage or lot is accessory to a residential use and located on the same lot, all parking garages and lots located within 100 feet of a residential use or district that intend to operate after midnight, shall obtain conditional use approval from the planning board before obtaining a building permit or occupational license.

(Ord. No. 98-3115, § 1(7-5J.), 6-17-98; Ord. No. 2001-3314, § 1, 7-18-01)

Editor's note— Ord. No. 98-3115, § 1, adopted June 17, 1998, did not specifically amend the Code; hence inclusion as § 130-69.5 was at the editor's discretion.

Sec. 130-70. - Temporary parking lot standards.

(1) *Location.* Temporary commercial or noncommercial parking lots may be operated in the MR marine district, GU government use district, MXE mixed use entertainment district, I-1 urban light industrial district or in any commercial district. These lots may be operated independent of a primary use. Temporary, noncommercial lots may be located in the R-PS1—4 and in any multifamily residential district or within the architectural district as defined in section 114-1.

(2) *Signage.* One sign per street frontage is permitted. The maximum size of each sign shall be five square feet per 50 feet of street frontage. This sign shall also include copy that indicates the name of the operator, the phone number of operator to report complaints, and who can use the parking facility; i.e., whether it is open to the general public, private, valet or self-parking.

(3) *Sub-base and drainage.* Parking lots shall be brought to grade with no less than a four-inch lime rock base; however, the public works director may require a six-inch lime rock base based upon conditions at the site, the intensity of the use at the site or if trucks are intended to be parked on the site that would require the additional base support. Surface stormwater shall not drain to adjacent property or a public right-of-way. If the public works director determines that there is insufficient area to accommodate drainage, additional measures may be required to adequately drain stormwater runoff.

(4) *Revocation.* Should the city manager find that the operation of a temporary parking lot has an adverse effect on the welfare of surrounding properties, the city manager may revoke the license pursuant to the procedures set forth in section 102-383 upon 48-hour written notification to the

applicant.

(5) *Required parking.* Use of temporary parking lots shall not be for parking which is required by these land development regulations.

(6) *Design.* The design, circulation and access points for temporary parking lots shall be subject to the review and approval of the planning department, in accordance with the applicable certificate of appropriateness or design review criteria.

(7) *Conditional use review.* All lots located south of Biscayne Street or located in a residential zoning district shall require a public hearing pursuant to the conditional use procedures as set forth in chapter 118, article IV.

(8) *Timeframe.* Temporary parking lots shall not be permitted to exist for a period of time greater than five years from the date of certificate of occupancy or occupational license (business tax receipt), whichever occurs first, regardless of ownership. At the end of this period, or such extensions that may be granted as contemplated herein, if the lot continues to be used for the purposes of parking, a permanent lot shall be constructed in conformity with these land development regulations. Prior to the expiration of an approved temporary parking lot, or not later than 90 calendar days after the expiration of such approved temporary parking lot, an applicant may request from the planning board an extension of time for a period not exceeding five years. In reviewing the extension of time request or subsequent progress reports as may be required, the board shall consider, among other things, whether the applicant has complied with all of the applicable requirements of these land development regulations, and any conditions imposed by the planning board, if any, during its period of operation, as well as any landscaping on the property that may not be in compliance with the requirements of chapter 126. The notice of public hearing requirements shall be as set forth in chapter 118, article IV.

All extensions of time approved for temporary parking lots shall be subject to recurring annual payments into the tree trust fund of $500.00 per lot tree as shown on the approved landscape plan, until the temporary lot ceases operation; such annual payment shall be required at the time of the renewal of the business tax receipt.

At the end of all applicable extensions of time for a temporary parking lot, unless a permanent lot is constructed in conformity with these land development regulations the lot shall cease to be used for parking and the surfaces and rock base shall be removed and replaced with soil, landscaping and irrigation, which shall be maintained until the property is developed for a use permitted in the zoning district. The owner of the property shall be responsible for maintaining such property and the landscaping. Additionally, 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 shall be submitted to, and approved by, the planning department.

(9) *Landscape.* Landscaping requirements shall be pursuant to the requirements of chapter 126.

(10) *Hardscape materials.* All surfaces over the required lime-rock base, including, but not limited to, driveways, drive aisles, parking spaces and walkways, shall consist of pavers set in sand, grass pavers, or similar semi-pervious material. The use of asphalt, concrete or similar impervious surfaces shall be prohibited. However, concrete ribbons, in conjunction with a paver and landscape system, may be utilized to delineate drive aisles, parking spaces, or to contain paver fields, subject to the review and approval of the planning department. In no instance shall the use of concrete ribbons exceed 20 percent of the lot area.

(11) *Wheel stops and site markings.* If the lot is not operated on a valet basis, then all parking spaces shall be marked by painted lines or curbs or other means to indicate individual spaces and wheel stops shall be provided. Vehicles shall not back out onto any street. The size of the parking spaces, back-out areas and exit/interior drives shall not have dimensions less than those required in sections 130-61 and 130-64. Lots operated on a valet basis shall have wheel stops at the edge of the pavement. All wheel stops required in this subsection shall be placed no less than four feet away from each other.

(12) *Planning department review.* Prior to the issuance of a building permit, the planning department shall approve the site and landscaping plans. Prior to the issuance of an occupational license, the department shall approve the placement, quality and size of landscaping material.

(13) *Nonconforming temporary parking.* Any temporary parking lot that is nonconforming to these regulations six months after the effective date of these land development regulations or upon the expiration date of an existing occupational license, whichever is later, shall cease to exist.

(Ord. No. 89-2665, § 7-5(H), eff. 10-1-89; Ord. No. 98-3108, § 7(J), 1-21-98; Ord. No. 98-3115, § 1(7-5K.), 6-17-98; Ord. No. 2004-3467, § 2, 12-8-04; Ord. No. 2005-3474, § 1, 2-2-05; Ord. No. 2008-3608, § 2, 6-25-08; Ord. No. 2009-3667, § 1, 12-9-09; Ord. No. 2016-4033, § 1, 9-27-16; Ord. No. 2016-4042, § 2, 10-19-16; Ord. No. 2018-4165, § 1, 1-17-18; Ord. No. 2019-4258, § 2, 5-8-19)

Sec. 130-71. - Reserved.

Editor's note— Ord. No. 2018-4165, adopted Jan. 17, 2018, deleted § 130-71, which pertained to provisional parking lot standards, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 98-3108, adopted Jan. 21, 1998; Ord. No. 2005-3474, adopted Feb. 2, 2005; Ord. No. 2008-3608, adopted June 25, 2008; and Ord. No. 2016-4033, adopted Sept. 27, 2016.

Sec. 130-72. - Electric vehicle parking space standards.

Electric vehicle parking spaces and charging stations required pursuant to section 130-39 shall meet the following design standards, in addition to all other design standards set forth in this article:

(1) Electric vehicle parking spaces shall be painted green, or shall be marked by green painted lines or curbs.

(2) Each electric vehicle parking space shall be marked by a sign designating the parking space as an electric vehicle parking space, in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) of the Federal Highway Administration.

(3) Each electric vehicle charging station shall be equipped with a sign that includes the following information:

(i) Voltage and amperage levels;

(ii) Any applicable usage fees;

(iii) Safety information; and

(iv) Contact information for the owner of the charging station, to allow a consumer to report issues relating to the charging station.

(4) Electric vehicle charging stations shall contain a retraction device, coiled cord. or a fixture to hang cords and connectors above the ground surface.

(5) Electric vehicle charging stations shall be screened from view from the right-of-way, with the exception of alleys.

(6) Electric vehicle charging stations shall be maintained in good condition, appearance, and repair.

(Ord. No. 2016-3988, § 2, 1-13-16)

Secs. 130-73—130-100. - Reserved.

ARTICLE IV. - OFF-STREET LOADING

Sec. 130-101. - Space requirements and location.

A. When any new building or structure is erected or an existing building is modified resulting in an increase in FAR, accessory off-street loading spaces shall be provided for the new building, new structure, or increase in floor area in accordance with the following schedule:

(1) For each retail store, department store, restaurant, wholesale house, warehouse, repair, general service, manufacturing or industrial establishment, or similar use, which has an aggregate floor area in square feet of:

a. Over 2,000 but not over 10,000: One space.

b. Over 10,000 but not over 20,000: Two spaces.

c. Over 20,000 but not over 40,000: Three spaces.

d. Over 40,000 but not over 60,000: Four spaces.

e. For each additional 50,000 over 60,000: One space.

(2) For each office building, hospital or similar institutions, places of public assembly, or similar use, which has an aggregate floor area in square feet of:

a. Over 5,000 but not over 10,000: One space.

b. Over 10,000 but not over 100,000: Two spaces.

c. Over 100,000 but not over 200,000: Three spaces.

d. For each additional 100,000 over 200,000: One space.

(3) For any residential building or hotel building:

a. Over 36 units but not more than 50 units: One space.

b. Over 50 units but not more than 100 units: Two spaces.

c. Over 100 units but not more than 200 units: Three spaces.

d. For each additional 100 units or fraction thereof over 200 units: One space.

B. For the new construction of multi-family, hotel, and commercial buildings utilizing enclosed structures for the storage and/or parking of vehicles, all required loading spaces shall be located internally.

C. For a change of use in an existing building, required loading shall either be provided in accordance with the off-street loading schedule above, or a detailed plan delineating on-street loading, as approved by the parking department.

D. For properties located within a locally designated historic district, or historic site, the historic preservation board may waive the requirements for off-street loading spaces for properties containing a contributing structure provided that a detailed plan delineating on-street loading is approved by the parking department.

(Ord. No. 89-2665, § 7-6(A)—(C), eff. 10-1-89; Ord. No. 2016-3994, § 1, 2-10-16)

Sec. 130-102. - Spaces not to be included as required parking spaces.

Required off-street loading spaces are not to be included as off-street parking spaces in the computation of required off-street parking spaces.

(Ord. No. 89-2665, § 7-6(D), eff. 10-1-89)

Sec. 130-103. - Design standards.

Off-street loading design standards shall be as follows:

(1) *Size and location.* For the purpose of these regulations a loading space is a space within the main building or on the same lot, logically and conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used but not less than ten feet by 20 feet, and accessible to such vehicles when required off-street parking spaces are filled.

(2) *Drainage and maintenance.* Off-street loading facilities shall be drained to prevent damage to abutting property and/or public streets and alleys and surfaced with erosion-resistant material in accordance with applicable city specifications. Off-street loading areas shall be maintained in a clean, orderly and dust-free condition at the expense of the owner or lessee and shall not be used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.

(3) *Entrances and exits.* The location and design of entrances and exits shall be in accordance with applicable traffic regulations and standards as designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one off-street loading space. However, no such loading space shall be located in the required front yard setback.

(Ord. No. 89-2665, § 7-6(E), eff. 10-1-89)

Secs. 130-104—130-130. - Reserved.

ARTICLE V. - FEE IN LIEU OF PARKING PROGRAM

Footnotes:
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***Cross reference—** Finance generally, § 2-276 et seq.*

Sec. 130-131. - Generally.

A fee in lieu of providing parking may be paid to the city in lieu of providing required parking on- site, or within 1,200 feet of the site in the architectural district or otherwise within 500 feet of the site, only in the following instances, except that parking requirements for accessory commercial uses in newly constructed buildings within the Collins Waterfront Historic District in an area in the RM-2 zoning district that is bounded by 41st Street on the south and 44th Street on the north, and for medical cannabis treatment centers and pharmacy stores shall be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking:

(1) New construction of commercial or residential development and commercial or residential additions to existing buildings whether attached or detached from the main structure within the architectural district or a local historic district.

(2) When an alteration or rehabilitation within an existing structure results in an increased parking requirement pursuant to subsection 130-132(b).

(3) New construction of 1,000 square feet or less, or additions of 1,000 square feet or less to existing buildings whether attached or detached from the main structure may fully satisfy the parking requirement by participation in the fee in lieu of providing parking program pursuant

to subsection 130-132(a).

(4) The creation or expansion of an outdoor cafe (except for those which are an accessory use to buildings described in subsection 130-31(b).

(5) Commercial or residential additions to existing contributing buildings, whether attached to or detached from the main structure, within the Normandy Isles National Register District or the North Shore National Register District, provided the existing contributing structure is substantially retained, preserved and restored. The proposed commercial or residential additions to the existing structure shall be subject to the review and approval of the design review board or historic preservation board, whichever has jurisdiction, and shall include a renovation plan for the existing structure that is fully consistent with the Secretary of the Interior Guidelines and Standards for the Rehabilitation of Historic Buildings.

(6) The enclosure of existing outdoor seating areas, attached to a contributing building located within the architectural district, may fully satisfy the parking requirement by participation in the fee in lieu of providing parking program pursuant to subsection 130-132(b), in accordance with the following:

a. The outdoor seating area shall be located within a rear or interior side area of the lot, and shall not directly front a street.

b. The outdoor seating area shall be adjacent to a residential use.

(Ord. No. 89-2665, § 7-7, eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 98-3108, § 8(A), 1-21-98; Ord. No. 2004-3434, § 2, 1-14-04; Ord. No. 2010-3676, § 1, 3-10-10; Ord. No. 2014-3878, § 2, 6-11-14; Ord. No. 2017-4133, § 3, 9-25-17; Ord. No. 2019-4242, § 1, 2-13-19)

Sec. 130-132. - Fee calculation.

(a) *New construction.* The fee in lieu of providing parking for new construction shall be satisfied by a one-time payment at the time of issuance of a building permit per parking space. The amount of such one-time fee is set forth in section 118-7.

(b) Existing structures, eligible indoor seating areas in the architectural district and outdoor cafè. When alteration or rehabilitation of a structure results in an increased parking requirement, or an outdoor cafe is created or expanded, the fee in lieu of providing parking shall be satisfied by one of the following:

(1) A one-time payment as set forth in subsection (a) of this section.

(2) A yearly payment in the amount set forth in 118-7, which shall continue as long as the use exists. (The amount of such payment may vary from year to year in accordance with the determination set forth in subsection (d) of this section.) However, in lieu of continued yearly payments, a one-time redemption payment may be made at any time of the full amount due pursuant to subsection (a) of this section minus the amount of money already paid through

yearly payments; such amount shall be based upon the latest determination made pursuant to subsection (d) of this section as of the time of the redemption payment rather than upon the amount which would have been due if the fee had been paid at the time of issuance of the building permit. However, when new floor area is added to the existing building, the fee in lieu shall be as set forth in subsection (a) of this section.

(c) *Removal of existing parking spaces in a historic district.* Whenever an existing required parking space is removed or eliminated for any building that existed prior to October 1, 1993, which are located within the architectural district, a contributing building within a local historic district, or any individually designated historic building, a fee in lieu of providing parking shall be required if a replacement parking space is not provided pursuant to section 130-36. Such fee shall be satisfied as set forth in subsection (b), above. In no case shall the removal of parking spaces result in less than one parking space per residential unit or 50 percent of the required parking for commercial uses. This subsection shall not prohibit the removal of grade level parking spaces located within the front, side street or interior side yards of a lot, should those parking spaces be nonconforming. Notwithstanding the foregoing, an owner shall be permitted to remove parking spaces required for a building in the architectural district or a local historic district constructed after October 1, 1993, if a change in said building results in a net reduction of required parking spaces. No fee in lieu of providing parking or the replacement of parking spaces pursuant to section 130-36 shall be required to remove such spaces, unless the number of parking spaces being removed is greater than the net reduction of required parking spaces. Notwithstanding the foregoing, existing parking spaces, whether conforming or nonconforming, may be removed on properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as an historic site, and no fee in lieu payment shall be required for such removal, provided that at least 50 percent of the existing parking spaces are provided offsite, in accordance with section 130-36.

(d) *Annual evaluation.* The amount determined to be the city's total average cost for land acquisition and construction of one parking space shall be evaluated by the city commission based upon the Consumer Price Index (CPI). If determined appropriate, the city commission may amend the fee structure in this section by resolution.

(Ord. No. 89-2665, § 7-7(A), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 98-3108, § 8(B), 1-21-98; Ord. No. 99-3226, § 2, 12-15-99; Ord. No. 2006-3545, § 1, 12-6-06; Ord. No. 2010-3676, § 1, 3-10-10; Ord. No. 2011-3738, § 2, 9-14-11; Res. No. 2014-28757, 9-17-14; Ord. No. 2016-3988, § 3, 1-13-16; Ord. No. 2016-4033, § 1, 9-27-16; Ord. No. 2016-4063, § 1, 12-14-16; Ord. No. 2019-4242, § 1, 2-13-19; Ord. No. 2020-4376, § 2, 11-18-20)

Sec. 130-133. - Fee collection.

(a) *New construction.*

(1) *One-time payment.* For new construction the fee in lieu of providing parking shall be paid in full prior to obtaining a full building permit. Such fee shall be refunded, upon the request of the applicant, if construction does not commence prior to expiration of the building permit.

(2) *Yearly fee.* For those projects which are eligible for and elect a yearly payment plan, the first fee-in-lieu payment shall be [due] at the time the occupational license or certificate of use, whichever is earlier, is issued. The amount due shall be prorated from September 30. Subsequent annual payments shall be paid in full by June 1 as long as the use exists. The amount of the payment is set forth in subsection 130-132(b)(2).

(b) *Existing structures.* For existing structures and those which elect a yearly payment plan, the first fee-in-lieu payment shall be due at the time the occupational license or certificate of use, whichever is earlier, is issued. The amount due shall be prorated from September 30. Subsequent annual payments shall be paid in full by June 1 as long as the use exists. The amount of the payment is set forth in subsection 130-132(b)(2).

(c) *Existing structures; one-time redemption payment.* For existing structures, a one-time redemption payment may be made at any time and shall be in the amount determined by application of the formula for a one-time payment as set forth in subsection 130-132(b)(2).

(d) *Late payments.* For late payments, monthly interest shall accrue on unpaid funds due to the city under the fee-in-lieu program at the maximum rate permitted by law. Additionally, a fee in the amount of two percent of the total due shall be imposed monthly to cover the city's costs in administering collection procedures.

(e) *Failure to pay.* Any participant in the fee-in-lieu program who has failed to pay the required fee within three months of the date on which it is due shall be regarded as having withdrawn from the program and shall be required to provide all parking spaces required by these land development regulations or cease the use for which such spaces were required. Failure to comply shall subject such participant to enforcement procedures by the city and may result in fines and liens as provided by law.

(Ord. No. 89-2665, § 7-7(B), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 2010-3676, § 1, 3-10-10; Ord. No. 2011-3738, § 2, 9-14-11; Ord. No. 2016-4033, § 1, 9-27-16)

Sec. 130-134. - Deposit of funds; account.

(a) Funds generated by the fee-in-lieu program pursuant to subsections 130-132(a) and (b) above, collected prior to March 20, 2010, shall be deposited in a city account (divided into three districts, for north, middle and south) specifically established to provide parking and related improvements in the vicinity (within the north, middle or south district, as applicable) of the subject property.

Funds generated by the fee in lieu of electric vehicle parking shall be deposited into the Sustainability and Resiliency Fund established in chapter 133 of the land development regulations. Expenditures from these funds shall require city commission approval.

(b) Funds generated by the fee-in-lieu program pursuant to subsection 130-132(a) and (b) above, collected after March 20, 2010, shall be deposited in a city account (divided into three districts, for north, middle and south) specifically established to provide parking, transportation and mobility related improvements and programs in the vicinity (within the north, middle and south district, as applicable) of the subject property. Expenditures from these funds shall require city commission approval.

(c) Such parking, transportation and mobility related improvements and programs may include:

(1) Parking garages and related facilities.

(2) Transit capital funding:

a. Purchase of buses for circulator routes.

b. Bus shelters.

c. Transit infrastructure.

(3) Traffic improvements:

a. Traffic signals.

b. Signal timing operations.

c. Lane modifications.

(4) Bicycle facilities:

a. Bicycle lanes and paths.

b. Bicycle racks and storage.

(5) Intelligent transportation systems:

a. Electronic message boards.

(6) Pedestrian improvements:

a. Crosswalks.

b. Traffic signals.

(7) Pedestrian facilities:

a. Beachwalk.

b. Baywalk.

(8) Other parking, transportation and mobility related capital projects as may be specifically approved by the city commission.

(9)

In addition, transit operational funding for newly introduced transportation enhancements and program expansions (limited to operational, nonadministrative costs only, i.e., drivers, fuel, maintenance and insurance) may be included if expressly approved by the city commission.

(d) The planning department shall maintain a map which includes a listing of the north, middle and south districts and accounts.

(e) Any fines or penalties collected pursuant to chapter 106, article II, division 3, entitled "construction management plan," after administrative expenses shall be placed in the fee in lieu of providing parking account; reflected as being paid by the party responsible for the fine or penalty; and expended by the city as provided under subsection (c) above.

(Ord. No. 89-2665, § 7-7(C), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 2010-3676, § 1, 3-10-10; Ord. No. 2015-3943, § 1, 6-10-15; Ord. No. 2016-3988, § 3, 1-13-16)

Sec. 130-135. - Joint venture agreements.

The required number of parking spaces may be provided in a facility developed through a joint venture agreement with the city or by a private entity in which the required number of parking spaces in a parking facility is specifically reserved for use by the applicant. Agreements regulating privately owned parking facilities shall be approved by the city attorney; those relating to city owned property shall be approved by the city commission. All agreements pursuant to this section shall be recorded in the public records of the county.

(Ord. No. 89-2665, § 7-7(D), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93)

Sec. 130-136. - Variances.

No variances shall be granted from the requirements of this article.

(Ord. No. 89-2665, § 7-7(E), eff. 10-1-89; Ord. No. 93-2882, eff. 10-1-93)

Secs. 130-137—130-160. - Reserved.

ARTICLE VI. - PARKING CREDIT SYSTEM

Sec. 130-161. - Regulations.

Whenever a lawfully permitted building or use is changed in a manner that results in an increase in the number of required parking spaces, the following regulations shall apply. Such building or use shall receive a parking credit equivalent to the adopted parking requirement for the building or uses in existence at the time of application for a building permit or change of use. The most recent available certificate of use or

certificate of occupancy shall be utilized to determine the credit. If a building or use was established prior to the adoption of a parking district that reduces the parking requirement, the parking credit shall be calculated pursuant to the parking requirements of parking district no 1. The parking credit shall be calculated at the time of building permit or change of use application and be applied toward the required parking as follows:

(1) The parking credit shall only be applied to the area within the existing shell of the building, unless otherwise specifically provided in chapter 118, article IX, of these land development regulations.

(2) Parking credits shall not be applicable to buildings or portions of a building that have been demolished, unless otherwise specifically exempted in chapter 118, article IX, of these land development regulations. Parking credits shall not be applicable to medical cannabis treatment centers and pharmacy stores.

(3) In order to calculate the parking requirement of a proposed use, the parking credit shall be subtracted from the total parking requirement of the proposed use. The additional required parking shall be provided pursuant to the requirements of section 130-36 or if eligible, the fee in lieu of parking program described in article V of this chapter.

(4) Existing required parking spaces, inclusive of spaces for which a complete fee in lieu of required parking was made, for a building or use shall not count towards meeting additional required parking for a proposed use, unless the total number of existing required parking spaces exceeds the total number of required parking spaces of the proposed use.

(Ord. No. 89-2665, § 7-8, eff. 10-1-89; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2005-3493, § 2, 9-8-05; Ord. No. 2016-4033, § 1, 9-27-16; Ord. No. 2019-4247, § 2, 2-13-19)

Secs. 130-162—130-190. - Reserved.

ARTICLE VII. - SURPLUS AND UNDER-UTILIZED PARKING SPACES

Sec. 130-191. - Surplus parking spaces.

When a development contains parking spaces in excess of the number required by these land development regulations, such spaces shall be considered as surplus parking. These surplus spaces may be utilized by another property for use as required parking spaces, pursuant to the off-site parking requirements of section 130-36. When the development that contains the surplus parking changes to a use that requires additional parking, such use shall not receive a building permit or occupational license until the city receives documentation that a parking shortfall has not been created for any other use that may have been utilizing the surplus parking.

(Ord. No. 89-2665, § 7-9(A), eff. 10-1-89; Ord. No. 98-3108, § 9(A), 1-21-98; Ord. No. 2016-4033, § 1, 9-27-16)

Sec. 130-192. - Under-utilized parking spaces.

When a building or development contains required parking spaces that are being under-utilized, such spaces may be utilized by another party. However, such under-utilized spaces shall not be considered as required parking spaces of another party. In order to determine if a development has under-utilized spaces, the applicant shall submit a report to the planning and zoning director substantiating this finding. The director may approve or deny the request, and any subsequent request for modification based upon the results of the report.

(Ord. No. 89-2665, § 7-9(B), eff. 10-1-89; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 94-2959, eff. 12-17-94; Ord. No. 2016-4033, § 1, 9-27-16)

Secs. 130-193—130-220. - Reserved.

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ARTICLE VIII. - SHARED PARKING

Sec. 130-221. - Requirements.

Two or more uses shall be permitted to share the same required off-street parking spaces in a common parking facility on the same lot if the hours or days of peak parking for the uses are so different that a lower total will provide an adequate number of spaces for all uses served by the facility, according to the following table.

	Weekdays		Weekends		
	Daytime (6:00 a.m.—6:00 p.m.) (percent)	Evening (6:00 p.m.—6:00 a.m.) (percent)	Daytime (6:00 a.m.—6:00 p.m.) (percent)	Evening (6:00 p.m.—midnight) (percent)	Nighttime (midnight—6:00 a.m.) (percent)
Office or banks	100	5	10	5	5
Retail	60	20	80	60	5

Hotels	50	60	60	100	75
Restaurant	50	75	75	90	10
Theatre	10	70	20	90	10
Nightclubs	5	50	5	100	90
Other uses	100	100	100	100	100

(1) Method of calculation:

a. Step 1: For each of the five time periods, multiply the minimum number of parking spaces required by sections 130-32, 130-33 and 130-34.

b. Step 2: Add the results of each column. The required number of parking spaces shall equal the highest column total.

(2) The land uses served by the shared parking facility shall be in single ownership or unity of title or long term lease.

(Ord. No. 89-2665, § 7-10, eff. 10-1-89)

Secs. 130-222—130-250. - Reserved.

ARTICLE IX. - VALET AND TANDEM PARKING

Footnotes:
*--- (**3**) ---*
***Editor's note—** Ord. No. 98-3108, § 10, adopted Jan. 21, 1998, set out provisions changing the title of Art. IX from "Valet Parking" to "Valet and Tandem Parking."*

Sec. 130-251. - Requirements.

(a) Commercial parking garages and lots may consist of 100 percent valet parking spaces. Required parking for commercial establishments, hotels, hotel accessory uses, multifamily residential buildings, residential accessory uses, and alcoholic beverage establishments may be satisfied by providing 100 percent valet parking spaces. If the parking spaces are located off-site, they shall comply with the requirements of section 130-36 in order to satisfy minimum parking requirements. In addition, any required parking valet spaces for a multifamily residential building

shall be governed by a restrictive covenant, approved as to form by the city attorney's office and recorded in the public records of the county as a covenant running with the land, stipulating that a valet service or operator must be provided for such parking for so long as the use continues.

(b) Dimensions for valet and tandem parking spaces shall be eight and one-half feet in width by 16 feet in depth. Dimensions for tandem parking spaces shall be a minimum of eight and one-half feet in width by 32 feet in depth, with a maximum stacking of two vehicles per space, except as provided in subsection 130-32(25A).

(c) Tandem parking spaces may be utilized for self-parking only in multifamily residential buildings and shall have a restrictive covenant, approved as to form by the city attorney's office and recorded in the public records of the county as a covenant running with the land, limiting the use of each pair of tandem parking spaces to the same unit owner.

(d) Commercial parking garages and lots may utilize tandem parking spaces if they are operated exclusively by valet parking. A restrictive covenant, approved as to form by the city attorney's office and recorded in the public records of the county as a covenant running with the land, shall be required and shall affirm that a valet service or operator must be provided for such parking for so long as the tandem parking spaces exist.

(Ord. No. 89-2665, § 7-11, eff. 10-1-89; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 98-3108, § 10, 1-21-98; Ord. No. 2016-4033, § 1, 9-27-16; Ord. No. 2019-4250, § 3, 3-13-19)

Secs. 130-252—130-280. - Reserved.

ARTICLE X. - SUPPLEMENTARY CONVENTION CENTER PARKING

Sec. 130-281. - Authorization.

Whenever the city manager determines that there is inadequate available parking to accommodate anticipated parking needs for a particular event scheduled for the city's convention center, the city manager shall authorize the issuance of supplementary convention center parking permits allowing the operation of vacant lots in the RM-1, RM-2, CD-1, CD-2 and CD-3 zoning districts located within 2,500 feet of the convention center as commercial parking lots for the duration of a particular event.

(1) "Vacant lot" as used in this article shall mean an unimproved lot, either paved or not paved.

(2) Distance from the convention center shall be measured from any exterior facade of the building.

(3) The authority to issue supplementary convention center parking permits shall be limited to two years from the passage of this provision. No permits shall be issued after February 16, 1993.

(Ord. No. 89-2665, § 7-12(A), eff. 10-1-89; Ord. No. 91-2733, eff. 2-16-91)

Sec. 130-282. - Occupational license required; permitting process.

(a) Any owner of a vacant lot located in the area described in section 130-281 who wishes to be eligible for supplementary convention center parking permits must obtain an occupational license for the operation of such lot pursuant to chapter 102, article V. Occupational licenses shall only be issued for lots complying with the standards set forth in section 130-283.

(b) When the city manager authorizes the issuance of permits pursuant to section 130-281 above, the city manager or a designee shall notify all owners of vacant lots holding an occupational license to operate such a lot, of a forthcoming event. Any such owner who wishes to operate his lot for supplementary parking during the particular event in question may obtain a permit for this purpose.

(Ord. No. 89-2665, § 7-12(B), eff. 10-1-89; Ord. No. 91-2733, eff. 2-16-91)

Cross reference— Occupational license tax, § 102-356 et seq.

Sec. 130-283. - Vacant lots.

All vacant lots utilized for supplementary convention center parking pursuant to this subsection shall comply with the following standards:

(1) Lots that are not paved shall be graded to remove surface depressions and mounds and sodded with grass which shall be maintained in good condition and at a reasonable height at all times.

(2) Lots shall comply with the property maintenance standards for vacant lots in section 58-299.

(3) When lighting is utilized, it should be shielded from adjoining properties.

(4) If the lot is fenced, the fence shall be kept in good repair. Fences installed after October 1, 1989, shall meet the requirements of subsection 142-1132(h).

(5) Temporary signage shall be displayed only during events for which supplementary convention center parking permits have been issued and shall be limited to two five-square-foot signs per lot; such signage shall be securely mounted. Any signs directing traffic to the lot shall be approved by the city's public works department prior to installation.

(6) Each lot shall have a curb cut or ramp approved by the city's public works department to facilitate the entrance and exit of vehicles.

(7) Any lot which is designed to be operated for self-parking shall provide for adequate ingress and egress.

(8) Temporary structures shall not be placed on lots used for supplementary convention center parking, and all existing temporary structures shall be removed.

(Ord. No. 89-2665, § 7-12(C), eff. 10-1-89; Ord. No. 91-2733, eff. 2-16-91)

Sec. 130-284. - Limitation on number of permits.

No lot shall receive more than six supplementary convention center parking permits per year.

(Ord. No. 89-2665, § 7-12(D), eff. 10-1-89; Ord. No. 91-2733, eff. 2-16-91)

Sec. 130-285. - Required parking for other uses.

Supplementary convention center parking permits shall not be issued for parking spaces which currently constitute required parking for some other use.

(Ord. No. 89-2665, § 7-12(E), eff. 10-1-89; Ord. No. 91-2733, eff. 2-16-91)

Sec. 130-286. - Revocation of occupational license.

If the city manager finds that the operation of a lot for supplementary convention center parking has an adverse effect on the welfare of surrounding properties, the occupational license may be revoked pursuant to the procedures set forth in section 102-385.

(Ord. No. 89-2665, § 7-12(F), eff. 10-1-89; Ord. No. 91-2733, eff. 2-16-91)

Chapter 133 - Sustainability and Resiliency

ARTICLE I. - GREEN BUILDINGS

DIVISION 1. - IN GENERAL

> *Footnotes:*
> *--- (**1**) ---*
> ***Editor's note—** Sec. 7, of Ord. No. 2017-4123, adopted July 26, 2017, redesignated arts. I, II, and III as divs. 1, 2, and 3.*

Sec. 133-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning, or as may be amended from time to time:

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.

(Ord. No. 2016-3993, § 1, 2-10-16)

Sec. 133-2. - Intent and purpose.

The purpose of this chapter shall be to promote sustainable development within the City of Miami Beach by supporting resilient design and construction practices. The city's intent is to establish a certification compliance schedule that incentivizes all qualifying projects to attain at a minimum LEED Gold certification, or similar green building program recognized in this chapter. Sustainable building practices will promote the economic and environmental health of the city, and ensure that the city continues to become environmentally resilient to combat sea level rise and help curb climate change. This chapter is designed to achieve the following objectives:

(a) Increase energy efficiency in buildings;

(b) Encourage water and resource conservation;

(c) Reduce waste generated by construction projects;

(d) Reduce long-term building operating and maintenance costs;

(e) Improve indoor air quality and occupant health;

(f) Contribute to meeting state and local commitments to reduce greenhouse gas production and emissions; and

(g) Encourage sound urban planning principles.

(Ord. No. 2016-3993, § 1, 2-10-16)

DIVISION 2. - GREEN BUILDING REGULATIONS

> *Footnotes:*
> *--- (**2**) ---*
> ***Editor's note—** See editor's note to div. 1.*

Sec. 133-3. - Sustainability requirements.

(a) Mandatory compliance with the requirements of this chapter shall be required for all applicants with building permit applications that meet the following criteria (hereinafter "eligible participants"):

(1) All new construction that proposes over 7,000 square feet of construction of a structure; or

(2) Ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area.

(b) Notwithstanding the foregoing, non-elderly and elderly low and moderate income and workforce housing developments shall be exempt from the requirements of this article. However, such developments are encouraged to incorporate green building elements that further the intent and purpose of section 133-2.

(Ord. No. 2016-3993, § 1, 2-10-16; Ord. No. 2022-4513, § 3, 9-28-22)

Sec. 133-4. - Standards.

This chapter shall be administered using standards developed for and standards developed by the United States Green Building Council (USGBC) or the International Living Future Institute. All eligible participants who are certified as having satisfied all of the requirements of the green building certification agency, including, but not limited to, any monetary or certification requirements, are eligible for a partial or full refund of the sustainability fee identified in section 133-7, herein based upon the level of compliance with the regulations in this chapter.

(Ord. No. 2016-3993, § 1, 2-10-16)

DIVISION 3. - SUSTAINABILITY FEE PROGRAM

Footnotes:
*--- (**3**) ---*
Editor's note— *See editor's note to div. 1.*

Sec. 133-5. - Generally.

A sustainability fee will be assessed for all eligible participants. The calculation of the fee, provisions for refunding all or portions of the fee, its purpose, and eligible uses are detailed within this division.

(Ord. No. 2016-3993, § 1, 2-10-16; Ord. No. 2017-4123, § 7, 7-26-17)

Sec. 133-6. - Sustainability fee calculation.

(a) In order to obtain a temporary certificate of occupancy (TCO), certificate of occupancy (CO), or certificate of completion (CC), whichever comes first, the eligible participant must first post a sustainability fee payment bond or issue full payment of the sustainability fee to the city. The sustainability fee shall be valued at five percent of the total construction valuation of the building permit. However, the eligible participant may be entitled to a refund or partial refund, of the bond, or payment of the sustainability fee, based upon achieving the program certification levels in the compliance schedule below:

Certification Compliance Schedule

Level of Certification Achieved	Sustainability Fee Reimbursement to Participant for Meeting Certain Green Building Certification Levels
Failure to obtain Certification	0% refund of bond or payment of Sustainability fee
LEED Certified	50% refund of bond or payment of Sustainability fee
LEED Silver Certified	66% refund of bond or payment of Sustainability fee
LEED Gold Certified or International Living Future Institute Petals or Net Zero Energy Certified	100% refund of bond or payment of Sustainability fee
LEED Platinum Certified or International Living Future Institute Living Building Challenge Certified	100% refund of bond or payment of Sustainability fee

If the proof of green building certification is provided prior to the obtaining a TCO, CO, or CC, the "sustainability fee" shall be in the full amount identified above, minus the refund for the level of green building certification achieved identified in the certification compliance schedule.

(b) The sustainability fee shall be valuated upon the eligible participant's submittal at time of application for temporary certificate of occupancy (TCO), certificate of occupancy (CO), or certificate of completion (CC), whichever comes first, upon review by the planning department during zoning review of the certificate. The sustainability fee bond or full payment shall be provided by participant prior to obtaining a temporary certificate of occupancy (TCO), certificate of occupancy (CO) or certificate of completion, whichever comes first.

(c) Refund of the sustainability fee or bond to the eligible participant may occur as provided for in subsection (a), above, provided the eligible participant complies with the certification compliance schedule within the timeframe identified in in section 133-7(b).

(d) The entirety of the sustainability fee shall be forfeited to the city based upon participant's failure achieve the applicable green building certification levels identified [in section] 133-6(a) within the timeframe identified in section 133-7(b).

(Ord. No. 2016-3993, § 1, 2-10-16)

Sec. 133-7. - Review procedures.

(a) Prior to obtaining a temporary certificate of occupancy, certificate of occupancy (CO) or certificate of completion (CC), whichever comes first, the qualifying projects shall post a bond with the city, or in the alternative, provide a payment to the city, in the amount of the "sustainability fee" identified in section 133-6(a).

(b) Within one year from the receipt of a certificate of occupancy (CO) or certificate of completion (CC), the owner shall submit proof of green building certification for the development from the green building certification agency.

(1) The bond or payment provided, or percentage thereof, shall be refunded to program participants that have achieved a level of green building certification identified in the certification compliance schedule in section 133-6.

(2) The planning director may approve, upon the request of the eligible participant, a one-time one year extension, provided proof that the green building certification agency's review remains pending to determine final certification.

(c) Building permit applications for a green building project submitted or resubmitted for review shall be given priority review over projects that are not green building projects by the city's departments reviewing such applications.

(d) All building inspections requested for green building projects shall be given priority over projects that are not green building projects.

(Ord. No. 2016-3993, § 1, 2-10-16)

Sec. 133-8. - Deposit of funds; account.

(a) The city has established a sustainability and resiliency fund. The revenue generated through the sustainability fee program shall be deposited in the sustainability and resiliency fund.

(1) Interest earned under the account shall be used solely for the purposes specified for funds of such account.

(2) Sustainability fees deposited and credited to the sustainability and resiliency fund account, and credited to the eligible participant, pursuant to section 133-7, shall be identified, within the city's sustainability and resiliency fund.

(3)

Appropriation of deposited funds in the sustainability and resiliency fund shall not be permitted until the applicable refund period, established in section 133-7(b), for those funds has lapsed.

(4) Should the eligible participant provide a bond, rather than pay the sustainability fee, then, the city shall safeguard the bond, to ensure compliance with this chapter. The city shall return the bond, or make a claim for a portion of the bond, depending on the eligible participant's compliance with section 133-7(b) and 133-6(a).

(b) Earned fees in the sustainability and resiliency fund shall be utilized to provide public improvements that increase the sustainability and resiliency of the city. Expenditures from these funds shall require prior city commission approval. Prior to any expenditure, the city manager shall provide a recommendation to the city commission.

(c) Such improvements that increase the resiliency of the city may include:

(1) Environmental restoration projects;

(2) Environmental remediation projects;

(3) Environmental monitoring;

(4) Green infrastructure;

(5) Enhanced stormwater quality and quantity improvements; and/or

(6) Sustainability planning efforts.

(Ord. No. 2016-3993, § 1, 2-10-16)

Secs. 133-9—133-49. - Reserved.

ARTICLE II. - SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Sec. 133-50. - Criteria.

The city's land use boards shall consider the following when making decisions within their jurisdiction, as applicable:

(a) Criteria for development orders:

(1) A recycling or salvage plan for partial or total demolition shall be provided.

(2) Windows that are proposed to be replaced shall be hurricane proof impact windows.

(3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

(4) Resilient landscaping (salt tolerant, highly water-absorbent, native, or Florida-friendly plants) shall be provided, in accordance with chapter 126 of the city Code.

(5)

The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

(6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-way and adjacent land, and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three additional feet in height.

(7) As applicable to all new construction, all critical mechanical and electrical systems shall be located above base flood elevation. All redevelopment projects shall, whenever practicable and economically reasonable, include the relocation of all critical mechanical and electrical systems to a location above base flood elevation.

(8) Existing buildings shall, wherever reasonably feasible and economically appropriate, be elevated up to base flood elevation, plus City of Miami Beach Freeboard.

(9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with chapter 54 of the city Code.

(10) As applicable to all new construction, stormwater retention systems shall be provided.

(11) Cool pavement materials or porous pavement materials shall be utilized.

(12) The design of each project shall minimize the potential for heat island effects on-site.

(b) Criteria for ordinances, resolutions, or recommendations:

(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

(2) Whether the proposal will increase the resiliency of the city with respect to sea level rise.

(3) Whether the proposal is compatible with the city's sea level rise mitigation and resiliency efforts.

(Ord. No. 2017-4123, § 8, 7-26-17; Ord. No. 2019-4252, § 4, 3-13-19)

Secs. 133-51—133-59. - Reserved.

ARTICLE III. - GROUND FLOOR STANDARDS FOR NONRESIDENTIAL BUILDINGS

Sec. 133-60. - Existing building standards.

Existing buildings with nonresidential uses on the ground floor that are repaired or rehabilitated, pursuant to section 118-395(a), by more than 50 percent of the building, as determined by the building official, shall be subject to the following standards:

(a) Where feasible, the ground floor shall be located at a minimum elevation of one foot above the highest sidewalk elevation adjacent to the frontage. Ramping and stairs from the sidewalk elevation to the ground floor elevation shall occur inside the property and shall not encroach into the public sidewalk.

(b) Except where there are doors, facades shall have a knee wall with a minimum height of two feet, six inches above the sidewalk elevation. Such knee walls shall include any required flood barrier protection. The planning director or designee may waive this knee wall requirement if the applicant can substantiate that the proposed glass storefront system satisfies all applicable Florida Building Code requirements for flood barrier protection, or if the finished floor meets the minimum freeboard requirements of the city Code.

(c) Where feasible, ground floors, wall systems, partitions, doors and finishes shall utilize waterflood damage resistant materials in accordance with all applicable requirements of the Florida Building Code, FEMA regulations, and American Society of Civil Engineer (ASCE) - Flood Resistant Design and Construction Standards, for a minimum of the first two feet, six inches above the floor elevation.

(d) Flood panels for doorways shall be permanently stored adjacent to all doorways, except when in use.

(e) Where implementation of the regulations in this section is unfeasible or incompatible with the environment and adjacent structures, they may be waived to the minimum extent necessary by the historic preservation board (HPB) or design review board (DRB), in accordance with the certificate of appropriateness review criteria or design review criteria, as applicable; however, an applicant may be required to implement alternative approaches for adequate mitigation of flooding.

(Ord. No. 2020-4371, § 3, 11-18-20)

Sec. 133-61. - Short frontage standards.

The following regulations shall apply to new construction with nonresidential uses on the ground floor on frontages with a width of 150 feet or less:

(a) *Sidewalk standards.* Where feasible, sidewalks shall be constructed as follows:

(1) *Circulation zone.* The sidewalk shall contain a "circulation zone" with a minimum dimension of ten feet in width, pursuant to the following standards:

a. The circulation zone shall be fully illuminated, consistent with the city's street and sidewalk lighting requirements and subject to the review and approval of the public works director.

b. The design of the circulation zone shall be consistent with the city's public sidewalk requirements.

c. The circulation zone may be constructed in areas of the public right-of-way and required yards that are in front of a building facade.

d. The circulation zone shall remain free from obstructions created by landscaping, signage, utilities, and lighting fixtures.

e. Pedestrians shall have 24-hour access to the circulation zone.

f. The circulation zone shall include a minimum five-foot wide "clear pedestrian path," free from obstructions, including, but not limited to, stairs, ramping, handrails, outdoor cafés, sidewalk cafés, and door swings. The clear pedestrian path shall be delineated by in-ground markers that are flush with the path, including differing pavement tones, differing pavement type, or by another method approved by the planning director.

g. An easement providing for perpetual public access shall be provided to the city for portions of the circulation zone that are constructed within the setback area on private property.

(2) *Landscape area.* A "landscape area" between the circulation zone and the adjacent automobile parking or vehicle travel lanes shall be provided as follows:

a. The landscape area shall be predominantly landscaped, except where there are access paths, public transit stops, valet parking stands, lighting fixtures, pedestrian crossings, or driveways.

b. The landscape area shall have a minimum width of five feet.

c. Street trees shall be planted within the landscape area.

d. Where the landscape area is adjacent to on-street parking, access paths shall be provided between parking spaces so that each parking space has access to the circulation zone generally from either the front end or rear end of the vehicle. Access paths shall be no wider than 36 inches.

e. Street and pedestrian lighting fixtures shall be located within the landscape area.

f. The circulation zone may encroach into the landscape area in order to meet adjacent sidewalks and street crossings.

(b)

Setbacks. The building's ground floor façade, parking areas, and loading areas shall be set back a minimum of 15 feet from the back of curb to provide sufficient area to accommodate the required circulation zone and landscape area in cases where the public right-of-way is not sufficiently wide. If the underlying zoning regulations require a larger setback, the larger setback shall be required.

(c) *Ground floor elevation.* The ground floor shall be located no lower than the future crown of road elevation.

(d) *Ramping and stairs.* Ramping and stairs from the sidewalk elevation to 14 inches below the ground floor elevation may occur on the exterior of the building and encroach into the circulation zone only if within five feet of the façade of the building. Ramping and stairs shall not encroach into the clear pedestrian path. Ramping above 14 inches below the ground floor elevation shall occur within the property and shall not encroach into the public sidewalk or setback areas.

(e) *Knee wall.* Except where there are doors, facades shall have a knee wall with a minimum height of two feet, six inches above the sidewalk elevation. Such knee walls shall include any required flood barrier protection. The planning director or designee may waive this knee wall requirement if the applicant can substantiate that the proposed glass storefront system satisfies all applicable Florida Building Code requirements for flood barrier protection or if the finished floor meets the minimum freeboard requirements of the city Code.

(f) *Flood damage-resistant materials.* Ground floors shall utilize water resistant materials for a minimum of two feet six inches above the floor elevation.

(g) *Flood panels.* Flood panels for doorways shall be permanently stored next to doorways, except when in use.

(h) *Multiple frontages.* For developments that contain more than one frontage, and where one such frontage is greater than 150 feet, the requirements of section 133-62 shall apply.

(i) *Waivers.* Where implementation of the regulations in this section is unfeasible or incompatible with the environment and adjacent structures, they may be waived to the minimum extent necessary by the historic preservation board (HPB) or design review board (DRB), in accordance with the certificate of appropriates review criteria or design review criteria, as applicable; however, an applicant may be required to consider alternative approaches for adequate mitigation of flooding.

(Ord. No. 2020-4371, § 3, 11-18-20)

Sec. 133-62. - Long frontage standards.

The following regulations shall apply to new construction with nonresidential uses on the ground floor on frontages with a width greater than 150 feet:

(a)

Sidewalk standards. The sidewalk shall be raised to the future crown of road elevation, except for transition areas and where there are street crossings, intersections, or driveways, as follows:

(1) *Circulation zone.* The sidewalk shall contain a "circulation zone" with a minimum dimension of ten feet wide, pursuant to the following standards:

a. The "circulation zone" shall be fully illuminated, consistent with the city's street and sidewalk lighting requirements and subject to the review and approval of the public works director.

b. The design of the circulation zone shall be consistent with the city's public sidewalk requirements.

c. The circulation zone may be constructed in areas of the public right-of-way and required yards that are in front of a building facade.

d. The circulation zone shall remain free from obstructions created by landscaping, signage, utilities, stairs, ramping, handrails, and lighting fixtures.

e. Pedestrians shall have 24-hour access to the circulation zone.

f. The circulation zone shall include a minimum five-foot wide "clear pedestrian path," free from obstructions, including, but not limited to, outdoor cafés, sidewalk cafés, handrails, and door swings. The clear pedestrian path shall be delineated by in-ground markers that are flush with the path, including differing pavement tones, differing pavement type, or by another method approved by the planning director.

g. An easement providing for perpetual public access shall be provided to the city for portions of the circulation zone that are constructed within the setback area on private property.

(2) *Parallel transition areas.* "Parallel transition areas" between the raised circulation zone and lower level sidewalks, street crossings, intersections, and driveways shall be accommodated within the frontage adjacent to the new development as follows:

a. The parallel transition areas shall not contain steps, switchback ramps, or handrails.

b. The parallel transition areas shall be of the minimum length necessary so as to not require the use of steps, switchback ramps, and handrails between the higher future crown of road elevation and the lower level sidewalk, pedestrian crossing, or driveway elevation.

(3) *Landscape transition areas.* "Landscape transition areas" between the raised circulation zone and the adjacent automobile parking or vehicle travel lanes shall be provided as follows:

a. The landscape transition area shall be predominantly landscaped, except where there are access steps, lighting fixtures, pedestrian crossings, or driveways.

b. The landscape transition area shall have a minimum width of five feet.

c. Street trees shall be planted within the landscape transition area in raised planters or stabilized planting areas that at a minimum match the elevation of the circulation zone.

d. Where the landscape transition area is adjacent to on-street parking, access steps shall be provided between parking spaces so that each parking space has access to the circulation zone generally from either the front end or rear end of the vehicle. Steps shall be no wider than 36 inches, not included handrails.

e. Handrails shall only be permitted for access steps to on-street parking.

f. Street and pedestrian lighting fixtures shall be located within the landscape transition area.

g. The circulation zone may encroach into the landscape transition area in order to meet adjacent sidewalks and street crossings. The encroachment shall be the minimum necessary to comply with the requirements for and shall comply with the requirements of parallel transition areas.

Notwithstanding the standards in subsections a. to g. above, public transit stops and valet parking stands, may be located within the landscape transition area. In the event of a conflict, the provisions in this section shall be superseded by any requirement in the city Code, Miami-Dade County Code, or state law that is applicable to public transit stops or valet parking stands.

(b) *Setbacks.* The building's ground floor facade, parking areas, and loading areas shall be set back a minimum of 15 feet from the back of curb to provide sufficient area to accommodate the required circulation zone and landscape transition areas in cases where the public right-of-way is not sufficiently wide. If the underlying zoning regulations require a larger setback, the larger setback shall be required.

(c) *Driveways.* Driveways to access off-street parking, drop-off, and loading areas shall comply with the following:

(1) Where a development has more than one frontage, driveways should be located facing the street with the lowest traffic volumes.

(2) The number of driveways should be minimized to the greatest extent possible.

(3) Where the circulation zone passes through a driveway, the surface shall be fully horizontal in a direction perpendicular to the facade of a building, so as to provide a safe and comfortable pedestrian environment.

(4) Mountable curbs shall be utilized, where feasible.

(d)

Ground floor elevation. The ground floor shall be located a minimum elevation of 14 inches above the future crown of road elevation. Ramping and stairs from the sidewalk circulation zone to the ground floor elevation shall occur within the property and not encroach into the circulation zone or setback areas, unless adequate space exists on the exterior.

(e) *Knee wall.* Except where there are doors, facades shall have a knee wall with a minimum height of two feet, six inches above the future crown of road elevation. Such knee walls shall include any required flood barrier protection. The planning director or designee may waive this knee wall requirement if the applicant can substantiate that the proposed glass storefront system satisfies all applicable Florida Building Code requirements for flood barrier protection.

(f) *Flood damage-resistant materials.* Ground floors, walls system, partitions and doors shall utilize water flood damage resistant materials in accordance with all applicable Florida Building Code, FEMA regulations and American Society of Civil Engineer (ASCE) - Flood Resistant Design and Construction Standard, for a minimum of the first two feet, six inches above the ground floor elevation.

(g) *Flood panels.* Flood panels for doorways shall be permanently stored adjacent to all doorways, except when in use.

(h) *Waivers.* Where implementation of the regulations in this section is unfeasible or incompatible with the environment and adjacent structures, they may be waived to the minimum extent necessary by the historic preservation board (HPB) or design review board (DRB), in accordance with the certificate of appropriateness review criteria or design review criteria, as applicable; however, an applicant may be required to implement alternative approaches for adequate mitigation of flooding.

(Ord. No. 2020-4371, § 3, 11-18-20)

Chapter 138 - SIGNS

Footnotes:
*--- (**1**) ---*
***Editor's note—** Ord. No. 2016-4045, adopted Oct. 19, 2016, amended ch. 138 in its entirety to read as herein set out. Former ch. 138 pertained to the same subject matter, consisted of §§ 138-1—138-11, 138-41, 138-42, 138-71—138-74, 138-131—138-140, 138-171—138-174, 138-201—138-205. See the Code Comparative Table for amendatory history.*
***Cross reference—** Building regulations, ch. 14; businesses, ch. 18; streets and sidewalks, ch. 98; zoning districts and regulations, ch. 142.*

ARTICLE I. - IN GENERAL

Sec. 138-1. - Purpose.

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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-2. - Applicability 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-3. - General requirements.

The following requirements shall apply to signs, in addition to provisions appearing elsewhere in these land development regulations:

(1) 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.

(2) 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.

(3) Structural features and electrical systems shall be in accordance with the requirements of the Florida Building Code.

(4) No sign shall conflict with the corner visibility clearance requirements of section 142-1135.

(5) 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.

(6) All signs shall be maintained in good condition and appearance.

(7)

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.

(8) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-4. - 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:

(1) 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.

(2) Historical markers approved by the historic preservation board.

(3) 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.

(4) Changing of the copy on a bulletin board, poster board, display encasement directory sign or marquee.

(5) Signage on vehicles as authorized in section 138-61.

(6) 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.

(7) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-5. - General advertising, prohibited signs and sign devices.

(a) No general advertising sign shall be constructed, erected, used, operated or maintained in the city.

(b) Pennants, banners, streamers, 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 sign shall be constructed, erected, used, operated, or maintained so as to display intermittent lights, to move or revolve.

(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) Freestanding or sandwich signs shall not be located outside of a building.

(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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-6. - Removal required.

(a) [Reserved.]

(b)

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.

(c) The building official may initiate proceedings that result in the removal of any sign erected or maintained without a permit.

(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.

(e) 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.

(f) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Secs. 138-7, 138-8. - Reserved.

Sec. 138-9. - Yard requirements.

(a) Unless otherwise specified in these regulations, all signs shall comply with the yard requirements of the district in which they are located.

(b) No sign, portable or otherwise, is to be placed or located to conflict with the vision clearance requirements of section 142-1135.

(Ord. No. 2016-4045, § 1, 10-19-16; Ord. No. 2019-4314, § 1, 10-30-19)

Secs. 138-10—138-12. - Reserved.

ARTICLE II. - DESIGN STANDARDS, WINDOW, AWNING, WALL, PROJECTING, AND DETACHED (MONUMENT) SIGNS

Sec. 138-13. - 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:

(1) 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.

(2)

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.

(3) 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.

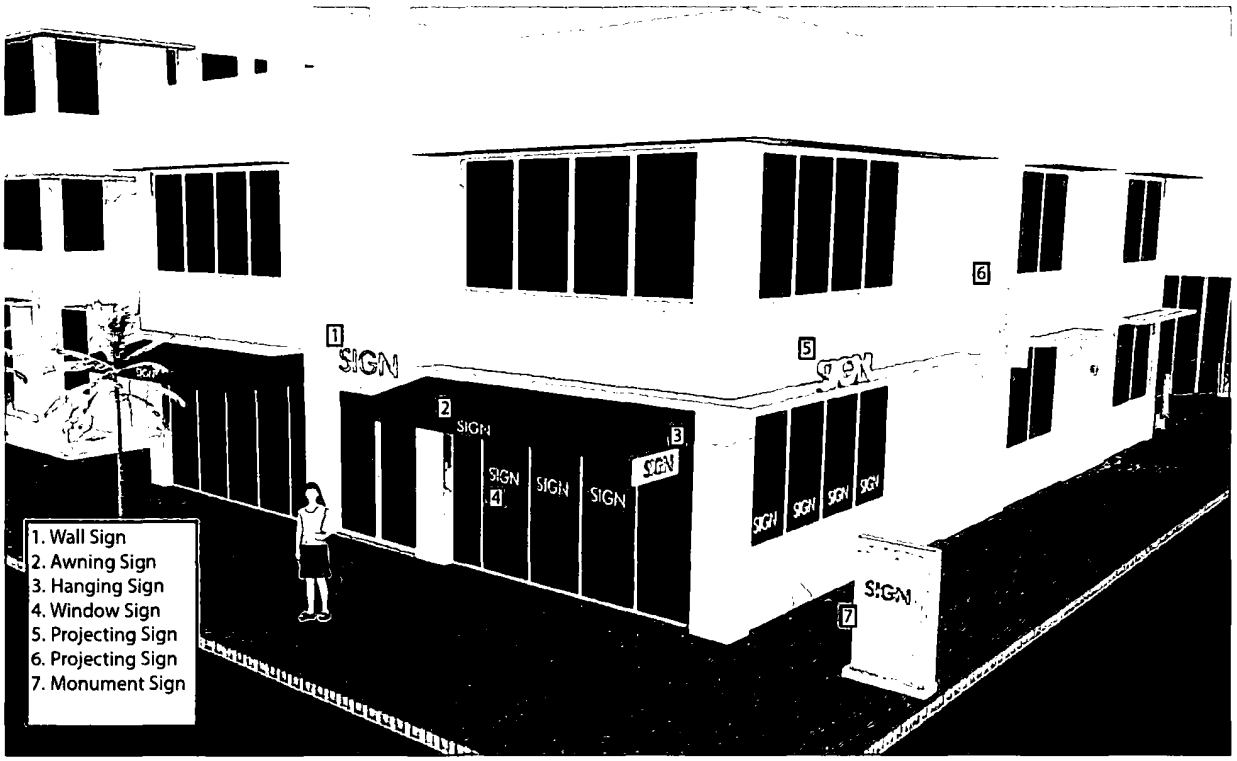
(4) Electrical conduit, support structures, receptacle boxes, or any other operational devices associated with a sign shall be designed in such a manner as to be visually unnoticeable.

(5) Sign copy for main business signs, with the exception of window signs, shall be limited to licensed permitted uses.

(6) Only one wall, projecting, or detached sign shall be permitted per allowed frontage for each principal or licensed accessory use, unless otherwise allowed in this chapter.

(7) All signs shall be subject to design review procedures.

The following diagram shows an example of the signs described within this article:



(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-14. - 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:

(1) The size of the numerals for the address shall not exceed six inches in height.

(2)

The numerals and letter size for the phone number and hours of operation shall not exceed two inches in height.

(3) The name of the establishment may be repeated more than once subject to design review approval. 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.

(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.

(d) 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.

(e) 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.

(f) 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.

(g) 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 design review approval.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-15. - Signs located on the valance and underside of awnings or canopies.

(a) *Signs under awnings or canopies.* In all districts except RS (1-4), and in addition to other permitted signs, one non-illuminated sign, not exceeding three square feet in area with letters not exceeding six inches in height, hanging from the underside of an awning or canopy with a minimum height clearance of seven feet six inches is permitted.

(b) *Signs on the valance of an awning or canopy.* For 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.

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 in accordance with the following:

(1) 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 square feet.

(2) Letters shall not exceed eight inches in height.

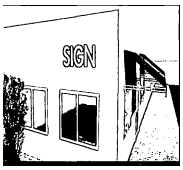
(3) Signs on continuous awnings shall be placed centered on the portion of the valance that corresponds to the individual storefront and be a uniform color.

(4) All valance signs shall be subject to the design review process.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-16. - Wall sign.

Wall signs are signs 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. Such 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)	• Max.: 100 square feet	• Max.: 30 square feet	GC and SPE: 30 square feet RS (1—4): Two square feet
Height restrictions	Shall not be located above ground floor. 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 if the aggregate sign area does not exceed the largest maximum permitted area	One wall, projecting or detached.	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

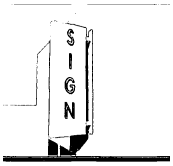
Special conditions	Corner buildings may provide one combined sign instead of the two permitted signs. This sign shall be located on the corner of the building visible from both streets and shall have a maximum size of 40 square feet.		Residential use: Copy limited to address and name of building
Building 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.		

(Ord. No. 2016-4045, § 1, 10-19-16; Ord. No. 2019-4273, § 2, 6-5-19; Ord. No. 2019-4314, § 2, 10-30-19)

Sec. 138-17. - Reserved.

Sec. 138-18. - Projecting sign.

Projecting signs are signs attached to and projecting more than 12 inches from the face of a wall of a building. This includes marquee signs. A projecting sign which extends more than 36 inches above a roof line or parapet wall shall be designated as a roof sign. Such 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 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	15 square feet		Not permitted
Height restrictions	• Minimum nine feet per subsection 82-411(b)		Not permitted
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	Not permitted
Accessory uses		Main permitted use	Not permitttted

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 or certificate of appropriateness process, as applicable	Not permitted	

Special conditions	• May be illuminated by an external lighting source through design review • Not permitted in HD • 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 or certificate of appropriateness process, as applicable. (2) The sign shall be mounted to the applicable projection. (3) The sign shall	Not permitted	

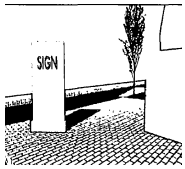
	consist of individual letters. (4) Raceways and wireways shall be concealed from view of the public right-of-way. (5) The sign shall not be located directly in front of windows. (6) Sign letters shall consist of aluminum or similar alloy and shall have a minimum depth of four inches. (7) Sign letters 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.		

(Ord. No. 2016-4045, § 1, 10-19-16; Ord. No. 2019-4273, § 2, 6-5-19; Ord. No. 2019-4314, § 2, 10-30-19)

Sec. 138-19. - Detached sign.

Detached signs are signs not attached to or painted on a building but which are affixed to the ground. A sign attached to a surface detached from a building, such as a fence or wall, shall be considered a detached sign. All sides of a detached sign displaying signage will be calculated towards the max area. Such 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 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	• 15 square feet • Five feet if on perimeter wall	• 15 square feet • if sign 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. However at no time shall height exceed ten feet		Not permitted

Max 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 max permitted area	One Wall, Projecting, or Detached	Not permitted
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		Not permitted
Accessory Use	Main permitted use		Not permitted
Special Conditions	Not permitted in MXE	• In RO, maximum area ten square feet	Not permitted

(Ord. No. 2016-4045, § 1, 10-19-16; Ord. No. 2019-4273, § 2, 6-5-19; Ord. No. 2019-4314, § 2, 10-30-19)

Sec. 138-20. - Directory signs.

Commercial buildings are allowed an exterior directory sign, attached to the building, up to six square feet in area, listing the names of all licensed uses within the building is permitted; sign material and placement shall be subject to approval through the design review process.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-21. - Minimum design standards and guidelines.

All signs permissible within this article shall comply with the following minimum design standards:

(a) The framework and body of all signs shall consist of aluminum or similar alloy material.

(b) Wall signs shall consist of individual letters, or routed out aluminum panels offset a minimum of four inches from the wall.

(c) Wall sign individual letters shall have a minimum depth of four inches.

(d) 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.

(e) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-22. - Supplemental standards.

(a) 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 section 138-17):

(1) The sign shall consist of individual letters, and shall be pin-mounted or flush-mounted (no raceways or wireways).

(2) Sign letters shall consist of aluminum or similar alloy, and shall have a minimum depth of four inches.

(3) Sign letters shall be open face with exposed neon or similar lighting, or reverse channel letters.

(Ord. No. 2016-4045, § 1, 10-19-16; Ord. No. 2019-4314, § 2, 10-30-19)

Secs. 138-23—138-40. - Reserved.

ARTICLE III. - SPECIFIC DISTRICT SIGN REGULATIONS

DIVISION 1. - SPECIAL SIGN REGULATIONS

Sec. 138-41. - 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:

(1) Flat 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:

a. 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.

b. 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.

c. 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.

d. 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.

e. For those facades facing a residential or hotel use, only back-lit signage shall be permitted.

f. 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.

(2) In evaluating signage applications for a certificate of appropriateness, the historic preservation board shall consider the following:

a. 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.

b. The overall design, graphics and artistry associated with a proposed sign and its relationship to the historic and design integrity of the structure.

c. The design detail, animation and non-text graphics proposed for the proposed sign(s).

d. The illumination, surface colors and finishes, width, depth, and overall dimensions of the proposed sign(s).

e. Original, historic signage associated with the building and/or property.

(3) The historic preservation board may, at its discretion, place restrictions on the hours of operation for any sign approved under this subsection.

(4) Signage must relate to the specific occupant(s) of the property.

(5) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Secs. 138-42—138-50. - Reserved.

Sec. 138-51. - 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:

(1) A maximum of one temporary sign per street front, no larger than 30 square feet each.

(2) 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.

(3) 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.

(4) The design, projection, materials, location and installation method of temporary signs shall be subject to the design review or certificate of appropriateness process, as applicable.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-52. - 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:

(1) 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.

(2) One sign per accessory use, sign area not to exceed 20 square feet.

(3) 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.

(4) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-53. - 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:

(1) Each of the interconnected businesses shall have a separate occupational license.

(2) Each of the interconnected businesses shall have direct access from the street with its own separate, main entrance.

(3) Each of the interconnected businesses shall have a minimum storefront width of 20 linear feet.

(4) The maximum width of the interconnecting opening between businesses shall not exceed 12 feet.

(5) The individual sign for a storefront that interconnects with another business shall not exceed three-fourths of the storefront where it is located.

(6) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-54. - 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-55. - Legal nonconforming signs.

(a) *General provisions.*

(1) 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.

(2) The copy or content of existing nonconforming roof signs and pole signs may not be altered, except as otherwise provided herein.

(3) 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.

(b) *Legal nonconforming signs located within a local or National Register historic district or local historic site.*

(1) 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:

a. 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.

b. The sign shall retain its existing content and copy, or the original content and copy may be restored consistent with historical documentation.

c. 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.

(2) 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:

a. 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.

b. Substantial historical evidence of the original configuration of the sign is available.

c. 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.

d. 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.

(3) 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:

a. The noncontributing building or structure was initially constructed prior to 1966.

b. 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.

c. Substantial historical evidence of the original configuration of the sign is available.

d. 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.

e. 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.

(4) 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.

(5) 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 (1), (2), or (3) above.

(c) Legal nonconforming signs located outside a local or National Register historic district, or local historic site.

(1) 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:

a. 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.

b. 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.

c. The sign shall retain its existing content and copy or the original content and copy may be restored consistent with substantial historical documentation.

d. 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.

(2) 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:

a. 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.

b. 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.

c. Substantial historical evidence of the original configuration of the sign is available.

d. 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.

e. 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.

(3) Such renovation or reconstruction shall be approved consistent with the design review criteria as set forth in section 118-251 of the City Code 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.

(4) A change of copy may be approved by the design review board, provided the sign meets the criteria in (1) or (2) above.

Sec. 138-56. - 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
Flat wall signs or canopy/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.				

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-57. - Reserved.

Sec. 138-58. - Vertical retail center signs.

(a) *Definitions.*

(1) A 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.

(2) 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.*

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) Uses in vertical retail centers may also have business identification signs on interior walls, not visible from the right-of-way.

(9) 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.

(Ord. No. 2016-4045, § 1, 10-19-16; Ord. No. 2019-4314, § 3, 10-30-19)

Sec. 138-59. - 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
Flat wall signs or canopy/marquee sign: Identifying the name of the institution.	Total number of signs to be determined under the design review procedures.	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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-60. - 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:

(1) Flagpoles shall be permanently affixed to the ground, building or other structure in a manner acceptable to the building official.

(2) 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.

(3) The installation of permanent flagpoles projecting over public property shall require approval from the public works department.

(4) 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:

(1) The flagpole shall be of a temporary nature, i.e., not permanently affixed to the structure.

(2) The mounting hardware must be placed at least six feet, eight inches above ground level.

(3) The flag may not exceed three feet, by five feet and must be made of flame-retardant material.

(4) 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.

(5) 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:

(1) Any yard facing a street: Ten feet.

(2) Interior side yard: Seven and one-half feet.

(3) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-61. - Display of signs or advertisement on vehicles; prohibitions; exemptions; penalties.

(a) Signs attached to or placed on a vehicle (including trailers) that is parked on public or private property shall be prohibited. This prohibition, however, does not apply in the following cases:

(1) 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.

(2) 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.

(3) Vehicles which require governmental identification, markings or insignias of a local, state or federal government agency.

(4) Signs that are authorized under chapter [section] 10-4(b) and BA-276 of the Code of Miami-Dade County.

(5) 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.

(6) 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.

This section shall not apply to:

(1) 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;

(2) Mass transit, public transportation;

(3) Taxicabs; or

(4) Any vehicle exempted under section 138-61(a), above.

(c) 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Secs. 138-62—138-130. - Reserved.

ARTICLE IV. - TEMPORARY SIGNS

Sec. 138-131. - 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 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.

(c) 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.

[(d)] [Reserved.]

(e)

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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-132. - Temporary signs, general requirements.

(a) Temporary signs are signs 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.

(b) There shall be a maximum of two permits for the same premises within one calendar year for signs requiring permits.

(c) The sign area for window signs shall not exceed ten percent of total window area. The sign area for nonwindow signs for a nonconforming business in a residential district is four square feet. The sign area for nonwindow signs for a business in a nonresidential district is 15 square feet.

(d) Location. Temporary signs shall be located only upon the lot in which the special use, activity, service, product or sale is to occur.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-133. - Temporary signs regulations for business, real estate, construction, and election/free speech signs.

(a) *Purpose and intent.* Temporary signs are being regulated equally, ensuring the same setback, height, and other regulations for temporary signs. The terms "temporary business, real estate, construction, and election/free speech signs" are by way of example and are not meant to be utilized to improperly distinguish content. This section should be constructed consistent with Reed v. Gown of Gilbert, Arizona, 135 S.Ct. 2218 (2015).

(b) *Setback, height regulations for temporary business, real estate, construction, and election/free speech signs.* Unless affixed to a fence or an existing building, detached signs shall be setback 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 a 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) *Timeframe, removal.* 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 the city manager may approve an extension of time for the business to erect and maintain such signs beyond the 30 days, after the manager

finds that such extension is necessary 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.

(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 design review approval.

(f) *Type.* Signs may be flat wall signs, part of a fence, or rigid detached signs, affixed to posts or a construction fence. Banners are prohibited. The sign area for window signs shall not exceed ten percent of total window area.

(g) *Size, single-family.* The sign area for single-family signs shall not exceed four square feet.

(h) *Size, multifamily.* The sign area for a multifamily zoning district shall not exceed 16 square feet.

(i) *Size, all other districts.* The sign area for all other districts shall not exceed one square foot per three linear feet of street frontage, not to exceed 75 square feet.

(j) *[Design review.]* With the exception of election/free speech signs and temporary window signs, all signs shall be reviewed under the design review process.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-134. - 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.

(Ord. No. 2016-4045, § 1, 10-19-16)

Secs. 138-135, 138-136. - Reserved.

Sec. 138-137. - Banners.

(a) Balloon signs are prohibited in all zoning districts. Notwithstanding the foregoing, 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. Balloon signs are hot or cold air balloons or other gas filled figures or similar type signs.

(b)

One temporary banner per calendar year, per property, may be erected and maintained for a period not to exceed 14 days.

(1) Area shall not exceed 100 square feet.

(2) Design shall be subject to administrative design review and approval.

(c) 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. Temporary banners shall not be used for construction signs.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-138. - Garage sale signs.

(a) Garage sale signs are signs advertising garage sales.

(b) The maximum number of garage sale signs shall be one.

(c) The sign area shall be 12 inches by 18 inches.

(d) 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.

(e) A garage sale sign may only be posted during the effective time of a valid garage sale permit issued by the city.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-139. - Cultural institutions temporary banner.

(a) A cultural institution shall be defined as one 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.

(b) The institution shall be designated by the Internal Revenue Service as tax exempt pursuant to section 501(c)(3) or (4) of the Internal Revenue Code.

(c) 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.

(d) 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.

(e) 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.

(f)

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.

(g) Design of the banners and manner and duration (hours) of projection shall be subject to approval through the design review process.

(Ord. No. 2016-4045, § 1, 10-19-16)

Sec. 138-140. - 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) *Definition.* For purposes of this section, a vacant storefront is any ground floor business establishment that is unoccupied.

(c) *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. 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:

(1) All glass surfaces visible from the public right-of-way shall be covered as provided in subsection (e); or

(2) 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 review and approval by the planning department design review staff, 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:

(1) Artistic or super graphics in accordance with section 138-204, which may cover 100 percent of the window; and

(2) Other types of signage allowed by this chapter, including real estate signs and construction signs in accordance with section 138-133; signage under this provision may be incorporated into artistic or super graphics 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.

(3) The design and material of all proposed signs under this subsection (e) shall require review by the planning department design review staff, 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.

(1) The following civil fines shall be imposed for a violation of this section:

a. First violation within a 12-month period: Warning;

b. Second violation within a 12-month period: $250.00;

c. Third violation within a 12-month period: $500.00;

d. Fourth or subsequent violation within a 12-month period: $1,000.00.

(2) *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 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.

(3) *Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.*

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 service 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 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.

c. The failure to pay the civil fine, or to timely request an administrative hearing before a special magistrate, 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.

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. 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.

e. 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.

f. The special magistrate shall not have discretion to alter the penalties prescribed in this section.

g. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.

(Ord. No. 2016-4045, § 1, 10-19-16; Ord. No. 2021-4431, 7-28-21)

Secs. 138-141—138-170. - Reserved.

ARTICLE V. - RESERVED

Secs. 138-171—138-201. - Reserved.

ARTICLE VI. - SPECIFIC USE SIGNS

Sec. 138-202. - 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 flat 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.

(Ord. No. 2016-4045, 10-19-16)

Sec. 138-203. - Reserved.

Sec. 138-204. - 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 following:

(1) The maximum number of any combination of murals, graphics or images shall not exceed the total aggregate of two per property.

(2) 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.

(3) 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.

(4) There shall be no variances from the provisions of this subsection 138-204(a).

(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 following:

(1) 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.

(2) The maximum number of electronic murals, graphics or images shall not exceed two per property.

(3) 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.

(4) 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.

(5) A minimum distance separation of 1,500 feet shall be required from properties with electronic murals, graphics or images.

(6) 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.

(7) There shall be no variances from the provisions of this subsection 138-204(b).

(Ord. No. 2016-4045, 10-19-16; Ord. No. 2018-4174, § 1, 2-14-18; Ord. No. 2018-4191, § 1, 5-16-18)

Sec. 138-205. - 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. For purposes of this section, the term temporary business shall mean a business operating with a temporary BTR or pop-up special event permit.

(b) Temporary businesses shall only have the following types of signs:

(1) Window signage (up to a maximum coverage of 30 percent of the window storefront area, or 15 square feet, whichever is greater).

(2) Under-awning or canopy signs, pursuant to the requirements in section 138-15 of this Code.

(c) Temporary businesses shall not be permitted to erect any wall, projecting, monument, or other exterior signage.

(d) All signage related to a temporary business shall be removed upon the expiration of the respective temporary BTR or pop-up special event permit.

(1) 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.

(Ord. No. 2019-4273, § 1, 6-5-19)

Chapter 142 - ZONING DISTRICTS AND REGULATIONS

Footnotes:

*--- (**1**) ---*

Cross reference— *Any rezoning ordinance or amendment to the zoning map saved from repeal, § 1-10(a)(9); location and use restrictions for sale of alcoholic beverages, § 6-4; building regulations, ch. 14; environment, ch. 46; floods, ch. 54; marine structures, facilities and vehicles, ch. 66; structures on certain oceanfront property prohibited, § 82-436; streets and sidewalks, ch. 98; historic preservation, § 118-501 et seq.; landscaping, ch. 126; zoning districts exempted from providing parking, § 130-34; signs, ch. 138; sign regulations by districts, § 138-171 et seq.*

ARTICLE I. - GENERAL TO ALL ZONING DISTRICTS

Sec. 142-1. - Gambling and casinos are prohibited uses in the City of Miami Beach.

The playing or engaging in any game of cards, keno, roulette, faro, or other game of chance, at any place, by any device, whatever, for money or other thing of value, shall be considered to be "gambling." An establishment in which gambling occurs is a casino.

"Fantasy contest" shall include, but not be limited to, a fantasy or simulation sports game or contest in which contest participants manage a fantasy or simulation sports team for prizes or money in any gambling or casino use in the city.

Gambling and casinos are prohibited in the City of Miami Beach. Gambling and casino uses shall include all uses authorized pursuant to F.S. chs. 550 and 551, as may be amended from time to time: and "fantasy contests." as defined above. These uses are prohibited in any zoning category within the city, whether as a main, conditional, or accessory use. No business tax receipt shall issue for the aforementioned uses, which may also include, but not be limited to: any machine of chance (device) regulated by the state compact or F.S. chs. 550 and 551, as may be amended from time to time, pari-mutuel uses, horse racing, dog racing, jai alai, fantasy contests and associated gambling or casino related uses. The terms "gambling" and "casino" shall be provided the broadest definition despite any amendments the state legislature may make to the above referenced chapters of the Florida Statutes.

The following uses are exempt from the city's definition of gambling:

(1) The lottery regulated under F.S. ch. 24.

(2) Penny-ante games pursuant to F.S. § 849.085.

(3) Condominium associations, cooperatives, homeowners associations, charitable, nonprofit or veteran organizations authorized to hold drawings by chance, drawings, or raffles pursuant to F.S. § 849.0931(2) through (9), and § 849.0935.

(4) Game promotion in connection with the sale of consumer products or services pursuant to F.S. § 849.094.

(5) Bowling tournaments pursuant to F.S. § 849.141.

Any amendment to this section 142-1 (including the repealer thereof), which would create a less stringent regulation on gambling or any of the uses listed herein, shall require an affirmative vote of 6/7 ths of the city commission.

(Ord. No. 2017-4104, § 1, 6-7-17)

Sec. 142-2. - Assisted living facilities and medical uses.

The list of permitted, conditional, accessory, and prohibited uses related to assisted living facilities and other medical uses for each zoning district shall be as per article V, division 2 of this chapter.

(Ord. No. 2018-4175, § 1, 3-7-18)

Sec. 142-3. - Rentals or leases of mopeds, motorcycles, and motorized bicycles are prohibited uses in the City of Miami Beach.

The following definitions are applicable to this section:

Golf cart means a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.

Low-speed vehicle means any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles.

Moped means any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of two brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters. The term does not include an electric bicycle.

Motorcycle means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground (including those vehicles commonly known as motor scooters). The term includes an autocycle, but does not include a tractor, a moped, an electric bicycle, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle.

Motorized bicycle means a bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground, having two tandem wheels, and including any device generally recognized as a motorized bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device.

Motorized scooter means any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground. The term does not include an electric bicycle.

(a)

The rental or lease of golf carts, low-speed vehicles, mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, motorized bicycles, and motorized scooters is prohibited in the City of Miami Beach. These uses are prohibited in any zoning category within the city, whether as a main, conditional, or accessory use.

(b) Notwithstanding the foregoing, golf courses shall be exempt from the prohibition herein concerning the rental or lease of golf carts.

(c) Any amendment to this section 142-3 (including the repealer thereof), which would create a less stringent regulation on the rentals or lease of any golf carts, low-speed vehicles, mopeds, motorcycles that are powered by a motor with a displacement of 50 cubic centimeters or less, motorized bicycles, and motorized scooters, or any of the uses listed herein, shall require an affirmative vote of five-sevenths of the city commission.

(Ord. No. 2020-4388, § 1, 12-9-20)

Sec. 142-4. - Neighborhood and retail fulfillment centers.

Unless otherwise listed in chapter 142 as a main permitted or conditional use within a specific zoning district, neighborhood fulfillment centers and retail fulfillment centers, as defined in section 114-1 are prohibited in the City of Miami Beach.

(Ord. No. 2022-4468, § 2, 1-20-22)

Sec. 142-5. - Requirements for proposed increases in allowable floor area ratio (FAR).

The following shall apply to any proposal to increase the maximum allowable FAR within any zoning district:

(1) Prior to approval of a ballot question, if required pursuant to the City Charter, or in advance of first reading of the applicable amendment to the land development regulations, whichever comes first, the maximum square footage associated with the proposed increase in FAR shall be identified, to the greatest extent possible.

(2) The requirements of this section may be waived by the city commission, at its sole discretion, on a five-sevenths vote.

(Ord. No. 2023-4546, § 1, 4-28-23)

Secs. 142-6—142-70. - Reserved.

ARTICLE II. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 142-71. - Districts established.

(a) *Districts and symbols.* To achieve the purposes of these land development regulations, the Code of the city, and regulate the use of land, water and buildings, height and bulk of buildings and other structures, and population density and open space, the city is hereby divided into the following districts:

Symbol	District
RS-1	Single-family residential
RS-2	Single-family residential
RS-3	Single-family residential
RS-4	Single-family residential
RM-1	Residential multifamily, low intensity
RM-2	Residential multifamily, medium intensity
RM-3	Residential multifamily, high intensity
RM-PRD	Multifamily, planned residential development
CD-1	Commercial, low intensity
CD-2	Commercial, medium intensity
CD-3	Commercial, high intensity
CCC	Convention center district
GC	Golf course district
GU	Government use

HD	Hospital district
I-1	Industrial, light
MR	Marine recreational
MXE	Mixed use entertainment
RO	Residential/office
RO-2	Residential/office low intensity
RO-3	Residential/office medium intensity
TH	Townhome residential
WD-1	Waterway district
WD-2	Waterway district
R-PS1	Residential medium-low density
R-PS2	Residential medium density
R-PS3	Residential medium-high density
R-PS4	Residential high density
C-PS1	Commercial limited mixed use
C-PS2	Commercial general mixed use
C-PS3	Commercial intensive mixed use
C-PS4	Commercial intensive phased bayside
RM-PS1	Residential mixed-use development

SPE	Special public facilities educational
TC-1	North Beach Town Center core
TC-2	North Beach Town Center mixed-use
TC-3	North Beach Town Center residential/office
TC-3(c)	North Beach Town Center residential/office with conditional neighborhood commercial

(b) *Zoning map designations.*

(1) *Zoning map.* Designation of zoning districts and overlay zones shall be on the official zoning map. The official zoning map shall indicate the location of zoning districts as described in subsection (a) of this section and overlay zones as described in subsection (b)(3) of this section.

(2) *GU properties.* Except as otherwise provided in article II, division 9 of this chapter, all city-owned properties are zoned GU although they may not be designated on the map.

(3) *Explanation of overlay districts and sites.*

Dune preservation
Oceanfront
Convention hotel
Historic preservation
Historic preservation site

(c) *Additional map designations.*

(1) The designation of parking impact fee districts shall be on an official map entitled parking impact fee districts.

(2) The official zoning map and the parking impact fee district map shall be on file and available to the public in the office city clerk and the planning, design and historic preservation division.

(3) All lots in Fisher Island which do not have a zoning district assignment are considered to be in the GC golf course district classification.

(Ord. No. 89-2665, §§ 4-1, 21-8, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 99-3199, §§ 3, 6, 7-20-99; Ord. No. 99-3215, § 2, 11-17-99; Ord. No. 2011-3728, § 1, 5-11-11)

Sec. 142-72. - District map.

The locations of the districts are shown on a map designated as the city zoning district map, dated and signed by the mayor and city clerk upon adoption. This zoning district map, together with all notations, dimensions, references and symbols shown thereon, pertaining to such districts, is hereby adopted by reference and declared to be as much a part of these land development regulations as if fully described herein. Such map shall be available for public inspection in the office of the planning, design and historic preservation division and any later alterations to this map, adopted by amendment as provided in these land development regulations, shall be similarly dated, filed, and made available for public reference.

(Ord. No. 89-2665, § 4-2, eff. 10-1-89; Ord. No. 98-3151, eff. 10-7-98; Ord. No. 99-3216, § 1, 11-17-99; Ord. No. 2000-3227-A, § 1, 1-26-00; Ord. No. 2000-3229-A, § 1, 1-26-00)

Sec. 142-73. - Interpretation of district boundaries.

A district name or symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the municipality bounded by the district boundary lines within which such name or symbol is shown or indicated, except as otherwise provided by this section. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these land development regulations, the following rules apply:

(1) In cases where a boundary line is given a position within a street or alley, easement, canal, navigable or nonnavigable stream, it will be deemed to be in the center of the right-of-way of the street, alley, easement, canal, or stream, and if the actual location of such street, alley, easement, canal, or stream varies slightly from the location as shown on the district map, then the actual location controls.

(2) The boundary line adjacent to Biscayne Bay is the established bulkhead line.

(3) The boundary line adjacent to the Atlantic Ocean is the erosion control line as determined in accordance with Florida Statutes. Structures located east of the bulkhead line and extending to the erosion control line shall be considered similar to an accessory use to the upland property and allowed only pursuant to the provisions of article III, division 2 of this chapter, dune preservation overlay regulations. In the event there is no bulkhead, then a line shall be extended from the adjacent properties' bulkhead line. This line shall be determined to be the bulkhead line for the property until one is constructed.

(4) The east boundary line of the dune overlay zone shall be the erosion control line as established by the appropriate regulatory agencies and the west boundary line shall be the bulkhead line as set forth in subsection (3) of this section. The north and south boundary line shall be the city limits.

(5)

Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries will be construed to be the lot lines, and where bounded approximately by lot lines, the lot lines will be construed to be the boundary of such districts unless the boundaries are otherwise indicated on the map or by ordinance.

(6) If a parcel of property is crossed by a zoning district boundary and thus lies in two zoning districts, the district boundary shall be treated as if it were a lot line separating the two separately zoned parcels. 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.

(7) The boundary line between the Atlantic Ocean and Biscayne Bay shall be a constant projected line 152.20 feet south of the extension of the southerly end of Biscayne Street.

(Ord. No. 89-2665, § 4-3, eff. 10-1-89; Ord. No. 2016-4011, § 3, 5-11-16)

Secs. 142-74—142-100. - Reserved.

DIVISION 2. - RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 142-101. - Purpose.

The RS-1, RS-2, RS-3, RS-4 single-family residential districts are designed to protect, and preserve the identity, image, environmental quality, privacy, attractive pedestrian streetscapes, and human scale and character of the single-family neighborhoods and to encourage and promote new construction that is compatible with the established neighborhood context. In order to safeguard the purpose and goals of the single-family districts mandatory review criteria are hereby created to carry out the provisions of these land development regulations.

(Ord. No. 89-2665, § 6-1(A)(1), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94; Ord. No. 2006-3529, § 1, 9-6-06)

Sec. 142-102. - Main permitted uses.

The main permitted uses in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are single-family detached dwellings.

(Ord. No. 89-2665, § 6-1(A)(2), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94)

Sec. 142-103. - Conditional uses.

(a) Conditional uses in the RS-1, RS-2, RS-3, RS-4 single-family residential districts include the following:

(1) An at-grade parking lot in the RS-4 district when located immediately adjacent, without a gap due to alley, road, waterway or any other cause, to a CD-3 district. See subsection 142-105(c).

(2) Religious institutions for those properties located in the 40th Street Overlay. See chapter 142, zoning districts and regulations, article III, overlay districts, division 8, 40th Street Overlay.

(Ord. No. 89-2665, § 6-1(A)(3), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94; Ord. No. 97-3069, § 1, 1-22-97; Ord. No. 2011-3714, § 3, 1-19-11)

Sec. 142-104. - Accessory uses.

The accessory uses in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are those uses customarily associated with single-family homes. (See article IV, division 2 of this chapter.)

(Ord. No. 89-2665, § 6-1(A)(4), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94)

Sec. 142-105. - Development regulations and area requirements.

(a) The review criteria and application requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) *Compliance with regulations and review criteria.*

a. Permits for new construction, alterations or additions to existing structures shall be subject to administrative (staff level) review by the planning director or designee the design review board (DRB), or historic preservation board (HPB) as applicable, in order to determine consistency with the review criteria listed in this section.

b. In complying with the review criteria located in this section, the applicant may choose either to adhere to the development regulations identified in sections 142-105 and 142-106 administratively through staff level review or seek enhancements of the applicable development regulations as specified therein, where permitted, through approval from the historic preservation board or design review board, in accordance with the applicable design review or appropriateness criteria.

c. Notwithstanding the foregoing, for those structures located within a locally designated historic district, or individually designated as an historic structure or site, the review and approval of the historic preservation board (HPB) may be required.

d. Notwithstanding the foregoing, for those structures constructed prior to 1942 and determined to be architecturally significant, in accordance with section 142-108 herein, the review and approval of the design review board (DRB) shall be required.

(2) *Review criteria.* Staff level review shall encompass the examination of architectural drawings for consistency with the review criteria below:

a. The existing conditions of the lot, including, but not limited to, topography, vegetation, trees, drainage, and waterways shall be considered in evaluating the proposed site improvements.

b. The design and layout of the proposed site plan inclusive of the location of all existing and proposed buildings shall be reviewed with particular attention to the relationship to the surrounding neighborhood, impact on contiguous and adjacent buildings and lands, and view corridors. In this regard, additional photographic, and contextual studies that delineate the location of adjacent buildings and structures shall be required in evaluating compliance with this criterion.

c. The selection of landscape materials, landscaping structures and paving materials shall be reviewed to ensure a compatible relationship with and enhancement of the overall site plan design and the surrounding neighborhood.

d. The dimensions of all buildings, structures, setbacks, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district.

e. The design and construction of the proposed structure, and/or additions or modifications to an existing structure, indicates sensitivity to and compatibility with the environment and adjacent structures and enhances the appearance of the surrounding neighborhood.

f. The proposed structure is located in a manner that is responsive to adjacent structures and the established pattern of volumetric massing along the street with regard to siting, setbacks and the placement of the upper floor and shall take into account the established single family home context within the neighborhood.

g. The construction of an addition to main existing structure shall be architecturally appropriate to the original design and scale of the main existing structure; the proposed addition may utilize a different architectural language or style than the main existing structure, but in a manner that is compatible with the scale and massing of the main existing structure.

h. The construction shall be in conformance with the requirements of article IV, division 7 of this chapter with respect to exterior facade paint and material colors.

(3) *Application requirements for DRB or HPB review.*

a. DRB or HPB applications shall follow the application procedures and review criteria, specified in chapter 118, article VI, design review procedures or article X, historic preservation, of these land development regulations (as applicable), board by-laws, or as determined by the planning director, or designee.

(b) The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) *Lot area, lot width, lot coverage, unit size, and building height requirements.* The lot area, lot width, lot coverage, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)*	Maximum Lot Coverage for a 2-story Home (% of lot area)**	Maximum Unit Size (% of Lot Area)	Maximum Building Height, which shall not exceed two stories above the base flood elevation, plus freeboard in all districts***
RS-1	30,000	100	30%	50%	28 feet - flat roofs. 31 feet - sloped roofs.
RS-2	18,000	75	30%	50%	
RS-3	10,000	50 - Oceanfront lots. 60 - All others	30%	50%	24 feet - flat roofs. 27 feet - sloped roofs. May be increased up to 28 feet for flat roofs and 31 feet for sloped roofs when approved by the DRB or HPB, in accordance with the applicable design review or appropriateness criteria.
RS-4	6,000	50	30%	50%	24 feet - flat roofs. 27 feet - sloped roofs.

		*Except those lots fronting on a cul-de-sac or circular street as defined in lot width.	**Single story homes shall follow the requirements of section 142-105(b)(4)b.		*** Height shall be measured from the required base flood elevation for the lot, plus freeboard, measured to the top of the structural slab for a flat roof and to the mid-point of the slope for a sloped roof. Single story homes shall follow the requirements of section 142-105(b)(4)b.

(2) *Maximum number of stories.* The maximum number of stories shall not exceed two above the base flood elevation, plus freeboard.

(3) *[Limitation on contiguous lots.]* No more than two contiguous lots may be aggregated, with the exception of the following:

a. Lot aggregation for the purpose of expanded yards, or for the construction of accessory pools, cabanas, tennis courts, and similar accessory structures, when detached from the main home with a minimum separation of 15 feet, which may be aggregated to no more than three contiguous lots; or

b. Lot aggregation for the construction of a new home located in the middle of a site consisting of three lots, provided the sum of the side yard setbacks of the main structure are equivalent to the width of the smallest of the three aggregated lots, and the overall unit size and lot coverage of the main home shall be based upon the combined size of the largest two lots.

(4) *Unit size requirements.*

a. Minimum unit size: 1,800 square feet.

b. For purposes of this subsection, unit size means the sum of the gross horizontal areas of the floors of a single-family home, measured from the exterior faces of exterior walls. However, the unit size of a single-family home shall not include the following, unless otherwise provided for in these land development regulations:

1. Uncovered steps.
2. Attic space, providing structural headroom of less than seven feet six inches.
3.

Open breezeways, connected to more than one structure, which consist of roof protection from the elements and are open on all sides.

4. Covered terraces and porches, which are unenclosed and open on at least one side, with the exception of roof supports and required safety railing.
5. Enclosed floor space used for required off-street parking spaces (maximum 500 square feet).
6. Covered exterior unenclosed private balconies.

c. For two story homes with an overall lot coverage of 25 percent or greater, the following additional requirements shall apply to the second floor (including any portion of the home above a height of 18 feet as measured from base flood elevation plus freeboard):

1. At least 35 percent of the second floor along the front elevation shall be set back a minimum of five feet from the minimum required setback.
2. At least 50 percent of the second floor along a side elevation facing a street shall be set back a minimum of five feet from the minimum required setback.

The DRB or HPB may forego these requirements, in accordance with the applicable design review or appropriateness criteria.

d. Non-airconditioned understory space located below minimum flood elevation, plus freeboard. Notwithstanding the above, for those properties located in the RS-1, RS-2, RS-3, RS-4 single-family residential districts, where the first habitable floor has been elevated above existing grade in order to meet minimum flood elevation requirements, including freeboard, the design review board or historic preservation board, as applicable, may approve understory area(s). For purposes of this subsection, "understory" means the air-conditioned and/or non-air-conditioned space(s) located below the first elevated habitable floor.

The use of the understory shall be for non-habitable purposes, given that the area may be subject to flooding.

Subject to the review and approval of the design review board or historic preservation board, as applicable, the following shall apply to the understory area(s):

1. Understory area(s) shall be used only for open air activities, parking, building access, mechanical equipment, non-enclosed restrooms and storage. Such areas shall be designed and maintained to be free of obstructions and shall not be enclosed and/or air-conditioned at any time, with the exception of limited access areas to the first habitable floor. However, understory area(s) below the lowest habitable floor can

utilize non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments, provided they are open a minimum of 50 percent on each side.

2. All unenclosed, non-air-conditioned areas located directly below the first habitable floor shall not count in the unit size calculations.
3. Understory building access. Enclosed, air-conditioned elevator and stair vestibules, for access to the first habitable level of the home, shall be permitted under the first habitable floor and shall be located as close to the center of the floor plan as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations. The total area of enclosed and air-conditioned building access shall be limited to no greater than five percent of the lot area. All air-conditioned floor space located directly below the first habitable floor shall count in the total unit size calculations.
4. Enclosed, non-air-conditioned areas, for parking and storage, may be permitted and shall not count in the unit size calculations, provided such areas do not exceed 600 square feet. Any portion of such enclosed parking and storage area exceeding 600 square feet shall count in the unit size calculations.
5. All parking, including required parking, shall be provided within the understory area, and shall be clearly delineated by a different surface finish or bollards. No parking or vehicle storage shall be permitted within a required yard, unless approved by the DRB or HPB, in accordance with the applicable design review or certificate of appropriateness criteria.
6. The maximum width of all driveways at the property line shall not exceed 30 percent of the lot width, and in no instance shall be less than nine feet in width and greater than 18 feet in width.
7. At least 70 percent of the required front yard and street side yard areas shall consist of sodded or landscaped pervious open space. For purposes of this section, the required front yard shall be the same as the required front setback of the principal structure. All allowable exterior walkways and driveways within the front and street side yards shall consist of pavers set in sand or other semi-pervious material. The use of concrete, asphalt or similar material within the required front or street side yards shall be prohibited.
8. A continuous soffit shall be lowered a minimum of two feet from the lowest slab of the first level above the understory area in order to screen from view all lighting, sprinkler, piping, plumbing, electrical conduits, and all other building services, unless concealed by other architectural method(s).
9.

Understory ground elevation. The minimum elevation of the understory ground shall be constructed no lower than future crown of road as defined in chapter 54, of the city Code. All portions of the understory area that are not air-conditioned shall consist of pervious or semi-pervious material, such as wood deck, gravel or pavers set in sand. Concrete, asphalt and similar material shall be prohibited within the non-air-conditioned portions of the understory area.

10. Understory edge. All allowable decking, gravel, pavers, non-supporting breakaway walls, open-wood lattice work, louvers or similar architectural treatments located in the understory area shall be set back a minimum of five feet from each side of the underneath of the slab of the first habitable floor above, with the exception of driveways and walkways leading to the property, and access walkways and/or steps or ramps for the front and side area. The front and side understory edge shall be designed to accommodate on-site water capture from adjacent surfaces and expanded landscaping opportunities from the side yards.

(5) *Lot coverage.*

a. *General.* For lots aggregated after September 24, 2013, when a third lot is aggregated, as limited by subsection 142-105(b)(3), the calculation of lot coverage shall be determined by the two lots on which the house is located.

b. *One-story structures.* One-story structures may exceed the maximum lot coverage noted in subsection 142-105(b)(1) above, through staff level review and shall be subject to the setback regulations outlined in section 142-106, but in no instance shall the lot coverage exceed 40 percent of the lot area. The DRB or HPB may waive this requirement and allow up to 50 percent lot coverage for a one-story structure, in accordance with the applicable design review or appropriateness criteria. For purposes of this section, a one-story structure shall not exceed 18 feet in height for flat roof structures and 21 feet for sloped roof structures (measured to the mid-point of the slope) as measured from the minimum flood elevation. Notwithstanding the foregoing, for existing one-story structures constructed prior to 1965, the maximum lot coverage shall not exceed 50 percent.

c. *Calculating lot coverage.* Lot coverage shall be as defined in section 114-1, subject to the following additional regulations:

1. Internal courtyards, which are open to the sky, but which are substantially enclosed by the structure on four or more sides, shall be included in the lot coverage calculation.

2. Eyebrows, roof overhangs, covered porches and terraces, projecting a maximum of five feet from an exterior wall, shall not be included in the lot coverage calculation. All portions of such covered areas exceeding a projection of five feet shall be included in the lot coverage calculation.

d.

Garages. A maximum of 500 square feet of garage space shall not be counted in lot coverage if the area is limited to garage, storage and other non-habitable uses and the garage conforms to the following criteria:

1. The garage is one story in height and not covered by any portion of enclosed floor area above. Portions of the garage which are covered by enclosed floor area above shall count toward lot coverage. Enclosed floor area shall be as defined in section 114-1.
2. The vehicular entrance(s) of the garage is not part of the principal facade of the main house.
3. The garage is constructed with a vehicular entrance(s) perpendicular to and not visible from the right-of-way, or the entrance(s) is set back a minimum of five feet from the principal facade of the main house when facing a right-of-way.

e. *Nonconforming structures.* Existing single-family structures nonconforming with respect to sections 142-105 and 142-106, may be repaired, renovated, rehabilitated regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of chapter 118, article IX, "nonconformance." Should such an existing structure constructed prior to October 1, 1971, be completely destroyed due to fire or other catastrophic event, through no fault of the owner, such structure may be replaced regardless of the above-noted regulations existing at the time of destruction.

f. *Demolition of architecturally significant single-family homes.* Proposed new construction that exceeds the original building footprint of a demolished architecturally significant single-family home shall follow the provisions of section 142-108.

(6) *Roof decks.* Roof decks shall not exceed six inches above the main roofline and shall not exceed a combined deck area of 25 percent of the enclosed floor area immediately one floor below, regardless of deck height. Roof decks shall be setback a minimum of ten feet from each side of the exterior outer walls, when located along a front or side elevation, and from the rear elevation for non-waterfront lots. Built in planters, gardens or similar landscaping areas, not to exceed three and one-half feet above the finished roof deck height, may be permitted immediately abutting the roof deck area. All landscape material shall be appropriately secured. The DRB or HPB may forego the required rear deck setback, in accordance with the applicable design review or appropriateness criteria.

(7) *Height exceptions.* The height regulation exceptions contained in section 142-1161 shall not apply to the RS-1, RS-2, RS-3 and RS-4 zoning districts. The following exceptions shall apply, and unless otherwise specified in terms of height and location, shall not exceed ten feet above the roofline of the structure. In general, height exceptions that have not been

developed integral to the design intent of a structure shall be located in a manner to have a minimal visual impact on predominant neighborhood view corridors as viewed from public rights-of-way and waterways.

a. Chimneys and air vents, not to exceed five feet in height.

b. Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, and belfries.

c. Radio and television antennas.

d. Parapet walls, only when associated with a habitable roof deck or when used to screen roof top mechanical equipment. When associated with a habitable roof deck, the parapet shall not exceed three and one-half feet above the finished roof deck height, and shall be set back a minimum of ten feet from the perimeter of the enclosed floor below. When used to screen mechanical equipment, the parapet walls shall not exceed the height of the equipment being screened.

e. Rooftop curbs, not to exceed three feet in height.

f. Elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations.

g. Skylights, not to exceed five feet above the main roofline, and provided that the area of skylight(s) does not exceed ten percent of the total roof area of the roof in which it is placed.

h. Air conditioning and mechanical equipment not to exceed five feet above the main roofline and shall be required to be screened in order to ensure minimal visual impact as identified in the general section description above.

i. Rooftop wind turbines, not to exceed ten feet above the main roofline.

j. Solar panels, not to exceed five feet in height

k. Covered structures, which are open on all sides, and do not extend interior habitable space. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below, and shall be set back a minimum of ten feet from the perimeter of the enclosed floor below.

(8) *Exterior building and lot standards.* The following shall apply to all buildings and properties in the RS-1, RS-2, RS-3, RS-4 single-family residential districts:

a. *Exterior bars.* Exterior bars on entryways, doors and windows shall be prohibited on front and side elevations, which face a street or right-of-way.

b. *Minimum yard elevation requirements.*

1.

The minimum elevation of a required yard shall be no less than five feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph c., below, the minimum elevation requirements shall still apply.

2. Exemptions. The minimum yard elevation requirements shall not apply to properties containing single-family homes individually designated as historic structures, or to properties with single-family homes designated as "contributing" within a local historic district.

c. *Maximum yard elevation requirements.* The maximum elevation of a required yard shall be in accordance with the following, however in no instance shall the elevation of a required yard, exceed the minimum flood elevation, plus freeboard:

1. *Front yard.* The maximum elevation within a required front yard shall not exceed adjusted grade, 30 inches above grade, or future adjusted grade, whichever is greater. In this instance, the maximum height of any fence(s) or wall(s) in the required front yard, constructed in compliance with subsection 142-1132(h), "Allowable encroachments within required yards", shall be measured from existing grade.

2. *Interior side yards (located between the front setback line and rear property line).* The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater, except:

(A) When the average grade of an adjacent lot along the abutting side yard is equal or greater than adjusted grade, the maximum elevation within the required side yard shall not exceed 30 inches above adjusted grade.

(B) When abutting a vacant property, the maximum elevation within the required side yard shall not exceed 30 inches above adjusted grade.

(C) Notwithstanding the above, when abutting property owners have jointly agreed to a higher elevation, both side yards may be elevated to the same higher elevation through the submission of concurrent building permits, not to exceed the minimum required flood elevation. In this instance the maximum height of any fences or walls along the adjoining property lines, constructed in accordance with subsection 142-1132(h). Allowable encroachments within required yards shall be measured from the new average grade of the required side yards.

3. *Side yard facing a street.* The maximum elevation within a required side yard facing a street shall not exceed adjusted grade, 30 inches above grade, or future adjusted grade, whichever is greater. In this instance, the maximum height of any fence(s) or

wall(s) in the required side yard facing a street, constructed in compliance with subsection 142-1132(h), "Allowable encroachments within required yards", shall be measured from existing grade.

4. *Rear yard.* The maximum elevation for a required rear yard, (not including portions located within a required side yard or side yard facing the street), shall be calculated according to the following:
   (A) *Waterfront.* The maximum elevation shall not exceed the base flood elevation, plus freeboard.
   (B) *Non-waterfront.* The maximum elevation shall not exceed adjusted grade, or 30 inches above grade, whichever is greater, except:
      i. When the average grade of an adjacent lot along the abutting rear yard is equal or greater than adjusted grade, the maximum elevation within the required rear yard shall not exceed 30 inches above adjusted grade.
      ii. When abutting a vacant property, the maximum elevation within the required rear yard shall not exceed 30 inches above adjusted grade.
      iii. Notwithstanding the above, when abutting property owners have jointly agreed to a higher elevation, both rear yards may be elevated to the same higher elevation through the submission of concurrent building permits, not to exceed the minimum required flood elevation. In this instance the maximum height of any fences or walls along the adjoining property lines, constructed in accordance with subsection 142-1132(h). Allowable encroachments within required yards shall be measured from the new average grade of the required rear yards.
5. *Stormwater retention.* In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations, as determined by the public works department.
6. *Retaining wall and yard slope requirements.* Within the required front yard and within the required side yard facing a street the following shall apply:
   (A) Within the first four feet of the property line, the maximum height of retaining walls shall not exceed 30 inches above existing sidewalk elevation, or existing adjacent grade if no sidewalk is present.
   (B) When setback a minimum of four feet from property line, the maximum height of retaining walls shall not exceed 30 inches above adjacent grade.
   (C)

Retaining walls shall be finished with stucco, stone, or other high quality materials, in accordance with the applicable design review or appropriateness criteria of section 142-105.

(D) The maximum slope of the required front and side yard facing a street shall not exceed 11 percent (5:1 horizontal:vertical).

(9) *Lot split.* All new construction for homes on lots resulting from a lot split application approved by the planning board shall be subject to the review and approval of the design review board (DRB) or historic preservation board (HPB), as applicable. The following shall apply to all newly created lots, when the new lots created do not follow the lines of the original platted lots and/or the lots being divided contain an architecturally significant, pre-1942 home that is proposed to be demolished.

a. The maximum lot coverage for a new one-story home shall not exceed 40 percent of the lot area, and the maximum lot coverage for a new two-story home shall not exceed 25 percent of the lot area, or such lesser number, as determined by the planning board.

b. The maximum unit size shall not exceed 40 percent of the lot area for both one story, and two-story structures, or such less numbers, as determined by the planning board.

(Ord. No. 89-2665, § 6-1(B), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 91-2768, eff. 11-2-91; Ord. No. 94-2966, eff. 12-31-94; Ord. No. 96-3049, § 2, 7-17-96; Ord. No. 97-3069, § 1, 1-22-97; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 2000-3228-A, § 1, 1-26-00; Ord. No. 2002-3361, § 1, 4-10-02; Ord. No. 2002-3375, § 1, 7-10-02; Ord. No. 2002-3379, § 1, 7-31-02; Ord. No. 2004-3468, § 1, 12-8-04; Ord. No. 2006-3529, § 2, 9-6-06; Ord. No. 2012-3766, § 1, 5-9-12; Ord. No. 2014-3835, § 1, 2-12-14; Ord. No. 2014-3907, § 2, 11-19-14; Ord. No. 2015-3936, § 1, 5-6-15; Ord. No. 2015-3944, § 2, 6-10-15; Ord. No. 2015-3959, § 1, 9-2-15; Ord. No. 2016-4010, § 2, 5-11-16; Ord. No. 2018-4202, § 1, 7-28-18; Ord. No. 2019-4252, § 5, 3-13-19; Ord. No. 2019-4272, § 1, 6-5-19; Ord. No. 2020-4359, § 3, 10-14-20)

Editor's note— Sec. 3 of Ord. No. 2014-3835 states: "This ordinance shall not apply to: 1. Anyone who filed an application for Land Use Board Approval with the Planning Department on or before September 24, 2013; or 2. Anyone who obtained an Building Permit Process Number from the Building Department on or before September 24, 2013; or 3. Anyone who establishes equitable estoppel as proved in City Code Section 118-168, by obtaining a building permit or Design Review Board approval prior to zoning in progress or City Commission adoption of this Ordinance."

Sec. 142-106. - Setback requirements for a single-family detached dwelling.

(a) The setback requirements for a single-family detached dwelling in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

(1) *Front yards.* The minimum front yard setback requirement for these districts shall be as follows:

a.

One-story structures. Twenty feet, provided that any portion of a two-story attached structure shall be setback a minimum of 40 feet.

b. Two-story structures. Thirty feet, provided subsection (a)(1)a. above does not apply.

c. [Reserved.]

d. At least 50 percent of the required front yard area shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

e. In the event that an existing single-family home has an abutting street raised pursuant to an approved city project, and such home was previously permitted with less than 50 percent of the required front yard area consisting of sodded or landscaped pervious open space, such property may retain the most recent, previously permitted pervious open space configuration, provided the front yard is raised to meet the new street elevation. However, in no instance shall less than 30 percent of the required front yard be sodded or landscaped pervious open space.

(2) *Side yards.*

a. The sum of the required side yards shall be at least 25 percent of the lot width.

b. Side, facing a street.

1. Each required side yard facing a street shall be no less than ten percent of the lot width or 15 feet, whichever is greater.

2. At least 50 percent of the required side yard area facing a street shall be sodded or landscaped pervious open space. With the exception of driveways and paths leading to the building, paving may not extend any closer than five feet to the front of the building.

3. In the event that an existing single family home has an abutting street raised pursuant to an approved city project, and such home was previously permitted with less than 50 percent of the required side yard area facing a street consisting of sodded or landscaped pervious open space, such property may retain the most recent, previously permitted pervious open space if the side yard area facing a street is raised to meet the new street elevation. However, in no instance shall less than 30 percent of the required side yard area facing a street be sodded or landscaped pervious open space.

c. Interior sides.

1. For lots greater than 65 feet in width each interior side yard shall have a minimum of ten percent of the lot width or ten feet, whichever is greater.

2.

For lots 65 feet in width or less each interior side yard shall have a minimum of seven and one-half feet.

d. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line. The square footage of the additional open space shall not be less than one percent of the lot area. The elevation (height) of the open space provided shall not exceed the elevation of the first habitable floor, and at least 50 percent of the required interior open space area shall be sodded or landscaped previous open space. The additional open space may contain mechanical equipment. The intent of this regulation shall be to break up long expanses of uninterrupted two-story volume at or near the required side yard setback line and exception from the minimum requirements of this provision may be granted only through historic preservation board, or design review board approval, as may be applicable, in accordance with the applicable design review or appropriateness criteria.

e. Nonconforming yards.

    1. If a single-family structure is renovated in excess of 50 percent of the value determination, as determined by the building official pursuant to the standards set forth in the Florida Building Code, any new construction in connection with the renovation shall meet all setback regulations existing at the time, unless otherwise exempted under chapter 118, article IX of these land development regulations.
    2. When an existing single-family structure is being renovated less than 50 percent of the value determination, as prescribed by the building official pursuant to the standards set forth in the Florida Building Code, and the sum of the side yards is less than 25 percent of the lot width, any new construction, whether attached or detached, including additions, may retain the existing sum of the side yards, provided that the sum of the side yards is not decreased.
    3. When an existing single-family structure is being renovated less than 50 percent of the value determination, as prescribed by the building official pursuant to the standards set forth in the Florida Building Code, and has a nonconforming interior side yard setback of at least five feet, the interior side yard setback of new construction in connection with the existing building may be allowed to follow the existing building lines. The maintenance of this nonconforming interior side yard setback shall only apply to the linear extension of a single story building, provided such linear extension

does not exceed 20 feet in length and does not exceed 18 feet in height for a flat roof structure and 21 feet for a sloped roof structure (measured to the mid-point of the slope), as measured from the minimum flood elevation.

(3) *Rear.* The rear setback requirement shall be 15 percent of the lot depth, 20 feet minimum, 50 feet maximum. At least 70 percent of the required rear yard shall be sodded or landscaped pervious open space; when located at or below adjusted grade, the water portion of a swimming pool may count toward this requirement, when located above adjusted grade, the water portion of a swimming pool may count towards 50 percent of this requirement, provided adequate infrastructure is incorporated into the design of the pool to fully accommodate on-site stormwater retention.

(b) *Allowable encroachments within required yards.*

(1) *Accessory buildings.* In all single-family districts, the following regulations shall apply to accessory buildings within a required rear yard:

a. *Lot coverage.* Accessory buildings that are not a part of the main building, shall be included in the overall lot coverage calculations for the site. and may be constructed in a rear yard, provided such accessory building (or accessory buildings) does not occupy more than 25 percent of the area of the required rear yard. Areas enclosed by screen shall be included in the computation of area occupied in a required rear yard lot, but an open uncovered swimming pool shall not be included.

b. *Size.* The area of enclosed accessory buildings shall be included in the overall unit size calculation for the site.

c. *Building separation.* Accessory buildings shall be separated from the main home by a minimum of five feet, open to the sky with no overhead connections.

d. *Setbacks:*

1. *Single story.* A single story accessory building shall not be located closer than seven and one-half feet to an interior rear or interior side lot line, and 15 feet when facing a street. When facing a waterway, the minimum rear setback shall not be less than one-half of the required rear setback.

2. *Two-story.* A two-story accessory building shall not be located closer than ten feet to an interior side lot line, or the required side yard setback, whichever is greater; 15 feet when facing a street; or 15 feet from the rear of the property. When facing a waterway, the minimum rear setback shall not be less than onehalf of the required rear setback, or 15 feet, whichever is greater.

e. *Height.* Accessory buildings shall be limited to two stories. Height for accessory buildings shall be measured from the base flood elevation plus freeboard of one foot. The maximum height above shall not exceed 12 feet for a one-story structure and 20 feet for a

two-story structure. The allowable height exceptions set forth in section 142-1161 shall not apply to accessory buildings in single-family districts.

f. *Uses.* Accessory buildings shall be limited to uses that are accessory to the main use, including, but not limited to, garage, carport, pergola, cabana, gazebo, maid's or guest's quarters. Components of the main structure, such as detached bedrooms or any habitable area of the single-family structure, shall not be considered accessory uses.

g. *Utilities.* Accessory buildings may contain heating and air conditioning, washers and dryers, toilets, bar sinks and showers, but may not have full kitchen facilities. An outdoor built-in barbecue grill or similar cooking equipment shall be allowed as an accessory use, as may be permitted by the fire marshal and in accordance with the regulations contained in any applicable safety code or the Florida Building Code.

(2) *Awnings.* Awnings attached to and supported by a building wall may be placed over doors or windows in any required yard, but such awnings shall not project closer than three feet to any lot line.

(3) *Boat, boat trailer, camper trailer or recreational vehicle storage.* Accessory storage of such vehicles shall be limited to a paved, permanent surface area within the side or rear yards. No such vehicle shall be utilized as a dwelling, and any such vehicles shall be screened from view from any right-of-way or adjoining property when viewed from five feet six inches above grade.

Notwithstanding the foregoing, during a state of emergency declared by the city, a camper trailer or recreational vehicle may be used as a temporary dwelling, subject to the following conditions:

i. The principal residence on the property where the vehicle is located has been deemed by the city to be uninhabitable as a result of the emergency.

ii. A temporary certificate of use (TCU) is obtained prior to the use of the vehicle as a dwelling. The TCU shall be valid for up to 120 days, but may be extended for up to an additional 120 days if an applicant demonstrates progress toward repairing the principal structure.

iii. The application for the TCU must be made while the declaration of a state of emergency is in effect.

iv. The vehicle may be located in the side or rear yard or, provided it does not encroach into a public right-of-way, in the front yard. The vehicle need not be parked on a paved or permanent surface, nor screened from view from a right-of-way. Upon the expiration of the TCU, the vehicle must be relocated to comply with all applicable provisions in the city Code and may no longer be used as a dwelling. Alternatively, the vehicle must be removed from the property.

v. The vehicle is fully licensed, in good condition, and ready for highway use.

(4) *Carports and solar carports.* Only one carport or solar carport shall be erected within a required yard of a single-family home, subject to the following requirements, as may be applicable:

a. Carports shall be subject to the following requirements:

1. Carports shall be constructed of canvas and pipe for the express purpose of shading automobiles.
2. Setbacks. Minimum setbacks for carports shall be as follows:
   i. Front yard: 18 inches from the property line, provided the carport is attached to or immediately adjacent to the main building.
   ii. Interior side yard: Four feet from the property line.
   iii. Side yard facing the street: 18 inches from the property line, provided the carport is attached to or immediately adjacent to the main building.
   iv. The side of the carport that faces the required rear yard may be permitted to align with the walls of the existing residence, provided the residence is located a minimum of five feet from the rear property line.
   v. When a carport is detached and located more than 12 inches from the main home it shall not be located in the required front or side-facing-the-street yards.
3. Carports shall not be permitted to exceed 20 feet in width or 20 feet in length. An unobstructed view between the grade and the lower ceiling edge of the carport of at least seven feet shall be maintained.
4. Carports constructed prior to the adoption of this section shall be considered legal nonconforming structures. Such nonconforming canopies may be repaired or replaced; however, the degree of their nonconformity shall not be increased thereby.

b. Solar carports. Solar carports shall be subject to the following requirements:

1. Setbacks. Minimum setbacks for solar carports shall be as follows:
   i. Front yard: 15 feet from the property line, provided the solar carport is attached to or immediately adjacent to the main building.
   ii. Interior side yard: Four feet from the property line.
   iii. Side yard facing the street: Five feet from the property line, provided the solar carport is attached to or immediately adjacent to the main building.
   iv. The sides of the solar carport that face the required rear yard may be permitted to align with the walls of the existing residence, provided the residence is located a minimum of five feet from the rear property line.
   v.

When a solar carport is detached and located more than 12 inches from the main home, it shall not be located in the required front or side-facing-the-street yards.

2. Solar carports shall not be permitted to exceed 20 feet in width or 20 feet in length. An unobstructed view between the grade and the lower ceiling edge of the carport of at least seven feet shall be maintained.

(5) *Central air conditioners, emergency generators, swimming pool equipment, solar panels, home battery systems, and other similar mechanical equipment.* Accessory central air conditioners, generators, swimming pool equipment, solar panels, home battery systems, and other similar mechanical equipment, including attached screening elements, may occupy a required side or rear yard, provided that:

a. They are not closer than five feet to a rear or interior side lot line, or ten feet to a side lot line facing a street.

b. The maximum height of the equipment, including attached screening elements, shall not exceed five feet above current flood elevation, with a maximum height not to exceed ten feet above grade, as defined in section 114-1, of the lot on which it is located.

c. If visible from the right-of-way, physical and/or landscape screening shall be required.

d. Any required sound buffering equipment shall comply with the setback requirements established in subsection (5)a., above.

e. If the equipment does not conform to subsections (a), (b), (c), and (d) above, then such equipment shall follow the setbacks of the main structure.

(6) *Driveways.* Driveways and parking spaces leading into a property are subject to the following requirements:

a. Driveways shall have a minimum setback of four feet from each side property line.

b. Driveways and parking spaces parallel to the front property line shall have a minimum setback of five feet from the front property line.

c. Driveways and parking spaces located within the side yard facing the street shall have a minimum setback of five feet from the rear property line.

d. Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 114-1 of this Code.

e. Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114-1 of this Code, shall be prohibited.

(7) *Fences, walls, and gates.* Regulations pertaining to materials and heights for fences, walls and gates are as follows:

a.

Front yard. Within the required front yard, fences, walls and gates shall not exceed five feet, as measured from grade. The height may be increased up to a maximum total height of seven feet if the fence, wall or gate is set back from the front property line. Height may be increased one foot for every two feet of setback.

b. *Rear and side yards.* Within the required rear or side yard, fences, walls and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway, or golf course, the maximum height shall not exceed five feet.

In the event that a property has approval to be improved at adjusted grade, the overall height of fences, walls and gates may be measured from adjusted grade, provided that the portion of such fences, walls or gates above four feet in height consists of open pickets with a minimum spacing of three inches, unless otherwise approved by the design review board or historic preservation board, as applicable.

Pre-1942 exemption. Notwithstanding the provisions of this subsection (b)(7)b., for properties containing a pre-1942 architecturally significant home, where a substantial portion of the existing rear yard and/or side yard is located at least 12 inches above grade, the overall height of fences, walls and gates may be measured from the elevation of the existing yard, provided that the portion of such fences, walls or gates above four feet in height consists of open pickets with a minimum spacing of three inches, unless otherwise approved by the design review board or historic preservation board, as applicable.

c. *Materials.* All surfaces of masonry walls and wood fences shall be finished in the same manner with the same materials on both sides to have an equal or better quality appearance when seen from adjoining properties. The structural supports for wood fences, walls or gates shall face inward toward the property.

d. *Chain link fence prohibition.* Chain link fences are prohibited in the required front yard, and any required yard facing a public right-of-way or waterway (except side yards facing on the terminus of a dead-end street in single-family districts) except as provided in this section and in section 142-1134.

e. *Other materials prohibited.* Barbed wire or materials of similar character shall be prohibited.

(8) *Hedges.* There are no height limitations on hedges. Hedge material must be kept neat, evenly trimmed and properly maintained. Corner visibility regulations are set forth in section 142-1135.

(9) *Hot tubs, showers, saunas, whirlpools, toilet facilities, decks.* Hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is

not located closer than seven and one-half feet to a rear or interior side lot line. Freestanding, unenclosed facilities including surrounding paved or deck areas shall adhere to the same setback requirements as enclosed facilities.

(10) *Light poles.* The following regulations shall apply to light poles:

a. Light poles shall have a maximum height of ten feet. Light poles shall be located seven and one-half feet from any property line except that, when such property line abuts a public right-of-way or waterway, there shall be no required setback.

b. All light from light poles shall be contained on-site or on any public right-of-way as required by the city Code.

(11) *Marine structures.* Seaward side yard setbacks for boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind shall not be less than seven and one-half feet. This requirement pertains to the enlargement of existing structures as well as to the construction of new structures. It is further provided that any boat, ship, or vessel of any kind shall not be docked or moored so that its projection extends into the required seaward side yard setback, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. Land-side decks may extend to the deck associated with the marine structure. Lighting associated with, but not limited to, the deck, or marine structure shall be installed in such a manner to minimize glare and reflection on adjacent properties and not to impede navigation. The maximum projection of a marine structure shall be determined by the county department of environmental resource management. If a dock or any kind of marine structure/equipment, whether or not it is attached to a dock, projects more than 40 feet into the waterway or extends beyond the maximum projection permitted under section 66-113, the review and approval of the applicable state and county authorities shall be required.

(12) *Ornamental fixtures or lamps.* Requirements for ornamental fixtures and lamps shall be as follows:

a. Ornamental fixtures and lamps are permitted to be placed on walls or fences when they are adjacent to a public street, alley, golf course, or waterway. The total height of the combined structure shall not exceed the required fence or wall height by more than two feet.

b. Ornamental fixtures and lamps shall be located with a minimum separation of eight feet on center with a maximum width of two feet.

(13) *Projections.* Every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet, unless otherwise noted.

a. Belt courses.

b. Chimneys.

c. Cornices.

d. Exterior unenclosed private balconies.

e. Ornamental features.

f. Porches, platforms and terraces up to 30 inches above the adjusted grade elevation of the lot, as defined in chapter 114. Such projections and encroachments may be located up to the first habitable floor elevation and include stairs, steps, ADA-compliant ramps and related walkways, not exceeding five feet in width, which provide access to all porches, platforms, terraces and the first floor when elevated to meet minimum flood elevation requirements, including freeboard.

g. Roof overhangs.

h. Sills.

i. Window or wall air conditioning units.

j. Bay windows (not extending floor slab).

k. Walkways: Maximum 44 inches. May be increased to a maximum of five feet for those portions of walkways necessary to provide Americans with Disabilities Act (ADA)-required turn-around areas and spaces associated with doors and gates. Walkways in required yards may exceed these restrictions when approved through the design review or certificate of appropriateness procedure, as applicable, and pursuant to chapter 118, article VI, of this Code. Notwithstanding the foregoing, when required to accommodate ADA access to an existing contributing building within a local historic district, or National Register District, an ADA walkway and ramp may be located within a street side or interior side yard, with no minimum setback, provided all of the following are adhered to:

    1. The maximum width of the walkway and ramp shall not exceed 44 inches, and five feet for required ADA landings;
    2. The height of the proposed ramp and landing shall not exceed the finished first floor of the building(s); and
    3. The slope and length of the ramp shall not exceed that which is necessary to meet the minimum building code requirements.

    Additionally, subject to the approval of the design review board or historic preservation board, as applicable, an awning may be provided to protect users of the ADA walkway and ramp from the weather.

l. Electric vehicle charging stations and fixtures, located immediately next to an off-street parking space, shall be permitted where driveways and parking spaces are located.

m. Electrical transformers and associated concrete pads, as required by Florida Power and Light (FPL) may be located up to the front or street side property line.

n. Planters, not to exceed four feet in height when measured from the finished floor of the primary structure.

(15) *Satellite dish antennas.* Satellite dish antennas are only permitted in the rear yard. Antennas shall be located and sized where they are not visible from the street. Satellite dish antennas shall be considered as an accessory structure; however, the height of the equipment measured from its base to the maximum projection of the antenna, based upon maximum operational capabilities, and including the top part of the antenna, shall not exceed 15 feet. If it is attached to the main structure it may not project into a required yard.

(16) *Swimming pools.* Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or a screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, subject to the following:

a. *Rear yard setback.*

1. A six-foot minimum setback is required from the rear property line to swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure associated or not associated with a swimming pool.
2. Swimming pool decks may extend to the property line and be connected to a dock and its related decking when abutting upon any bay or canal.
3. There shall be a minimum seven-and-one-half-foot setback from the rear property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.
4. For oceanfront properties, the setback shall be measured from the old city bulkhead line.
5. For properties containing a pre-1942 architecturally significant home, an individually designated historic home, or a contributing single-family home located in a local historic district, a five-foot setback shall be required from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

b. *Side yard, interior setback.*

1. A seven-and-one-half-foot minimum setback shall be required from the side property line to a swimming pool deck, or platform, the exterior face of an infinity edge pool catch basin, or screen enclosures associated or not associated with a swimming pool.
2. A nine-foot minimum setback shall be required from the side property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity

edge pool.

3. For properties containing a pre-1942 architecturally significant home, an individually designated historic home, or a contributing single-family home located in a local historic district, a five-foot setback shall be required from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

c. *Side yard, facing a street.*

1. A ten-foot setback shall be required from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.
2. For properties containing a pre-1942 architecturally significant home, an individually designated historic home, or a contributing single-family home located in a local historic district, a five-foot setback shall be required from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

d. *Walk space.* A walk space at least 18 inches wide shall be provided between swimming pool walls and fences or screen enclosure walls. Every swimming pool shall be protected by a sturdy non-climbable safety barrier and by a self-closing, self-locking gate approved by the building official.

1. The safety barrier shall be not less than four feet in height and shall be erected either around the swimming pool or around the premises or a portion thereof, thereby enclosing the area entirely, and prohibiting unrestrained admittance to the swimming pool area.
2. Where a wooden-type fence is to be provided, the boards, pickets, louvers, or other such members shall be spaced, constructed, and erected so as to make the fence not climbable and impenetrable.
3. The walls, whether of the stone or block type, shall be so erected to make them non-climbable.
4. Where a wire fence is to be used, it shall be composed of two-inch chainlink or diamond weave non-climbable type, or of an approved equal, with a top rail and shall be constructed of heavy galvanized material.
5. Gates, where provided, shall be of the spring-lock type so that they shall automatically be in a closed and fastened position at all times. They shall also be equipped with a gate lock and shall be locked when the swimming pool is not in use.

e. *Visual barriers for swimming pools.* Accessory swimming pools, when located in any yard facing a public street or alley, shall be screened from public view by a hedge, wall or fence not less than five feet in height. The hedge shall be planted and maintained so as to form

a continuous dense row of greenery as per the requirements of this division. The maximum height of the visual barrier shall be pursuant to article IV, division 5 of this chapter.

f. *Corner properties.* For corner lots with a home built prior to 2006, a ten-foot setback shall be required from the front property line and from the side lot line facing the street to the swimming pool, deck, platform or screen enclosure. For corner lots with radial corners, the front setback and the side setback facing the street shall be taken from the midpoint of the curve of the corner of the property.

g. *Homes with two fronts, or through lots, within single-family districts.* Lots with two fronts, or through lots (double frontage), as defined by section 114-1 of this Code, shall be permitted to place a pool and pool deck, with a minimum ten-foot setback from the front property line, at the functional rear of the house.

(17) *[Applicability.]* The following regulations shall apply for fences, lightpoles or other accessory structures associated with court games.

a. In a required front yard the maximum height of fences shall be ten feet and the fences shall be set back at least 20 feet from the front property line.

b. In a required side and required rear yard, the maximum height of fences shall be ten feet and the fences shall be set back at least seven-and-one-half feet from the interior side or rear property line. When the fence faces a street, the maximum height shall be ten feet and the fence shall be set back at least 15 feet from the property line. For oceanfront properties, the rear lot line shall be the old city bulkhead line.

c. Accessory lighting fixtures, when customarily associated with the use of court games, shall be erected so as to direct light only on the premises on which they are located. The maximum height of light fixtures shall not exceed ten feet when located in a required yard; otherwise, the maximum height shall not exceed 20 feet. Light is permitted to be cast on any public right-of-way.

d. All chainlink fences shall be coated with green, brown, or black materials.

e. When fences are located in required yards, they shall be substantially screened from view from adjacent properties, public rights-of-way, and waterways by landscape materials.

f. Any play surface, whether paved or unpaved, when associated with such court games, shall have the following minimum required yards: Front—20 feet; interior side—Seven and one-half feet; any side facing on a street—15 feet; rear—Seven and one-half feet.

g. Landscaping, when associated with tennis courts, shall be allowed to equal the height of the fence. The area between the tennis court fence and the front lot line shall be landscaped and approved by the planning director prior to the issuance of a building permit.

(Ord. No. 89-2665, § 6-1(C), eff. 10-1-89; Ord. No. 96-3049, § 2, 7-17-96; Ord. No. 97-3069, § 1, 1-22-97; Ord. No. 2002-3379, § 2, 7-31-02; Ord. No. 2006-3529, § 3, 9-6-06; Ord. No. 2014-3835, § 2, 2-12-14; Ord. No. 2014-3907, § 3, 11-19-14; Ord. No. 2015-3944, § 3, 6-10-15; Ord. No. 2016-3987, § 1, 1-13-16; Ord. No. 2019-4241, § 1, 2-13-19; Ord. No. 2019-4316, § 2, 10-30-19; Ord. No. 2020-4359, § 3, 10-14-20; Ord. No. 2021-4396, § 3, 1-13-21; Ord. No. 2021-4400, § 1, 2-10-21; Ord. No. 2021-4455, § 1, 12-8-21)

Editor's note— See editor's note following § 142-105.

Sec. 142-107. - Development regulations for the Altos Del Mar Historic District.

Notwithstanding the development regulations contained in sections 142-101—142-106 above, the following development regulations shall apply to those portions of the RS-3 and RS-4 zoning districts located within the Altos Del Mar Historic District:

(a) *Minimum lot width:* Fifty feet.

(b) *Maximum lot width:* (No variance from this provision shall be granted.) 100 feet (two adjoining lots).

(c) *Maximum unit size:*

RS-3: 4,700 square feet for habitable major structures.

1,700 square feet for the understructure and nonhabitable major structures. An additional 600 square feet shall be allowed for the garage.

RS-4: 3,250 square feet. No variances shall be granted with regard to the maximum square footage of structures. An additional 400 square feet shall be allowed for the garage.

(d) *Maximum unit size for two adjoining 50 foot lots:*

RS-3: 7,000 square feet for habitable major structures.

3,400 square feet for the understructure and nonhabitable major structures. An additional 600 square feet shall be allowed for the garage.

RS-4: 3,750 square feet. An additional 400 square feet shall be allowed for the garage.

(e) *Maximum building height:*

RS-3: 37 feet above grade provided that:

1. Only ⅓ of the floor area of habitable major structures may be located above 25 feet in height.
2. For every one square foot of floor area above 25 feet in height, there shall be one square foot of courtyard or garden space, open to the sky, at ground level within the buildable area of the lot.

3. The understructure of habitable major structures shall be designed to be contiguous with perimeter walls above and shall enhance the experience of courtyard and exterior spaces directly adjacent.

The height regulation exceptions contained in Section 142-1162 shall not apply, except chimneys and air vents are permitted.

RS-4: 25 feet above grade.

(f) *Maximum number of stories:*

RS-3: Three stories

RS-4: Two stories

(g) *Setback Atlantic Way:*

RS-3: Up to 25 feet in building height: 12 feet

Greater than 25 feet in height: 75 feet

RS-4: Five feet

(h) *Setback Ocean:*

RS-3: Up to 25 feet in building height: 130 feet from Miami Beach Bulkhead Line for principal and accessory buildings;

Greater than 25 feet in height: 140 feet from the Miami Beach Bulkhead Line; 80 feet from Miami Beach Bulkhead Line for pools, decks, and any other structures: 30 inches or less above grade.

(i) *Setback Collins Avenue:*

RS-4 20 feet for principal and accessory buildings.

(j) *Setback side, interior:* Five feet or ten percent of lot width, whichever is greater.

(k) *Setback side, facing a street:* Five feet.

(l) *Supplementary yard regulations.* Notwithstanding the regulations contained in division 4, Supplementary Yard Regulations, sections 142-1131—142-1135, the following supplementary yard regulations shall apply:

(1) Accessory buildings are not permitted in required yards.

(2) Fences, walls and gates shall not be permitted eastward of the Miami Beach Bulkhead Line and shall not exceed 42 inches in height within 130 feet west of the Miami Beach Bulkhead Line.

(3)

Hot tubs, showers, saunas, whirlpools, toilet facilities, swimming pool equipment, and decks shall not be permitted more than 30 inches above grade within required yard areas. An exception may be made for swimming pool equipment with approval by the historic preservation board.

(4) Satellite dish antennas shall not be permitted in required yard areas.

(5) Swimming pools may only occupy a required yard if open and unobstructed to the sky, and elevated no more than 30 inches above grade. Swimming pool decks shall be set back a minimum of five feet from side yards, five feet from side yards facing a street, five feet from Collins Avenue, and 80 feet from the Miami Beach Bulkhead Line on oceanfront lots.

(m) The terms habitable major structures, non-habitable major structures and understructure shall be as defined in section 161.053, Florida Statutes and Chapter 62B-33, Florida Administrative Code.

(Ord. No. 2001-3297, 3-14-01; Ord. No. 2003-3430, § 1, 11-25-03; Ord. No. 2006-3529, § 4, 9-6-06)

Sec. 142-108. - Provisions for the demolition of single-family homes located outside of historic districts.

(a) *Criteria for the demolition of an architecturally significant home.* Pursuant to a request for a permit for partial or total demolition of a home constructed prior to 1942, the planning director, or designee, shall; or independently may, make a determination whether the home is architecturally significant according to the following criteria:

(1) The subject structure is characteristic of a specific architectural style constructed in the city prior to 1942, including, but not limited to, Vernacular, Mediterranean Revival, Art Deco, Streamline Moderne, or variations thereof.

(2) The exterior of the structure is recognizable as an example of its style and/or period, and its architectural design integrity has not been modified in a manner that cannot be reversed without unreasonable expense.

(3) Significant exterior architectural characteristics, features, or details of the subject structure remain intact.

(4) The subject structure embodies the scale, character and massing of the built context of its immediate area.

The date of construction shall be the date on which the original building permit for the existing structure was issued, according to the City of Miami Beach Building Permit Records. If no city building permit record exists, the date of construction shall be as determined by the Miami-Dade County Property Appraiser.

Any applicant requesting a determination as to the architectural significance of any single-family home constructed prior to 1942 shall pay upon submission [of] all applicable fees in section 118-7. No application shall be considered complete until all requested information has been submitted and all applicable fees paid. Public notice shall be required in accordance with section 118-8, subsections (b) Mail notice, and (c)

Posting. Within ten days of posting any required notice, interested persons may submit information to the planning director to take into consideration in evaluating the application. The director shall file the determination with the city clerk no later than five (5) days after the decision is made.

(b) *Appeals.* The decision of the planning director, or designee, which shall bear the presumption of correctness, pertaining to the architectural significance of a single-family home, may be appealed to the board of adjustment, pursuant to the requirements of section 118-9. No demolition permit may be issued within any appeal period, and if an appeal is filed, while the appeal is pending.

(c) *[Pre-application conference.]* An applicant may have a pre-application conference with the planning director, or designee, prior to the submission of a request or an application to discuss any aspect of this section. Such pre-application conference and any statements by the planning director, or designee, shall not create any waiver of, or estoppel on, the requirements of, or any determination to be made, under this section.

(d) *Total demolition procedures for a pre-1942 home.*

(1) A building permit for the total demolition of any single-family home constructed prior to 1942 shall only be issued following the final determination (after the expiration of time or exhaustion of all appeals) by the planning director, or designee, or the DRB, that the subject structure is not an architecturally significant home. A property owner may proceed directly to the DRB, pursuant to subsection 142-108(g); in this instance, a demolition permit shall only be issued in accordance with subsection 142-108(f).

(2) A request for such determination by the planning director, or designee, shall be processed by the planning department within ten business days of its submission.

(3) In the event the planning director, or designee, determines that a single-family home constructed prior to 1942 is architecturally significant, a demolition permit shall require the review of the DRB. The DRB shall explore with the property owner reasonable alternatives to demolition such as, but not limited to, reducing the cost of renovations, minimizing the impact of meeting flood elevation requirements, and designating the property as an historic structure or site. The DRB shall not have the authority to deny a request for demolition.

(e) *Partial demolition procedures for an architecturally significant home.*

(1) A building permit for partial demolition to accommodate additions or modifications to the exterior of any architecturally significant single-family home constructed prior to 1942 shall be issued only upon the prior final approval by the planning director, or designee, unless appealed as provided in subsection (3) below. In the event an architecturally significant single-family home is proposed to be substantially retained, the mail notice requirements in subsection 142-108(a) shall not be required and a property owner may proceed directly to the

design review board, pursuant to subsection 142-108(g), or agree to have the partial demolition reviewed and approved by staff, pursuant to subsection 142-108(e)(4); in either instance, a demolition permit shall only be issued in accordance with subsection 142-108(f).

(2) An application for such approval shall be processed by the planning department, as part of the building permit process.

(3) An appeal of any decision of the planning department on such applications shall be limited to the applicant, shall be in writing, shall set forth the factual and legal bases for the appeal, and shall be to the DRB.

(4) Review of applications for partial demolition shall be limited to the actual portion of the structure that is proposed to be modified, demolished or altered. Repairs, demolition, alterations and improvements defined below shall be subject to the review and approval of the staff of the design review board. Such repairs, alterations and improvements include the following:

a. Ground level additions to existing structures, not to exceed two stories in height, which do not substantially impact the architectural scale, character and design of the existing structure, when viewed from the public right-of-way, any waterfront or public parks, and provided such ground level additions

1. Do not require the demolition or alteration of architecturally significant portions of a building or structure;
2. Are designed, sited and massed in a manner that is sensitive to and compatible with the existing structure; and
3. Are compatible with the as-built scale and character of the surrounding single-family residential neighborhood.

b. Roof-top additions to existing structures, as applicable under the maximum height requirements specified in chapter 142 of these land development regulations, which do not substantially impact the architectural scale, character and design of the existing structure, when viewed from the public right-of-way, any waterfront or public parks, and provided such roof-top additions:

1. Do not require the demolition or alteration of architecturally significant portions of a building or structure;
2. Are designed, sited and massed in a manner that is sensitive to and compatible with the existing structure; and
3. Are compatible with the as-built scale and character of the surrounding single-family residential neighborhood.

c.

Replacement of windows, doors, roof tiles, and similar exterior features or the approval of awnings, canopies, exterior surface colors, storm shutters and exterior surface finishes, provided the general design, scale, massing, arrangement, texture, material and color of such alterations and/or improvements are compatible with the as-built scale and character of the subject home and the surrounding single-family residential neighborhood. Demolition associated with facade and building restorations shall be permitted, consistent with historic documentation.

d. Facade and building restorations, 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.

e. 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.

f. The demolition and alteration of rear and secondary facades to accommodate utilities, refuse disposal and storage, provided the degree of demolition proposed does not require the demolition or alteration of architecturally significant portions of a building or structure.

g. The demolition of non-architecturally significant accessory buildings.

(f) *Issuance of demolition permits for architecturally significant single-family homes.*

(1) Emergency demolition orders. This section shall not supersede the requirements of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official.

(2) A demolition permit for the total demolition of an architecturally significant single-family home constructed prior to 1942, shall not be issued unless all of the following criteria are satisfied:

a. The issuance of a building permit process number for 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 urban forestry in the environment and sustainability department.

(3)

The demolition permit shall require that all debris associated with the demolition of the structure shall be re-cycled, in accordance with the applicable requirements of the Florida Building Code.

(g) *New construction requirements for properties containing a single-family home constructed prior to 1942.*

(1) In addition to the development regulations and area requirements of section 142-105, as well as section 118-252, of the land development regulations of the City Code, the following regulations shall apply in the event the owner proposes to fully or substantially demolish an architecturally significant single-family home constructed prior to 1942, inclusive of those portions of a structure fronting a street or waterway. In the event of a conflict between the provisions of section 142-105 and section 118-252, and the regulations below, the provisions herein shall control:

a. The design review board (DRB) shall review and approve all new construction on the subject site, in accordance with the applicable criteria and requirements of chapter 118, article VI, section 118-251(a)1—12 of the land development regulations of the City Code.

b. The DRB review of any new structure, in accordance with the requirements of chapter 118, article VI, shall include consideration of the scale, massing, building orientation and siting of the existing structure on the subject site, as well as the established building context within the immediate area.

c. The overall lot coverage of proposed new buildings or structures shall not exceed the maximum limits set forth in section 142-105.

d. Lot coverage requirements for a single story home. In the event a new home does not exceed one-story in height, the lot coverage shall not exceed 35 percent of the lot area; at the discretion of the DRB, the lot coverage may be increased to a maximum of 50 percent of the lot area, if the DRB concludes that the one-story structure proposed results in a more contextually compatible new home. For purposes of this section, a one-story structure shall not exceed 18 feet in height as measured from minimum flood elevation. A restrictive covenant, in a form acceptable to the city attorney, shall be required, ensuring, for the life of the structure, that a second story is not added.

e. Lot coverage requirements for lot splits and lot aggregations. The above regulations shall also be a limitation on development in all lots within a single site that may be split into multiple lots or multiple lots that are aggregated into a single site, at a future date. When lots are aggregated, the greater of the footprint permitted by the lot coverage regulations, or the footprint of the larger home, shall apply.

(2) *Regulations for additions to architecturally significant homes which are substantially retained and preserved.* In addition to the development regulations and area requirements of section 142-105, of the land development regulations of the City Code, the following shall apply in the

event an architecturally significant single-family home constructed prior to 1942 is substantially retained and preserved. In the event of a conflict between the provisions of section 142-105, 142-106 and section 118-252, and the regulations below, the provisions herein shall control:

a. *Review criteria.* The proposed addition and modifications to the existing structure may be reviewed at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee. The design of any addition to the existing structure shall take into consideration the scale, massing, building orientation and siting of the original structure on the subject site.

b. *Lot coverage.* The total lot coverage may be increased to, but shall not exceed 40 percent, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee. In the event the lot coverage of the existing structure exceeds 40 percent, no variance shall be required to retain and preserve the existing lot coverage and a second level addition shall be permitted, provided it does not exceed 60 percent of the footprint of the existing structure; no lot coverage variance shall be required for such addition.

c. *Unit size.* The total unit size may be increased to, but shall not exceed 60 percent, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.

d. *Heights for RS-3 and RS-4.* For lots zoned RS-4 with a minimum lot width of 60 feet, or lots zoned RS-3, the height for ground level additions not to exceed 50 percent of the lot coverage proposed, may be increased up to 26 feet for a flat roofed structure and 29 feet for a sloped roof structure (as measured to the mid-point of the slope) above the minimum required flood elevation, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.

e. *Heights for RS-1 and RS-2.* For lots zoned RS-1 or RS-2, the height for ground level additions not to exceed 50 percent of the lot coverage proposed may be increased up to 30 feet for a flat roofed structure and 33 feet for a sloped roof structure (as measured to the mid-point of the slope) above the minimum required flood elevation, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.

f. *Courtyards.* The minimum courtyard requirements specified in subsection 142-106(2)d. may be waived at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.

g.

Front setback. Two-story structures or the second floor may encroach forward to the 20-foot front setback line, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.

h. *Second floor requirements.* The maximum second floor area of 70 percent specified in subsection 142-105(b)(3)c may be waived at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.

i. *Two-story ground level additions.* The construction of a ground floor addition of more than one story shall be allowed to follow the existing interior building lines, provided a minimum side setback of five feet is met, and may be approved at the administrative level, provided that the review criteria in section 142-105 have been satisfied, as determined by the planning director or designee.

j. *Projections.* Habitable additions to, as well as the relocation of, architecturally significant structures, may project into a required rear or side yard for a distance not to exceed 25 percent of the required yard, up to the following maximum projections:

1. Interior side yard: Five feet.
2. Street side yard: Seven feet six inches.
3. Rear yard: Fifteen feet.

k. *Fees.* The property owner shall not be required to pay any city planning or public works department fees associated with the renovation and restoration of the existing single-family home; except that any and all non-city impact fees and other fees shall still be required.

l. *[Applicability.]* The above regulations shall also be applicable to:

1. Any single-family home designated as an historic structure by the historic preservation board, and not located within a locally designated historic district.
2. Any single-family home constructed prior to 1966, if the owner voluntarily seeks a determination of architectural significance and if such home has been determined to be architecturally significant in accordance with section 142-108(a).

(3) *Appeals.* An appeal of any decision of the DRB shall be to a special magistrate appointed by the city commission, in accordance with the procedures set forth in subsection 118-537(b) of these land development regulations. Thereafter review shall be by certiorari to the circuit court.

(h) *Exceptions.* The following areas of work shall not require determinations of the planning director, or designee, under this section: interior demolitions including plumbing, electrical and mechanical systems, and renovations to the exterior of nonarchitecturally significant structures.

(i) *New construction procedures for single-family homes demolished without required approvals or permits.* For those properties where a single-family home constructed before 1942 was demolished without prior approval of the planning department, the design review board or the single-family residential review panel, and without the required permits from the building official, in addition to any other applicable law in this Code or other codes, the following shall apply prior to the issuance of any building permit for any new construction on the subject site:

(1) Purpose. The purpose of this subsection is to ensure that any new construction on the site where a single-family home constructed prior to 1942 was demolished without required approvals or permits is consistent with the scale, massing, density, location and height of that structure which previously existed on site prior to the unpermitted demolition. Where used in this section, the words "without all required permits," "without prior approval," "without required permits or approval" shall not be defined to include demolition as a result of forces beyond the control of the landowner such as, for example, windstorm, flood, or other natural disaster.

(2) The design review board shall have jurisdiction to review and approve all new construction on the subject site, in accordance with the criteria listed in section 118-251 and this section.

(3) Upon the finding that the demolition of any single-family home constructed prior to 1942 was without following the procedures of this section or without all required permits, any new construction on the same site shall be limited to the overall square footage, building footprint, height and location of that which previously existed on site prior to the unpermitted demolition, to the greatest extent possible in accordance with the applicable building and zoning codes.

(4) In the event the design review board determines that the single-family home demolished without required approval or permits was architecturally significant, based upon the criteria in subsections 142-108(a)(1)—(3) herein, the board shall require that the new structure be designed and constructed to match the exterior design and architectural details of the original structure demolished to the greatest extent possible in the same location, in accordance with all available documentation and in accordance with the applicable building and zoning codes.

(5) In the event the applicant endeavors to construct a new home on multiple, combined lots, and one of the lots contained the subject building demolished without required permits and approval, construction of the new home to match the exterior design and architectural details of the original home shall only occur on the lot on which the demolished home was situated. Separate new homes, which are not attached in any way to the lot on which the demolished home was situated, may be constructed on the remaining lots without approval from the design review board.

(6) In the event the owner of a single-family home constructed prior to 1942, which has been demolished without required permits or approvals, can establish good cause, the design review board may relieve the property owner of some or all of the limitations on new construction herein. The requirement of good cause shall be satisfied where the unauthorized demolition was solely the result of intentional or negligent acts of a duly licensed contractor or other third parties, and the owner had no role in and knowledge of the unauthorized demolition.

(7) In the event a single-family home constructed prior to 1942 is demolished without prior approval of the planning department, the design review board or the single-family residential review panel, and without the required permits from the building official, in addition to any other applicable law in this code or other codes, the city shall document such demolition, and the applicable requirements and procedures for any new construction delineated herein, for recording in the public records of Miami-Dade County, to give notice to subsequent purchasers of the property.

(8) No variances shall be granted by the board of adjustment from the requirements of section 142-108 except those variances which may be required to reconstruct the original structure demolished without required approvals or permits.

(j) *Issuance of demolition permits for single-family homes that are not architecturally significant.*

(1) Emergency demolition orders. This section shall not supersede the requirements of the applicable building code with regard to unsafe structures and the issuance of emergency demolition orders, as determined by the building official.

(2) A demolition permit for the total demolition of any single-family home that is not architecturally significant, regardless of year of construction, shall not be issued unless all of the following criteria are satisfied:

a. Obtain a building permit process number, which shall require:

(i) A building permit process number for new construction;

(ii) The building permit application and all required plans for the new construction, or proposed improvements to a lot that is abutting an aggregated lot with an existing single-family home, shall be reviewed and approved by the planning department;

(iii) All applicable fees for the new construction, or proposed improvements to a lot that is abutting an aggregated lot with an existing single-family home, 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 urban forestry in the environment and sustainability department.

b. Or, alternatively, be required to comply with the following:

(i) A tree survey, if required, shall be submitted and a replacement plan, if required, shall be reviewed and approved by the urban forestry in the environment and sustainability department.

(ii) The demolition permit shall indicate that the entire property, with the exception of areas surrounding trees to be retained and preserved, shall be raised to sidewalk grade, or the crown of the road, upon the completion of demolition, with approved base material.

(iii) The demolition permit shall indicate that drought and salt tolerant sod, such as bahia sod or seashore paspalum sod shall be installed on the entire site and hedge material shall be installed along the entire perimeter of the property.

(iv) Fencing for the property shall be required, and shall only consist of aluminum picket along the entire perimeter of the property.

(v) The raising of the site to sidewalk grade and the installation of all required landscaping shall be completed within ten days of the completion of demolition.

(vi) All landscaping required herein shall be installed and maintained as required by the demolition permit and the city's landscaping code, until such time as new construction is authorized and commences.

(3) Penalties and enforcement. The code compliance department is empowered and authorized to require compliance with this section within 30 days of written notice to violators.

(4) The following civil fines shall be imposed for a violation of subsection 142-108(j)(2)b:

a. First violation within a 12-month period: $2.500.00;

b. Second violation within a 12-month period: $5,000.00;

c. Third violation within a 12-month period: $7,500.00;

d. Fourth or subsequent violation within a 12-month period: $10.000.00.

(5) Enforcement of subsection 142-108(j)(2)b. The code compliance department shall enforce subsection 142-108(j)(2)b. 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 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.

(6) Rights of violators of subsection 142-108(j)(2)b; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

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 service 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 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.

c. The failure to pay the civil fine, or to timely request an administrative hearing before a special magistrate, 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.

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. 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.

e. 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.

f. The special magistrate shall not have discretion to alter the penalties prescribed in this section.

g. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.

(Ord. No. 2004-3468, § 1, 12-8-04; Ord. No. 2006-3529, §§ 5, 6, 9-6-06; Ord. No. 2007-3569, § 1, 9-5-07; Ord. No. 2014-3836, § 1, 2-12-14; Ord. No. 2014-3907, § 4, 11-19-14; Ord. No. 2015-3957, § 1, 9-2-15; Ord. No. 2015-3958, § 1, 9-2-15; Ord. No. 2015-3977, § 25, eff. 12-19-15; Ord. No. 2015-3978, § 12, 12-9-15, eff. 4-1-16; Ord. No. 2016-3999, § 1, 3-9-16; Ord. No. 2016-4044, § 1, 10-19-16; Ord. No. 2017-4083, § 5, 4-26-17; Ord. No. 2019-4307, § 1, 10-16-19; Ord. No. 2021-4431, 7-28-21)

Sec. 142-109. - Commercial use of single-family homes prohibited.

(a) *Intent and purpose.* The land development regulations restrict residential properties to residential and compatible accessory uses. Commercial uses on residential properties are prohibited, with limited exceptions. While residents are entitled to enjoy the use of their property consistent with the applicable regulations, in order to ensure and protect the enjoyment, character and value of residential neighborhoods and buildings, the provisions herein are established.

(b) *Definitions.*

(1) *Use of residential property* or *use of the property* in this section shall mean occupancy of residential property for the purpose of holding commercial parties, events, assemblies or gatherings on the premises.

(2) *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 months and one day, as provided herein, upon the premises, as may be viewed through various traditional media, including, but not limited to, newspaper, magazines, flyers, handbills, television commercial, radio advertisement, outdoor advertising, direct mail, blogs, websites or text messages.

(c) *Regulations: Determination of commercial use.*

(1) Accessory use of residential property shall be deemed commercial and not permitted, except as otherwise provided for in the Code, if:

a. *Compensation to owner.* The owner, lessee or resident receives payment or other consideration, e.g., goods, property or services, in excess of $100.00 per party or event for the commercial use of the property, including payment by any means, direct or indirect, including security deposits; or

b. *Goods, property or services offered or sold.* Goods, property or services are offered for sale or sold on or at the property, during use of the property; however, this subsection shall not apply, if:

1. All of the goods, property or services offered are donated to or for charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws; or

2. All of the proceeds from sales are directly payable and paid to charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S. Internal Revenue Code, as amended, or in

accordance with applicable election laws. An organization or candidate may reimburse donors for goods or property donated; or

3. The sale is of the property itself or personal property of the owner or resident (excluding property owned by a business), and if publicly advertised, comply with subsection (3) below;
4. Notwithstanding the restrictions in subsections (1)b.1—3., limited commercial use of the property by the owner or resident for the sale of goods, property or services shall be allowed under the following criteria. The event:
    i. Is by private invitation only, not publicly advertised;
    ii. Creates no adverse impacts to the neighborhood;
    iii. The activity and its impacts are contained on the property;
    iv. Parking is limited to that available on-site, plus 11 vehicles legally self-parked near the property, with no busing or valet service; and
    v. Frequency is no greater than one event per month;
5. The owner or resident must provide the city manager an affidavit that identifies the limited commercial use of the residential property at least 72 hours before the applicable limited commercial use is scheduled to commence pursuant to subsection 142-109(c)(1)b., and the affidavit must include the applicable information set forth within subsections (c)b.1. through (c)b.4., setting forth detailed information supporting the exempted limited commercial use provided there. The submission of a false affidavit is a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083 of the Florida Statutes; or

c. *Admittance fees.* Use of the property by attendees requires an admittance or membership fee or a donation, excluding donations directly payable and paid by attendees to charitable, religious or political organizations or candidates for public office, that have received 501(c)(3) or other tax exempt status under the U.S. Internal Revenue Code, as amended, or in accordance with applicable election laws; or
d. Any advertising that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or advertisement that promotes the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of this section.

(2) *Signs or advertising.* Signs or other forms of advertising in connection with goods, property or services offered in connection with commercial use of the property, including the actual goods, property (except real property and structures thereon) or services, shall not be visible from the public right-of-way. This section shall not be construed to prohibit the display of real estate for sale or lease signs for the property.

(3) *Real estate open houses.* The following events are permitted: Open houses (open to the public) organized for the purpose of promoting the sale or lease of the residence where the open house is located, to potential buyers or renters, or events organized by the listing agent limited to licensed real estate brokers and/or agents, subject to the following:

a. No sale or display of goods, property or services by sponsoring businesses unrelated to the property; and

b. No charging admittance fees.

c. Events described in this subsection must end by 8:00 p.m.

(d) *Enforcement.*

(1) Violations of this section shall be subject to the following fines. The special magistrate shall not waive or reduce fines set by this section.

a. If the violation is the first violation $25,000.00

b. If the violation is the second violation within the preceding 18 months $50,000.00

c. If the violation is the third violation within the preceding 18 months $75,000.00

d. If the violation is the fourth or greater violation within the preceding 18 months $100,000.00

Fines for repeat violations shall increase regardless of location. The director of the code compliance department must remit a letter to the Miami-Dade Property Appraiser and Miami-Dade Tax Collector, with a copy of the special magistrate order adjudicating the violation, that notifies these governmental agencies that the single-family residential property was used for the purpose of holding a commercial party, event, assembly or gathering at the premises.

(2) The advertising or advertisement for the commercial use of a residential property for the purpose of holding commercial parties, event, assemblies or gatherings on the residential premises is direct evidence that there is a violation of subsection 142-109(c), which is admissible in any proceeding to enforce section 142-109. The advertising or advertisement evidence raises a rebuttable presumption that the residential property named in the notice of violation or any other report or as identified in the advertising or advertisement is direct evidence that the residential property was used in violation of section 142-109.

(3) In addition to or in lieu of the foregoing, the city must close down the commercial use of the property pursuant to subsection 142-109(f), or may seek an injunction against activities or uses prohibited under this section.

(4) Any city police officer or code compliance officer may issue notices for violations of this section, with alternative enforcement as provided in section 1-14 of this Code. Violations shall be issued to the homeowner, and/or to any realtor, real estate agent, real estate broker,

event planner, promoter, caterer, or any other individual or entity that facilitates or organizes the prohibited activities. In the event the record owner of the property is not present when the violation occurred, a copy of the violation shall be provided to such owner.

(5) Charitable, religious or political organizations or candidates for public office shall receive one courtesy notice in lieu of the first notice of violation only, after which fines will accrue starting with the first violation as prescribed. No courtesy notice in lieu of first notice of violation shall be available if a courtesy notice in lieu of first notice of violation has already been granted in the preceding 18-month period, regardless of location.

(6) The city recognizes peoples' rights of assembly, free expression, religious freedom, and other rights provided by the state and federal constitutions. It is the intent of the city commission that no decision under this section shall constitute an illegal violation of such rights, and this section shall not be construed as such a violation.

(7) The city manager or designee may adopt administrative rules and procedures to assist in the uniform enforcement of this section.

(e) *No variances shall be granted from this section.* This section does not authorize commercial activities in residential neighborhoods that are otherwise prohibited or regulated by applicable law, unless expressly provided for herein.

(f) *Enhanced penalties.* The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in subsection 142-109(d) above, for violations of section 142-109:

(1) Enhanced penalties for this section:

a. The commercial use must be immediately terminated, upon confirming a violation has occurred, by the Miami Beach Police Department and the code compliance department.

b. If the offense is a second offense within the preceding 18-month period of time, and the total square footage of all building(s), accessory building(s), dwelling(s), or structure(s) exceed 5,000 total square feet, then the special magistrate must impose an additional fine of $50,000.00.

c. A certified copy of an order imposing the civil fines and penalties must be recorded in the public records, and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. The certified copy of an order must be immediately recorded in the public records, and the city may foreclose or otherwise execute upon the lien.

(Ord. No. 2008-3598, § 1, 2-13-08; Ord. No. 2014-3854, § 1, 4-23-14; Ord. No. 2016-4002, § 1, 3-9-16; Ord. No. 2021-4431, 7-28-21)

Secs. 142-110—142-130. - Reserved.

DIVISION 3. - RESIDENTIAL MULTIFAMILY DISTRICTS

Subdivision I. - Generally

Secs. 142-131—142-150. - Reserved.

Subdivision II. - RM-1 Residential Multifamily Low Intensity

Sec. 142-151. - Purpose.

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

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

Sec. 142-152. - Main permitted and prohibited uses.

(a) The main permitted uses in the RM-1 residential multifamily, low density district are:

(1) Single-family detached dwelling;

(2) Townhomes;

(3) Apartments;

(4) Apartment hotels, hotels, and suite hotels for properties fronting Harding Avenue or Collins Avenue, from the city line on the north, to 73rd Street on the south (pursuant to section 142-1105 of this chapter);

(5) Bed and breakfast inn (pursuant to article V, division 7 of this chapter); and

(6) Apartment hotels, hotels, and suite hotels for properties abutting Lincoln Lane South, between Drexel Avenue and Lenox Avenue, subject to the following regulations:

(i) The lot width of the property shall not exceed 100 feet;

(ii) The lobby from which the property is accessed shall be located within a building fronting Lincoln Road, which is located directly across Lincoln Lane South from the RM-1 property;

(iii) The hotel shall be operated by a single operator; and

(iv) No accessory uses associated with a hotel shall be located or permitted within the RM-1 district.

(7)

Properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as an historic site, shall be entitled to have hotels, apartment hotels, and suite hotels.

(b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the city Code, are prohibited uses, unless otherwise specified. Moreover, all uses not listed as a main permitted or conditional use are also prohibited. Notwithstanding the foregoing, accessory uses that are customarily associated with the operation of a hotel are permitted as provided in section 142-154 of this chapter.

(Ord. No. 89-2665, § 6-2(A)(2), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 2000-3257, § 1, 7-12-00; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2018-4166, § 1, 1-17-18; Ord. No. 2020-4368, § 1, 10-14-20; Ord. No. 2020-4376, § 1, 11-18-20)

Sec. 142-153. - Conditional uses.

(a) The conditional uses in the RM-1 residential multifamily, low density district are day care facility; religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages;

(b) For properties located in the Collins Waterfront Local Historic District, which are designated as a Local Historic Site, a hall for hire use within the interior of an existing building shall require conditional use approval and shall comply with the following:

(1) The conditional use shall only be permitted within an existing structure that is on a property designated as a "Historic Site" and such limitation shall be recorded in the Public Records;

(2) Dance halls, entertainment establishments and neighborhood impact establishments may only be permitted as part of a hall for hire;

(3) The hall for hire use shall close by 11:00 p.m. Sunday through Thursday, and by 12:00 a.m. Friday and Saturday;

(4) Events at the hall for hire shall be for the exclusive use of the property owner (and its subsidiaries) and invited guests. Events at the hall shall not be for the general public, with the exception of adjacent schools and community organizations within the Collins Park and Flamingo Drive areas, which may use the hall until 9:00 p.m.;

(5) Restaurants, stand-alone bars and alcoholic beverage establishments, not functioning as a hall-for-hire, shall be prohibited;

(6) Outdoor dining, outdoor entertainment and open-air entertainment uses shall be prohibited;

(7) Private or valet parking for any event at the hall shall be prohibited from using Flamingo Drive, Flamingo Place or Lake Pancoast Drive to facilitate access to the site.

(c)

For apartment buildings located north of 41st Street with a minimum of 100 apartment units, a restaurant serving alcoholic beverages shall require conditional use approval and shall comply with the following:

(1) The restaurant shall only be open to residents of the apartment building and their invited guests. All invited guests shall be required to park on the subject property.

(2) The kitchen shall be limited to a maximum size of 500 square feet.

(3) The conditional use application for a restaurant with outdoor seating and outdoor dining areas shall specify the proposed maximum number of seats, and locations of seating in the outdoor areas, which shall be subject to planning board review and approval.

(4) A hall for hire, dance hall, open-air entertainment establishment, outdoor entertainment establishment or entertainment establishment shall be prohibited.

(5) There shall only be one restaurant on the subject property.

(6) The hours of operation of the restaurant may be from 8:00 a.m. to midnight (no orders to be taken after 11:00 p.m.), and for any exterior areas only until 11:00 p.m. (no order to be taken after 10:00 p.m.).

(7) Without limiting the foregoing, in the outdoors areas of the restaurant there shall not be any entertainment or special events.

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

(d) For properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as an historic site, additional conditional uses are:

(1) Accessory outdoor bar counters, provided that an accessory outdoor bar counter is only permitted to be utilized during the hours of operation of the restaurant of which it is a part.

(2) Accessory outdoor and open air entertainment establishment consisting of ambient performances only. For purposes of this subsection, ambient performances shall be defined as any live or recorded, amplified or nonamplified performance played or conducted at a volume that does not interfere with normal conversation. Ambient performances shall only take place between the hours of 10:00 a.m. and 10:00 p.m., unless otherwise approved by the planning board through the conditional use process.

(3) Accessory neighborhood impact establishments.

(Ord. No. 89-2665, § 6-2(A)(3), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2014-3909, § 1, 11-19-14; Ord. No. 2018-4166, § 1, 1-17-18; Ord. No. 2018-4175, § 1, 3-7-18; Ord. No. 2020-4376, § 1, 11-18-20)

Sec. 142-154. - Accessory uses.

The accessory uses in the RM-1 residential multifamily, low density district are as required in article IV, division 2 of this chapter. Additionally, properties located north of Normandy Drive having a lot area greater than 30,000 square feet, which are individually designated as an historic site are permitted to have the following accessory uses associated with the operation of a hotel: retail, restaurants with or without accessory bars, and personal services.

(Ord. No. 89-2665, § 6-2(A)(4), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 2020-4376, § 1, 11-18-20)

Sec. 142-155. - Development regulations and area requirements.

(a) The development regulations in the RM-1 residential multifamily, low density district are as follows:

(1) Max. FAR: 1.25; west side of Collins Avenue between 76th and 79th Streets—1.4.

(2) Public and private institutions: Lot area equal to or less than 15,000 square feet—1.25; lot area greater than 15,000 square feet—1.4.

(3) Exterior building and lot standards:

a. *Minimum yard elevation requirements.*

1. The minimum elevation of a required yard shall be no less than five feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph c., below, the minimum elevation requirements shall still apply.

2. Exemptions. The minimum yard elevation requirements shall not apply to properties containing individually designated historic structures, or to properties designated as "contributing" within a local historic district, or a National Register Historic District.

b. *Maximum yard elevation requirements.* The maximum elevation of a required yard shall be in accordance with the following, however, in no instance shall the elevation of a required yard exceed the minimum flood elevation, plus freeboard:

1. *Front yard, side yard facing a street, and interior side yard.* The maximum elevation within a required front yard, side yard facing a street, and interior side yard shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater. In this instance, the maximum height of any fence(s) or wall(s) in the required yard, constructed in compliance with section 142-1132(h). "Allowable encroachments within required yards" shall be measured from existing grade.

2.

Rear yard. The maximum elevation for a required rear yard, (not including portions located within a required side yard or side yard facing the street), shall be calculated according to the following:

(A) Waterfront. The maximum elevation shall not exceed the base flood elevation, plus freeboard.

(B) Non-waterfront. The maximum elevation shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater.

c. *Stormwater retention.* In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations.

d. *Retaining wall and yard slope requirements.*

1. Retaining walls shall be finished with stucco, stone, or other high quality materials, in accordance with the applicable design review or appropriateness criteria.
2. Within the required front yard and side yard facing a street, the following shall apply:

(A) The first four feet of the property line, the maximum height of retaining walls shall not exceed 30 inches above existing sidewalk elevation, or existing adjacent grade if no sidewalk is present.

(B) When setback a minimum of four feet from property line, the maximum height of a retaining wall shall not exceed 30 inches above adjacent grade.

(C) The maximum slope of the required front and side yard facing a street shall not exceed 11 percent (5:1 horizontal; vertical).

e. *Lot coverage.* The maximum lot coverage for a lot or lots greater than 65 feet in width shall not exceed 45 percent. In addition to the building areas included in lot coverage, as defined in section 114-1, impervious parking areas and impervious driveways shall also be included in the lot coverage calculations. The design review board or historic preservation board, as applicable, may waive the lot coverage requirements in accordance with the design review or certificate of appropriateness criteria, as applicable.

f. *Ground floor requirements.* When parking or amenity areas are provided at the ground floor level below the first habitable level, the following requirements shall apply:

1. A minimum height of 12 feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable, may waive this height requirement by up to two feet, in accordance with the design review of certificate of appropriateness criteria, as applicable.
2.

All ceiling and sidewall conduits shall be internalized or designed in such a manner as to be part of the architectural language of the building in accordance with the design review or certificate of appropriateness criteria, as applicable.

3. All parking and driveways shall substantially consist of permeable materials.
4. Active outdoor spaces that promote walkability, social integration, and safety shall be provided at the ground level, in accordance with the design review or certificate of appropriateness criteria, as applicable.
5. At least one stair shall be visible and accessible from the building's main lobby (whether interior or exterior), shall provide access to all upper floors, shall be substantially transparent at the ground level and shall be located before access to elevators from the main building lobby along the principal path of travel from the street. Such stair, if unable to meet minimum life-safety egress requirements, shall be in addition to all required egress stairs.

g. *Lot aggregation.* No more than two contiguous lots may be aggregated for development purposes, with the exception of projects classified as affordable and/or workforce housing.

(4) In the Flamingo Park Local Historic District, the following shall apply:

a. Notwithstanding the provisions of section 142-1161 of these land development regulations, roof-top additions shall not be permitted on any contributing building and any stairwell or elevator bulkhead shall meet the line-of-sight requirements of section 142-1161, but not to exceed allowable building heights. The historic preservation board reserves the right to re-classify the contributing status of any structure in the district, prior to rendering a decision on any application that may contemplate a rooftop addition.

b. Ground level additions shall be detached and separated from the main structure(s) on the site by a distance of at least ten feet. The historic preservation board may, on a case-by-case basis, allow a ground level addition to attach to the rear of an existing structure that has a flat roof and parapet, provided such addition does not exceed the height of the existing structure and that the attachment does not result in the demolition, obscuring or removal of any significant architectural features and/or finishes from the existing structure.

c. The height of any ground level addition to an existing structure, whether attached or detached, shall be limited to one story, not to exceed 12 feet above the height of the main roof of the existing structure. In the event the existing structure is two stories in height or higher, the proposed addition shall not exceed a total of three stories and 35 feet.

d.

Ground level additions, whether attached or detached, shall follow the established lines of the interior side setbacks of the main existing structure on the site. For the first two floors of the addition, any non-conforming interior side setback may be extended, provided the minimum interior and/or street side setback is five feet; the third floor of the addition, if permitted, shall meet the minimum side yard requirements. Notwithstanding the foregoing, the historic preservation board may, on a case-by-case basis, allow ground level additions to exceed one side of the established interior side setbacks of the main existing structure on the site, provided the sum of the interior side setbacks is a minimum of 15 feet.

e. No more than two contiguous lots may be aggregated for development purposes.

f. For any new construction or additions, whether attached or detached, on multiple or aggregated lots, a minimum building separation of ten feet at the center of the aggregated lots shall be required. The historic preservation board may, on a case-by-case basis, allow for a connection in the rear of the property, provided the depth of such connection does not exceed 25 percent of the lot depth and that the connection does not contain any parking spaces.

g. Only those portions of a contributing building that were not part of the original structure on site, or that have not acquired any type of architectural significance, as determined by staff or the historic preservation board, may be proposed to be demolished.

h. For contributing buildings or properties, no building or structure shall be permitted within an existing historic courtyard. For purposes of this subsection, an historic courtyard shall be defined as a grade level space, open to the sky, which is enclosed on at least two sides by an existing building or structure on the same property and is an established architectural or historic component of the site or building design by virtue of significant features and/or finishes, including, but not limited to, paving patterns, fountains, terraces, walkways or landscaping.

i. Each level of new construction or additions, whether attached or detached, shall have a maximum floor to floor height of 12 feet. The historic preservation board may, on a case-by-case basis, waive the maximum floor to floor height requirement and allow for loft or mezzanine space within the allowable volume of the building, provided the total floor area of any such loft space or mezzanine does not exceed one-third the total floor area in that room or story in which the loft space or mezzanine occurs.

j. Stairwell bulkheads shall not be permitted to extend above the maximum building height.

k. Elevator bulkheads extending above the main roofline of a building shall be required to meet the line-of-sight requirements set forth in section 142-1161 herein and such line-of-sight requirement cannot be waived by the historic preservation board.

l. If an alley exists, no front curb cut shall be permitted. If no alley exists, any curb-cut required shall not exceed 12 feet in width.

m. No variances from these provisions shall be granted.

(5) For properties located in the North Shore and Normandy Isles National Register Historic Districts, see chapter 142, article III, division 13.

(b) The lot area, lot width, unit size and building height requirements for the RM-1 residential multifamily, low density district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)

5,600	50	New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square	New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550. The number of units may not exceed the maximum density set forth in the comprehensive plan.	Historic district—40 Flamingo Park Local Historic District—35 (except as provided in section 142-1161) Otherwise—50 For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses—55 For properties located north of Normandy Drive having a lot area greater than

		feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings —200.		30,000 square feet, which are individually designated as an historic site—80.

(Ord. No. 89-2665, § 6-2(B), eff. 10-1-89; Ord. No. 92-2853, eff. 6-26-93; Ord. No. 94-2965, eff. 12-31-94; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3149, § 1, 11-4-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2005-3483, § 2, 5-18-05; Ord. No. 2006-3515, § 1, 5-10-06; Ord. No. 2006-3540, § 1, 10-11-06; Ord. No. 2011-3744, § 4, 10-19-11; Ord. No. 2013-3808, § 1, 9-11-13; Ord. No. 2016-4007, § 1, 4-13-16; Ord. No. 2017-4121, § 2, 7-26-17; Ord. No. 2017-4148, § 5, 10-18-17; Ord. No. 2017-4149, § 4, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2018-4187, § 1, 4-11-18; Ord. No. 2019-4315, § 1, 10-30-19; Ord. No. 2020-4376, § 1, 11-18-20)

Sec. 142-156. - Setback requirements.

(a) The setback requirements for the RM-1 residential multifamily, low density district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot except where (c) below is applicable	20 feet	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	5 feet abutting an alley, otherwise 10% of the lot depth

Subterranean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Single lots less than 65 feet in width: 7.5 feet. Lots equal to or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming side interior pedestal setbacks.	Single lots less than 65 feet in width: 7.5 feet. Lots equal to or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width	10% of lot depth. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet.	The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming side interior pedestal setbacks.	Sum of the side yards shall equal 16% of the lot width Minimum 10 feet or 8% of lot width, whichever is greater	15% of lot depth. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

(b) In the RM-1, residential district, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential uses at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential uses above the first level along every facade facing a waterway.

(3)

For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential uses; the total amount of residential space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(c) In cases where the city commission approves after public hearing a public-private parking agreement for a neighborhood based upon an approved street improvement plan, the minimum front yard setback for parking subject to the agreement shall be zero feet. The street improvement plan must be approved by the design review board if outside an historic district, or the historic preservation board if inside an historic district.

(Ord. No. 89-2665, §§ 6-2(C), 6-5, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 98-3108, § 2, 1-21-98; Ord. No. 2004-3464, § 1, 11-10-04; Ord. No. 2006-3510, § 2, 3-8-06; Ord. No. 2017-4121, § 3, 7-26-17; Ord. No. 2019-4315, § 1, 10-30-19)

Secs. 142-157—142-180. - Reserved.

Subdivision III. - RM-PRD Multifamily, Planned Residential Development District

Sec. 142-181. - Purpose.

The RM-PRD multifamily, planned residential development district is designed for new construction of low intensity multiple-family planned residential development.

(Ord. No. 89-2665, § 6-2.1(A)(1), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93)

Sec. 142-182. - Main permitted, prohibited and accessory uses.

(a) The main permitted uses in the RM-PRD multifamily, planned residential development district are single-family detached dwelling; townhomes; and apartments.

(b) The sale of alcoholic beverages as an accessory use to a dining facility within apartment buildings within this district shall be permitted.

(c) All alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the City Code, are prohibited uses.

(d) Moreover, all uses not listed as a main permitted or accessory use are also prohibited.

(Ord. No. 89-2665, § 6-2.1(A)(2), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 2018-4166, § 1, 1-17-18; Ord. No. 2018-4169, § 1, 1-17-18)

Sec. 142-184. - Accessory uses.

The accessory uses in the RM-PRD multifamily, planned residential development district are as required in article IV, division 2 of this chapter.

(Ord. No. 89-2665, § 6-2.1(A)(4), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93)

Sec. 142-185. - Development regulations.

The development regulations in the RM-PRD multifamily, planned residential development district are as follows:

(1) Maximum floor area ratio is 1.6.

(2) Minimum lot area is ten acres.

(3) Minimum lot width is not applicable.

(4) Minimum unit size for new construction is 750 square feet.

(5) Average unit size for new construction is no less than 1,000 square feet.

(6) Maximum building height is 120 feet.

(7) Lots, plots, and parcels of land that were designated RM-PRD under this section on October 1, 1989 (the "parent tract"), whether improved or unimproved or building site, as defined under the land development regulations of this Code, designated by number, letter or other description in a plat of a subdivision, may be further divided or split under this section, as long as all development on the parent tract collectively is in compliance with this section. Such division or split shall be considered to be in compliance with the regulations of this subdivision, and shall not be reviewed under city land development regulations section 118, article VII. Development under this section shall be subject to review under the design review procedures pursuant to chapter 118, article VI of this Code. The design review board, in reviewing projects proposed for this district, shall take into consideration the contextual relationship of existing and approved projects, and the buildout of the remainder of the district. This section shall be retroactive to include all parcels and buildings existing as of March 18, 2003.

(Ord. No. 89-2665, § 6-2.1(B), eff. 10-1-89; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 2003-3400, § 1, 3-19-03; Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-186. - Setback requirements.

(a) The setback requirements for the RM-PRD multifamily, planned residential development district are as follows:

	Front	Side, Interior	Side, Oceanfront	Rear
At-grade parking lot on the same lot	20 feet	15 feet	50 feet from mean high water line	50 feet
Subterranean	20 feet	15 feet	50 feet from mean high water line	50 feet
Pedestal	20 feet	15 feet	50 feet from mean high water line	50 feet
Tower	20 feet	15 feet	50 feet from mean high water line	50 feet

(b) For purposes of this section, the setback regulations apply to lots over ten acres that are contiguous to Government Cut and/or the Atlantic Ocean on at least two sides. No variances shall be permitted from this subsection.

(c) Permitted accessory uses within the 50-foot oceanfront side and rear setbacks are limited to the following: enclosed structures not utilized for dwelling purposes, shade structures, swimming pools, cabanas, hot tubs, showers, whirlpools, toilet facilities, swimming pool equipment, decks, patios, and court games when such games require no fences.

(d) For a lot that does not meet the location requirement in subsection (b) of this section, development shall meet the residential setback requirements as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—5 feet Oceanfront lots —50 feet from bulkhead line

Subterranean	20 feet	5 feet, or 5% of lot width, whichever is greater. (0 feet if lot width is 50 feet or less)	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—0 feet Oceanfront lots—50 feet from bulkhead line
Pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater

Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 0.10 of the height of the tower portion of the building. The total required setback shall not exceed 50 feet	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

(Ord. No. 89-2665, §§ 6-2.1(C)—(F), 6-5, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 98-3108, § 2, 1-21-98)

Cross reference— Yard requirements for hot tubs, showers, saunas, etc., § 142-1132(j).

Subdivision IIIA. - RM-PRD-2 MultiFamily, Planned Residential Development

Sec. 142-187. - Purposes and uses.

(1) *District purpose:* This district is designed to provide for low intensity multiple-family planned residential development, with limited accessory commercial use.

(2) *Main permitted uses:* Single-family detached dwelling; townhomes; apartments.*

(3) *Conditional uses:* None.

(4) *Accessory uses:* See sections 142-901 through 142-905. Commercial uses as specified in section 142-194.

(5) *Prohibited uses:* Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, unless otherwise specified.

* For the St. Francis Hospital Site, the area referenced in the attached Appendix shall be restricted to single family or townhouse development.

(Ord. No. 2000-3230-A, § 1, 1-26-00; Ord. No. 2018-4166, § 1, 1-17-18)

Sec. 142-188. - Development regulations.

(1) *FAR:* 1.45.

(2) *Minimum lot area (acres):* Seven.

(3) *Minimum lot width (feet):* See guidelines below.

(4) *Minimum unit size (square feet):* See guidelines below.

(5) *Average unit size (square feet):* N/A.

(6) *Maximum building height (feet):* See guidelines below.

For the St. Francis Hospital Site, residential development within this district may not exceed the following: 180 total dwelling units.

(Ord. No. 2000-3230-A, § 1, 1-26-00)

Sec. 142-189. - Existing structures.

For purposes of this section, structures existing as of April 1, 1999, which are demolished subsequently will not be replaced, except as allowed under the provisions of this subdivision.

(Ord. No. 2000-3230-A, § 1, 1-26-00)

Sec. 142-190. - Lot split.

Lots, plots, and parcels of land under this section, whether improved or unimproved or building site, as defined under the Land Development Regulations of the City Code., designated by number, letter or other description in a plat of a subdivision, may be further divided or split under this section. Such division or split shall be considered to be in compliance with the regulations of this subdivision, and shall not be reviewed under Miami Beach Land Development Regulations Section 118, Article VII.

(Ord. No. 2000-3230-A, § 1, 1-26-00)

Sec. 142-191. - Master plan approval.

Development under this Subdivision shall be subject to review under the design review procedures pursuant to the chapter 118, article VI of this Code. For the St. Francis Hospital Site, development shall be substantially in compliance with the master plan on file with the city planning department, prepared by Duany Plater-Zyberk, which reflects a maximum of 180 allowable residential units.

(Ord. No. 2000-3230-A, § 1, 1-26-00)

Sec. 142-192. - Open space.

Common landscaped areas shall be a minimum of 9.5 percent of the site. A minimum of 50 percent of total landscaped area shall be retained for passive uses, with the remainder available for active uses. Landscaped areas shall be paved for no more than ten percent of their surface. For purposes of this section, the calculation of open space does not include private street rights-of-way.

(Ord. No. 2000-3230-A, § 1, 1-26-00)

Sec. 142-193. - Nonconforming buildings and uses.

Nonconforming buildings, approved as part of the master site plan, which are 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 South Florida Building Code may be repaired or rehabilitated if the following conditions are met:

(1) Renovated or repaired units shall meet the minimum floor area as set forth for this zoning district. The number of units in the building shall not be increased.

(2) Such repairs or reconstruction in the damaged or repaired portion of the building shall meet the requirements of the city property maintenance standards, the South Florida Building Code, and fire prevention and safety code.

Buildings considered legally nonconforming will continue to maintain their legal nonconforming status, except that for the St. Francis Hospital Site, office uses in the Morris Tower building (Northeast building) may be allowed for a period of two years after the effective date of this subdivision, after which they are no longer considered legally nonconforming, and shall be converted to residential use.

(Ord. No. 2000-3230-A, § 1, 1-26-00)

Sec. 142-194. - Urban and architecture design guidelines.

(a) *Streets.*

(1) *Alleys.* There shall be a continuous network of alleys to the rear of building lots.

(2) *Block perimeter.* Average perimeter of all blocks shall not exceed 1,200 feet. No block face shall have a length greater than 300 hundred feet without an alley or pedestrian pathway providing through access to another street or alley.

(3) *Sidewalks.* Sidewalks shall be a minimum of five feet wide. Walks adjacent to commercial uses shall be a minimum of eight feet wide. Free and public use of the sidewalk beyond the right-of-way shall be protected by a public access easement.

(4) *Street and garden walls.* Streetwalls shall be built on the frontage line or aligned with the building walls.

(5) *Parking.* Parking lots shall be located at the rear or at the side of buildings. On street parking directly fronting a lot shall count toward fulfilling the parking requirement of that lot. Attached and detached single family units shall have a minimum of one and a half parking spaces. Parking for community related retail and service uses may provide required parking on street or in parking garages accessible within an 800-foot radius of the activity.

(b) *Utilities.* Utilities shall run underground. Utility boxes (transformers, telephone boxes, backflow preventers, etc.) shall be concealed in alleys or other locations.

(c) *Common open space.*

(1) *Lighting.* Lighting of rights-of-way and pedestrian public spaces shall be achieved with lamps attached to buildings, landscape lighting, or street lights which shall not exceed 16 feet in height. Other lighting may be used in areas that are primarily for service use and are concealed from public pedestrian spaces.

(2) *Plazas.* There shall be a minimum of one plaza, whose use is restricted to temporary parking, landscaping, and permanent architecture or water features. Plazas shall have a maximum width to height ratio (width of plaza to height of adjacent building and/or landscaping) of 3 to 1 and shall have continuously defined edges.

(3) *View and access.* View corridors within site and pedestrian access to the waterfront shall be maintained as per the site plan to be approved by the design review board. Waterfront access shall be continuous and shall be a minimum of 12 feet wide.

(4) *Landscaping.* Those areas of the development fronting on public streets shall be landscaped.

(d) *Buildings.*

(1) *General.*

a. *Building use.* All principal buildings shall have residential uses, including townhouses and apartment buildings. Limited accessory ground floor retail and commercial uses shall be allowed as set forth in this section.

b.

Principal entry. The principal pedestrian entrance of all buildings (except outbuildings) shall be directly from a public space (street or square).

c. *Setback requirements.* All new buildings shall be setback from existing rights of way a minimum of 20 feet.

d. *Special sites.* Special sites, which act as the termination of a vista, a gateway, or a leading corner, shall receive architectural treatment recognizing their position.

(2) *Townhouses.*

a. *Minimum lot width.* Up to 20 percent of the townhouses may be a minimum of 18 feet wide; the remaining townhouses shall be a minimum of 24 feet wide.

b. *Maximum lot width.* Townhouses shall be a maximum 48 feet wide. Notwithstanding this limitation, nothing in this section precludes a single owner from purchasing continuous townhouses, with a total lot width in excess of 48 feet, but the living space in such townhouses may not be combined.

c. *Minimum unit size.* Townhouses shall be a minimum of 1,600 square feet in area.

d. *Maximum building height.* Townhouses shall not exceed 35 feet in height (three stories, excluding chimneys and elevator towers) to the eave. A cornice line shall be used to define the top of the first floor. Chimneys, elevator towers, enclosed stairwells, covered roof terraces, towers (with footprints less than 400 square feet and a height limit of 12 feet above roof high point) shall be allowed.

e. *Setback requirements.* Townhouses shall be setback a minimum of six feet from the frontage line. Townhouses at street intersections shall be set back six feet from the frontage line. Setback requirements shall apply to the enclosed portion of the buildings only. Setback requirements do not apply to outbuildings where they front streets. Setbacks on consolidated lots shall apply as in a single lot. Townhouses shall have a setback of zero feet from at least one side property line. There shall be no required rear setback.

f. *Detached accessory structures.* One or more accessory structures shall be allowed on each lot. Accessory structures shall not be rentable separate from the main townhome.

g. *Street wall.* Townhouses shall have a streetwall built along the unbuilt frontage of a street, minimum 18 inches high and maximum six feet high.

h. *Unit entry.* Townhouses with the minimum setback shall have their entry set to one side of the facade. This is to preserve the possibility or retrofitting a ramp for wheelchair access. Buildings shall have a first floor front elevation minimum of 18 inches above finished sidewalk grade.

(3) *Apartments.*

a. *Minimum unit size.* Apartments shall be a minimum of 1,000 square feet.

b. *Minimum average unit size.* Apartments shall be a minimum average of 1,500 square feet.

c. *Maximum building height.* Newly constructed apartment buildings as of April 1, 1999, shall not exceed the following:

   For the St. Francis Hospital Site:

   East of the extension of the centerline of Water View Prado to the southernmost end of Allison Island: 120 feet in height (excluding chimneys and elevator towers) to the cornice.

   A cornice or plinth line shall be used to define the top of the building base.

d. *Setback requirements.* Apartment buildings shall have a setback of a minimum of 20 feet from existing city streets.

e. *Building use.* Building use shall be primarily residential, with commercial and retail space allowed at ground floor locations. For the St. Francis Hospital site, this commercial and retail space is limited to a total maximum of 1,000 square feet. All such commercial uses shall neither be visible from any public streets nor open to persons other than residents of the proposed development and their guests. No exterior signage shall be permitted. Permitted tenant types are listed below.

f. *Retail uses.* Retail space allowed at ground floor shall be limited to the following uses: art galleries; bakery; barber/beauty parlor; cafe; confectionery, sales of cookies/ice cream; convenience store; delicatessen; dry cleaning (no cleaning on premises); sales of newspapers, magazines.

g. *Commercial uses.* Commercial space allowed at ground floor is limited to: professional offices, including but not limited to attorney, accountant, architect, etc. Commercial uses are limited to the interior of the proposed development. For the St. Francis Hospital Site, commercial uses are prohibited from direct frontage onto 63rd Street.

h. *Existing buildings.* Existing buildings may be converted to residential use provided they meet all requirements of the Land Development Regulations of this Code.

i. *Height of existing buildings.* For the purposes of architectural enhancement, existing structures as of April 1, 1999, may be increased in height as follows:

   For the St. Francis Hospital Site:

   East buildings: The East buildings may be increased by a maximum of 25 feet or two stories above the existing height. Such additional floor area shall not exceed 25 percent of the enclosed floor area immediately one floor below.

Morris Tower building (Northeast building): If the design review board deems that the addition of further height to the Morris Tower building (Northeast building) aesthetically enhances the project, the Morris Tower building (Northeast building) may be increased by a maximum of 25 feet or two stories above the existing height. Such additional floor area shall not exceed twenty five (25) percent of the enclosed floor area immediately one floor below.

No variances for building height shall be permitted for structures fronting on 63rd Street.

(Ord. No. 2000-3230-A, § 1, 1-26-00)

Secs. 142-195—142-210. - Reserved.

Subdivision IV. - RM-2 Residential Multifamily, Medium Intensity

Sec. 142-211. - Purpose.

The RM-2 residential multifamily, medium intensity district is designed for medium intensity multiple-family residences.

(Ord. No. 89-2665, § 6-3(A)(1), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-212. - Main permitted uses.

The main permitted uses in the RM-2 residential multifamily, medium intensity district are single-family detached dwellings; townhomes; apartments; apartment hotels, hotels, hostels, and suite hotels (pursuant to section 142-1105 of this chapter).

(a) Except that in the Palm View corridor, defined in this subsection as all properties abutting the west side of Meridian Avenue between 17th Street and Collins Canal, apartment hotel or hotel uses are only permitted if issued a building permit or occupational license prior to May 28, 2013, or are approved by the design review board pursuant to a complete application filed and pending prior to May 28, 2013, in which event they shall be considered a "legal conforming use." A property that has a "legal conforming use" as used in this subsection prior to May 28, 2013, may retain all, and apply for new, expansions and modifications to, permitted, conditional and/or accessory uses permitted in the zoning category as of May 28, 2013, and apply for building permits to add, improve and/or expand existing structures, or construct new structures for permitted, conditional and/or accessory uses permitted in the zoning category, if FAR remains available.

(b)

Except that in the West Avenue corridor, defined in this subsection as that area bordered by Collins Canal to the north, Alton Road to the east, Biscayne Bay to the west, and 6th Street to the south, apartment-hotel or hotel uses are only permitted if issued a building permit or occupational license prior to May 28, 2013, or are approved by the design review board pursuant to a complete application filed and pending prior to May 28, 2013, in which event they shall be considered a "legal conforming use." A property that has a "legal conforming use" as used in this subsection prior to May 28, 2013, may retain all, and apply for new, expansions and modifications to, permitted, conditional and/or accessory uses permitted in the zoning category as of May 28, 2013, and apply for building permits to add, improve and/or expand existing structures, or construct new structures for permitted, conditional and/or accessory uses permitted in the zoning category, if FAR remains available.

The main permitted uses in the RM-2 residential multifamily, medium intensity district also includes offices that are incidental and customary to a hotel in the RM-3 district fronting Collins Avenue located no more than 1,200 feet from the RM-3 hotel property. For purposes of this section, the distance between the RM-3 hotel property and the RM-2 office property shall be measured by following a straight line between the properties' boundaries; further that office property shall be governed by a restrictive covenant approved as to form by the city attorney, recorded in the public records, stipulating that the office use may only remain as long as the hotel use continues.

(Ord. No. 89-2665, § 6-3(A)(2), eff. 10-1-89; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3819, § 1, 10-16-13; Ord. No. 2013-3820, § 1, 10-16-13; Ord. No. 2014-3849, § 1, 3-5-14; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2017-4146, § 2, 10-18-17)

Sec. 142-213. - Conditional uses.

(a) The conditional uses in the RM-2 residential multifamily, medium intensity district are as follows:
    (1) Day care facility;
    (2) Stand-alone religious institutions;
    (3) Private and public institutions;
    (4) Schools;
    (5) Commercial or noncommercial parking lots and garages;
    (6) Stand-alone ballrooms and meeting rooms when associated with a hotel located in the RM-3 district (subject to the requirement that such hotel property be located within 100 feet of the ballroom and meeting room property); and
    (7) Accessory neighborhood impact establishment; as set forth in subsection (d) below.

(b) Museum Historic Preservation District. In addition to the conditional uses specified in subsection 142-213(a), existing religious institutions located on properties in the Museum Historic Preservation District, which contain a contributing structure, may obtain conditional use approval

for a separate hall for hire use within the interior of the existing religious institution. Any such hall for hire use shall comply with the following additional regulations:

(1) Entertainment may only be permitted in the hall for hire;

(2) The hall for hire use shall cease operations by 11:00 p.m. on Sunday through Thursday, and by 12:00 a.m. on Friday and Saturday;

(3) Only the property owner, its subsidiaries, and its invited guests may hold events at the hall for hire;

(4) Restaurants, stand-alone bars, and alcoholic beverage establishments, shall be prohibited;

(5) Outdoor dining, outdoor entertainment, open-air entertainment uses, outdoor speakers and outdoor music shall be prohibited;

(6) There shall be no variances from the provisions of subsection 142-213(b).

(c) West Avenue Bayfront Overlay District. In addition to the conditional uses specified in subsection 142-213(a), the conditional uses within the West Avenue Bayfront Overlay District shall include the following: Non-medical offices and personal service uses, either of which may only be located on the lobby level of bayfront apartment buildings.

(d) *Washington Avenue.* In addition to the conditional uses specified in subsection 142-213(a), and notwithstanding the provisions of subsection 142-215, the following regulations shall apply to properties that front Washington Avenue between 6th Street and 7th Street, including those properties between 6th Street and 7th Street that have frontage on Pennsylvania Avenue:

(1) Restaurants, cafes and/or eating and drinking establishments, which include entertainment, as an accessory use to a hotel shall require conditional use approval. This may include establishments that qualify as a neighborhood impact establishment, subject to all applicable approvals under the neighborhood impact establishment requirements and provided that any sound associated with outdoor entertainment shall be limited to a volume that does not interfere with normal conversation (i.e. at an ambient level).

(2) Outdoor bar counters shall require conditional use approval, with hours of operation to be determined by the planning board.

(Ord. No. 89-2665, § 6-3(A)(3), eff. 10-1-89; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4023, § 1, 7-13-16; Ord. No. 2018-4175, § 1, 3-7-18; Ord. No. 2019-4313, § 1, 10-30-19; Ord. No. 2020-4344, § 1, 7-29-20; Ord. No. 2020-4351, § 2, 7-29-20)

Sec. 142-214. - Accessory uses.

The accessory uses in the RM-2 residential multifamily, medium intensity district are as required in article IV, division 2 of this chapter and alcoholic beverage establishments pursuant to the regulations set forth in Chapter 6. RM-2 properties within the Palm View, or West Avenue corridors may not have accessory outdoor

entertainment establishments. Notwithstanding the foregoing, a property that had a legal conforming use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.

(Ord. No. 89-2665, § 6-3(A)(4), eff. 10-1-89; Ord. No. 95-3020, eff. 11-4-95; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3819, § 1, 10-16-13; Ord. No. 2013-3820, § 1, 10-16-13; Ord. No. 2016-4005, § 1, 3-9-16)

Sec. 142-215. - Prohibited uses.

The prohibited uses in the RM-2 residential multifamily, medium intensity district are accessory outdoor entertainment establishment, accessory open air entertainment establishment, as set forth in article V, division 6 of this chapter; and accessory outdoor bar counter; for properties located within the Palm View and West Avenue corridors, hostels; and for properties located within the Palm View, and West Avenue corridors, hotels and apartment-hotels, except to the extent preempted by F.S. § 509.032(7), and unless they are a legal conforming use. Properties that voluntarily cease to operate as a hotel for a consecutive three-year period shall not be permitted to later resume such hotel operation. Without limitation, (a) involuntary hotel closures due to casualty, or (b) cessation of hotel use of individual units of a condo-hotel, shall not be deemed to be ceasing hotel operations pursuant to the preceding sentence.

(Ord. No. 89-2665, § 6-3(A)(5), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3819, § 1, 10-16-13; Ord. No. 2013-3820, § 1, 10-16-13; Ord. No. 2017-4146, § 2, 10-18-17)

Sec. 142-216. - Development regulations.

The development regulations in the RM-2 residential multifamily, medium intensity district are as follows:

(1) Max. FAR: 2.0.

(2) Exterior building and lot standards:

a. *Minimum yard elevation requirements.*

1. The minimum elevation of a required yard shall be no less than five feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph b. below, the minimum elevation requirements shall still apply.

2. Exemptions. The minimum yard elevation requirements shall not apply to properties containing individually designated historic structures, or to properties designated as "contributing" within a local historic district, or a National Register Historic District.

b.

Maximum yard elevation requirements. The maximum elevation of a required yard shall be in accordance with the following, however in no instance shall the elevation of a required yard, exceed the minimum flood elevation, plus freeboard:

1. *Front yard, side yard facing a street and interior side yard.* The maximum elevation within a required front yard, side yard facing a street and interior side yard shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater. In this instance, the maximum height of any fence(s) or wall(s) in the required yard, constructed in compliance with section 142-1132(h), "allowable encroachments within required yards", shall be measured from existing grade.
2. *Rear yard.* The maximum elevation for a required rear yard, (not including portions located within a required side yard or side yard facing the street), shall be calculated according to the following:
   (A) Waterfront. The maximum elevation shall not exceed the base flood elevation, plus freeboard.
   (B) Non-waterfront. The maximum elevation shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater.

c. *Stormwater retention.* In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations.

d. *Retaining wall and yard slope requirements.*
   1. Retaining walls shall be finished with stucco, stone, or other high quality materials, in accordance with the applicable design review or appropriateness criteria.
   2. Within the required front yard and side yard facing a street the following shall apply:
      (A) The first four feet of the property line, the maximum height of retaining walls shall not exceed 30 inches above existing sidewalk elevation, or existing adjacent grade if no sidewalk is present.
      (B) When setback a minimum of four feet from property line, the maximum height of retaining walls shall not exceed 30 inches above adjacent grade.
      (C) The maximum slope of the required front and side yard facing a street shall not exceed 11 percent (5:1 horizontal/vertical).

e. *Ground floor requirements.* When parking or amenity areas are provided at the ground floor level below the first habitable level, the following requirements shall apply:
   1. A minimum height of 12 feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement

by up to two feet, in accordance with the design review or certificate of appropriateness criteria, as applicable.

2. All ceiling and sidewall conduits shall be internalized or designed in such a matter as to be part of the architectural language of the building in accordance with the design review or certificate of appropriateness criteria, as applicable.
3. All parking and driveways shall substantially consist of permeable materials.
4. Active outdoor spaces that promote walkability, social integration, and safety shall be provided at the ground level, in accordance with the design review or certificate of appropriateness criteria, as applicable.
5. At least one stair shall be visible and accessible from the building's main lobby (whether interior or exterior), shall provide access to all upper floors, shall be substantially transparent at the ground level and shall be located before access to elevators from the main building lobby along the principal path of travel from the street. Such stair, if unable to meet minimum life-safety egress requirements, shall be in addition to all required egress stairs.

(Ord. No. 89-2665, § 6-3(B)(1), (2), eff. 10-1-89; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3149, § 1, 11-4-98; Ord. No. 2017-4121, § 4, 7-26-17)

Sec. 142-217. - Area requirements.

The area requirements in the RM-2 residential multifamily, medium intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)

7,000	50	New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For hotel structures located within the Collins Park District, generally bounded by the erosion control line on the east, the east side of Washington Avenue on the west, 23rd Street on the north, and 17th Street on the south, hotel	New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 Hotel units—N/A. The number of units may not exceed the maximum density set forth in the comprehensive plan.	Historic district—50 (except as provided in section 142-1161) Area bounded by Indian Creek Dr., Collins Ave., 26th St., and 44th St.—75 Area fronting west side of Collins Ave. btwn. 76th St. and 79th St.—75 Area fronting west side of Alton Rd. between Arthur Godfrey Rd. and W. 34th St.—85 Otherwise—60 For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses—65 Lots fronting

		units shall be a minimum of 200 square feet. For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations		Biscayne Bay less than 45,000 sq. ft.—100 Lots fronting Biscayne Bay over 45,000 sq. ft.—140 Lots fronting Atlantic Ocean over 100,000 sq. ft.—140 Lots fronting Atlantic Ocean with a property line within 250 feet of North Shore Open Space Park Boundary—200

		for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings—200.		

(Ord. No. 89-2665, § 6-3(B)(3), eff. 10-1-89; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 99-3218, § 1, 11-17-99; Ord. No. 2005-3483, § 3, 5-18-05; Ord. No. 3744, § 5, 10-19-11; Ord. No. 2013-3808, § 2, 9-11-13; Ord. No. 2014-3839, § 1, 2-12-14; Ord. No. 2014-3857, § 1, 4-30-14; Ord. No. 2016-4007, § 2, 4-13-16; Ord. No. 2017-4121, § 5, 7-26-17; Ord. No. 2017-4148, § 6, 10-18-17; Ord. No. 2017-4149, § 5, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2019-4275, § 2, 6-5-19; Ord. No. 2019-4315, § 1, 10-30-19)

Sec. 142-218. - Setback requirements.

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot except where (b) below is applicable	20 feet	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Abutting an alley—5 feet Oceanfront lots—50 feet from bulkhead line

Subterranean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Single lots less than 65 feet: 7.5 feet Lots equal or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	Lots equal or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	Same as pedestal for structures with a total height of 60 feet or less. The required pedestal setback plus 0.10 of the height of the tower portion of the building. The total required setback shall not exceed 50 feet. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic district buildings may follow existing nonconforming side, interior pedestal setbacks.	Sum of the side yards shall equal 16% of the lot width Minimum—10 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

(b) In cases where the city commission approves after public hearing a public-private parking agreement for a neighborhood based upon an approved street improvement plan, the minimum front yard setback for parking subject to the agreement shall be zero feet. The street improvement plan must be approved by the design review board if outside an historic district, or the historic preservation board if inside an historic district.

(Ord. No. 89-2665, §§ 6-3(C), 6-5, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 98-3108, § 2, 1-21-98; Ord. No. 2004-3464, § 2, 11-10-04; Ord. No. 2013-3808, § 2, 9-11-13; Ord. No. 2017-4121, § 6, 7-26-17; Ord. No. 2019-4315, § 1, 10-30-19)

Sec. 142-219. - Regulations for new construction.

In the RM-2, residential district, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential uses above the first level along every facade facing a waterway.

(3) For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential uses; the total amount of residential space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(Ord. No. 2006-3510, § 3, 3-8-06)

Sec. 142-220. - Additional regulations for properties that front the west side of Alton Road and the Julia Tuttle Causeway.

The following regulations shall apply to properties that front the west side of Alton Road and that front 41st Street/Interstate 195. In the event of a conflict within this division, the following regulations shall control:

(1) The setback requirements shall be as follows:

Rear	Pedestal: 10 feet * Tower: 15 feet *
Side	Pedestal: 10 feet * Tower: 15 feet *
* Notwithstanding the allowable projection regulations in section 142-1132, exterior unenclosed private balconies and ornamental features may project 50 percent into a required yard.	

(2)

The regulations for new construction provided in subsection 142-219(1) shall only apply to the eastern frontage of a building, along Alton Road. However, the requirement provided in subsection 142-219(1) for the eastern frontage along Alton Road shall not apply to a structure that is set back 50 feet or more from Alton Road.

(3) The regulations set forth in this section shall only apply to those properties that are larger than 60,000 square feet in size as of the effective date of the ordinance codified in this section.

(Ord. No. 2020-4374, § 1, 11-18-20)

Secs. 142-221—142-240. - Reserved.

Subdivision V. - RM-3 Residential Multifamily, High Intensity

Sec. 142-241. - Purpose.

The RM-3 residential multifamily, high intensity district is designed for high intensity multiple-family residences and hotels.

(Ord. No. 89-2665, § 6-4(A)(1), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-242. - Main permitted uses.

The main permitted uses in the RM-3 residential multifamily, high intensity district are single-family detached dwelling; townhomes; apartments; apartment hotels; hotels, hostels, and suite hotels (pursuant to section 142-1105 of this chapter).

(Ord. No. 89-2665, § 6-4(A)(2), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3820, § 2, 10-16-13; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2017-4146, § 2, 10-18-17)

Sec. 142-243. - Conditional uses.

The conditional uses in the RM-3 residential multifamily, high intensity district are day care facility; stand-alone religious institutions; private and public institutions; schools; commercial or noncommercial parking lots and garages; accessory outdoor entertainment establishment; accessory neighborhood impact establishment; and accessory open air entertainment establishment as set forth in article V, division 6 of this chapter.

(Ord. No. 89-2665, § 6-4(A)(3), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2018-4175, § 1, 3-7-18)

Sec. 142-244. - Accessory uses.

The accessory uses in the RM-3 residential multifamily, high intensity district are as follows:

(1) Those uses permitted in article IV, division 2 of this chapter.

(2) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6.

(3) Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

(4) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.

(5) RM-3 properties within the "West Avenue Corridor" may not have accessory outdoor entertainment establishments. Notwithstanding the foregoing, a property that had a Legal Conforming Use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.

(Ord. No. 89-2665, § 6-4(A)(4), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3820, § 2, 10-16-13; Ord. No. 2016-4005, § 1, 3-9-16)

Sec. 142-245. - Prohibited uses.

The prohibited uses in the RM-3 residential multifamily, high intensity district are accessory outdoor bar counter, except as provided in section 142-244; for properties located within the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road, and Dade Boulevard, hostels; for property located within the West Avenue corridor, hostels; for properties located within the West Avenue corridor, hotels and apartment hotels, except to the extent preempted by F.S. § 509.032(7), and unless a legal conforming use. Properties that voluntarily cease to operate as a hotel for a consecutive three-year period shall not be permitted to later resume such hotel operation. Without limitation, (a) involuntary hotel closures due to casualty, or (b) cessation of hotel use of individual units of a condo-hotel, shall not be deemed to be ceasing hotel operations pursuant to the preceding sentence.

(Ord. No. 89-2665, § 6-4(A)(5), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3820, § 2, 10-16-13; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2017-4146, § 2, 10-18-17)

Sec. 142-246. - Development regulations and area requirements.

(a) The development regulations in the RM-3 residential multifamily, high intensity district are as follows:

(1) Max. FAR: Lot area equal to or less than 45,000 square feet—2.25; lot area greater than 45,000 square feet—2.75; oceanfront lots with lot area greater than 45,000 square feet—3.0.

(2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.

(3) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 square feet with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 square feet.

(b) The lot area, lot width, unit size and building height requirements for the RM-3 residential multifamily, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)

7,000	50	New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For hotel structures located within the Collins Park District, generally bounded by the erosion control line on the east, the east side of Washington Avenue on the west, 23rd Street on the north, and 17th Street on the south, hotel	New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 Hotel units—N/A. The number of units may not exceed the maximum density set forth in the comprehensive plan.	150 Oceanfront lots—200 Architectural dist.: New construction—120; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—50 (except as provided in section 142-1161)

		units shall be a minimum of 200 square feet. For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations			

		for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings—200.		

(c)

Notwithstanding the above, for oceanfront lots located within a locally designated historic district or site, but not within the architectural district, with less than 400 feet of lineal frontage along Collins Avenue and containing at least one contributing structure, the maximum building height for ground floor additions to existing structures, whether attached or detached, shall be as follows:

(1) For existing structures greater than five stories in height, the maximum height shall be limited to ten stories or the height of the roof line of the main structure on site, whichever is less. At the discretion of the historic preservation board, the maximum height of the ground floor addition may exceed ten stories if the existing and surrounding structures are greater than five stories in height, provided the addition is consistent with the scale and massing of the existing structure.

(2) For existing structures five stories or less in height, the maximum height shall be limited to five stories.

Additionally, the proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.

(d) Notwithstanding the above, for oceanfront lots with a contributing structure and with no frontage on Collins Avenue that are located in the architectural district, the overall height of ground floor additions may exceed five stories and 50 feet, but shall not exceed the height of the existing contributing structure plus the height of any rooftop addition approved by the historic preservation board in accordance with subsection 142-1161(d)(5), up to a maximum of 120 feet, if the following conditions are satisfied:

(1) The proposed addition shall not be attached to front or street side elevations, nor along any other principal elevations or facades, as determined by the historic preservation board.

(2) The proposed additions shall not impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.

(e) Notwithstanding the above, for oceanfront lots located in the architectural district, with a lot area greater than 115,000 square feet, a ground floor addition, whether attached or detached, may exceed 50 feet in height, but shall not exceed 200 feet in height, in accordance with the following provisions:

(1) Placement of the structure. The ground floor addition shall be located internal to the site, and shall be set back a minimum of 100 feet from the front property line, 75 feet from the street side property lines, and 100 feet from the rear (oceanfront) property line.

(2) Limits on the floorplate of additions exceeding 50 feet in height. The maximum floor plate size for the portion of an addition that exceeds 50 feet in building height is 15,000 square feet per floor, excluding projecting balconies. The historic preservation board may approve an

increase in this overall floor plate, up to a maximum of 20,000 square feet per floor, excluding balconies, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

(Ord. No. 89-2665, § 6-4(B), eff. 10-1-89; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3149, § 1, 11-4-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2000-3233, § 1, 3-4-00; Ord. No. 2005-3483, § 4, 5-18-05; Ord. No. 2007-3588, § 1, 12-12-07; Ord. No. 2007-3589, § 1, 12-12-07; Ord. No. 2011-3744, § 6, 10-19-11; Ord. No. 2012-3784, § 1, 11-14-12; Ord. No. 2013-3808, § 3, 9-11-13; Ord. No. 2017-4148, § 7, 10-18-17; Ord. No. 2017-4149, § 6, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2019-4275, § 3, 6-5-19; Ord. No. 2019-4285, § 1, 7-31-19; Ord. No. 2019-4315, § 1, 10-30-19; Ord. No. 2021-4422, § 1, 5-26-21)

Sec. 142-247. - Setback requirements.

(a) The setback requirements for the RM-3 residential multifamily, high intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line

Subterraean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic district buildings may follow existing nonconforming side, interior pedestal setbacks.	Sum of the side yards shall equal 16% of the lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots —25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic district buildings may follow existing nonconforming side, interior pedestal setbacks.

Notwithstanding the above, oceanfront lots located in the Miami Beach Architectural District shall be permitted to construct detached additions at a height not to exceed 25 feet and shall have setback requirements as follows:

Side, interior: Five feet.

Side, street: Five feet.

Rear: Ten percent of lot depth or the western edge of the Oceanfront Overlay, whichever is greater.

(b) In the Morris Lapidus/Mid-20th Century Historic District the following shall apply:

(1) Roof-top additions, whether attached or detached, may follow the established lines of the interior side setbacks of the existing structure on the site, subject to the review of the historic preservation board.

(Ord. No. 89-2665, §§ 6-4(C), 6-5, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 93-2885, eff. 11-27-93; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 98-3108, § 2, 1-21-98; Ord. No. 2014-3853, § 1, 4-23-14; Ord. No. 2014-3879, § 2, 6-11-14; Ord. No. 2018-4160, § 2, 1-17-18; Ord. No. 2019-4315, § 1, 10-30-19)

Sec. 142-248. - Additional regulations for new construction.

In the RM-3, residential district, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential uses above the first level along every facade facing a waterway.

(3) For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential uses; the total amount of residential space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(Ord. No. 2006-3510, § 4, 3-8-06)

Secs. 142-249—142-270. - Reserved.

DIVISION 4. - CD-1 COMMERCIAL, LOW INTENSITY DISTRICT

Footnotes:
*--- **(2)** ---*
***Cross reference—** Businesses, ch. 18.*

Sec. 142-271. - Purpose.

The CD-1 commercial, low intensity district is a retail sales, personal services, shopping district, designed to provide service to surrounding residential neighborhoods.

(Ord. No. 89-2665, § 6-6(A)(1), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-272. - Main permitted uses.

The main permitted uses in the CD-1 commercial, low intensity district are commercial uses; apartments; bed and breakfast inn (pursuant to section 142-1401); religious institutions with an occupancy of 199 persons or less, and alcoholic beverages establishments pursuant to the regulations set forth in chapter 6. Alcoholic beverage establishments located in the following geographic areas within the CD-1 commercial, low intensity district shall be subject to the additional requirements set forth in section 142-279:

(a) *Alton Road corridor.* Between the west side of Alton Road and the east side of Alton Court, between 11th Street and 14th Street.

(b) *41st Street corridor.* Areas adjacent to the CD-3 zoning district along the 41st Street corridor, between 40th Street and 41st Street, and between Alton Road and the Indian Creek waterway.

(Ord. No. 89-2665, § 6-6(A)(2), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2016-4014, § 1, 5-11-16; Ord. No. 2016-4052, § 1, 11-9-16)

Sec. 142-273. - Conditional uses.

The conditional uses in the CD-1 commercial, low intensity district are adult congregate living facilities; nursing homes; religious institutions with an occupancy greater than 199 persons; public and private institutions; schools; day care facility; pawnshops; video game arcades; warehouses; any use selling gasoline; 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; and storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located. See section 142-1103. Alcoholic beverage establishments located in the following geographic areas within the CD-1 commercial, low intensity district shall be subject to the additional requirements set forth in section 142-279:

(a) *Alton Road corridor.* Between the west side of Alton Road and the east side of Alton Court, between 11th Street and 14th Street.

(b)

41st Street corridor. Areas adjacent to the CD-3 zoning district along the 4151 Street corridor, between 40th Street and 41st Street, and between Alton Road and the Indian Creek waterway.

(Ord. No. 89-2665, § 6-6(A)(3), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 97-3083, § 3, 6-28-97; Ord. No. 99-3179, § 2, 3-17-99; Ord. No. 2007-3546, 1-17-07; Ord. No. 2013-3791, § 4, 2-6-13; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4014, § 1, 5-11-16; Ord. No. 2016-4052, § 1, 11-9-16)

Sec. 142-274. - Accessory uses.

The accessory uses in the CD-1 commercial, low intensity district are as required in article IV, division 2 of this chapter. Alcoholic beverage establishments alcoholic beverage establishments located in the following geographic areas within the CD-1 commercial, low intensity district shall be subject to the additional requirements set forth in section 142-279:

(a) *Alton Road corridor.* Between the west side of Alton Road and the east side of Alton Court, between 11th Street and 14th Street.

(b) *41st Street corridor.* Areas adjacent to the CD-3 zoning district along the 41st Street corridor, between 40th Street and 41st Street, and between Alton Road and the Indian Creek waterway.

(Ord. No. 89-2665, § 6-6(A)(4), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2016-4014, § 2, 5-11-16; Ord. No. 2016-4052, § 1, 11-9-16)

Sec. 142-275. - Prohibited uses.

The prohibited uses in the CD-1 commercial, low intensity district are accessory outdoor bar counter; outdoor entertainment establishment; open air entertainment establishment, dance hall, and entertainment establishment. Except as otherwise provided in these land development regulations, prohibited uses in the CD-1 commercial low intensity district along the Alton Road corridor, generally bounded by West Avenue, Michigan Avenue, 5th Street, and 20th Street include package liquor stores.

(Ord. No. 89-2665, § 6-6(A)(5), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2007-3565, § 1, 9-5-07; Ord. No. 2022-4467, § 1, 1-20-22)

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Sec. 142-276. - Development regulations.

The development regulations in the CD-1 commercial, low intensity district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square Feet)	Average Apartment Unit Size (Square Feet)	Maximum Building Height (Feet)

1.0	None	None	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel unit: 15%: 300—335 85%: 335+. Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings—200.	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—N/A. The number of units may not exceed the maximum density set forth in the comprehensive plan.	40 (except as provided in section 142-1161) Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab.

(Ord. No. 89-2665, § 6-6(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2005-3483, § 5, 5-18-05; Ord. No. 2011-3744, § 7, 10-19-11; Ord. No. 2017-4124, § 2, 7-26-17; Ord. No. 2017-4148, § 8, 10-18-17; Ord. No. 2017-4149, § 7, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2019-4315, § 2, 10-30-19)

Sec. 142-277. - Setback requirements.

(a) The setback requirements for the CD-1 commercial, low intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley—0 feet
Subterrean, pedestal and tower (non-oceanfront)	0 feet	10 feet when abutting a residential district, otherwise none	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet.

Pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant.	10 feet	10 feet	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

(b) The tower setback shall not be less than the pedestal setback.

(c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).

(d) Mixed use buildings: Calculation of floor area ratio:

(1) Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-1 district.

(Ord. No. 89-2665, §§ 6-6(C), 6-9, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 95-3027, eff. 12-16-95; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2018-4160, § 2, 1-17-18; Ord. No. 2019-4315, § 3, 10-30-19)

Sec. 142-278. - Additional regulations for new construction.

In the CD-1 district, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential or commercial uses above the first level along every facade facing a waterway.

(3) For properties less than 60 feet in width, the total amount of commercial space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include

a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(Ord. No. 2006-3510, § 5, 3-8-06)

Sec. 142-279. - Special regulations for alcoholic beverage establishments.

(a) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 11th Street and 14th Street:

(1) Operations shall cease no later than 2:00 a.m.

(2) Establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafés during hours when food is served in the restaurant, shall cease sidewalk café operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.

(3) Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.

(4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.

(5) Outdoor bar counters shall be prohibited.

(6) No special event permits shall be issued.

(7) This subsection (a) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that (i) is in application status prior to April 14, 2016; or (ii) issued prior to May 21, 2016; or (iii) to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to May 21, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.

(b) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in areas adjacent to the CD-3 zoning district along the 41st Street corridor, between 40th Street and 41st Street, and between Alton Road and the Indian Creek waterway:

(1) Operations shall cease no later than 2:00 a.m.

(2)

Alcoholic beverage establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafés during hours when food is served in the restaurant, shall cease sidewalk café operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.

(3) Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.

(4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures in chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.

(5) Outdoor bar counters shall be prohibited.

(6) No special event permits shall be issued to alcoholic beverage establishments.

(7) The provisions of this subsection (b) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.

(Ord. No. 2014-4014, § 1, 5-11-16; Ord. No. 2016-4052, § 1, 11-9-16)

Secs. 142-280—142-300. - Reserved.

DIVISION 5. - CD-2 COMMERCIAL, MEDIUM INTENSITY DISTRICT

Footnotes:
*--- **(3)** ---*
***Cross reference—** Businesses, ch. 18.*

Sec. 142-301. - Purpose.

The CD-2 commercial, medium intensity district provides for commercial activities, services, offices and related activities which serve the entire city.

(Ord. No. 89-2665, § 6-7(A)(1), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96)

Sec. 142-302. - Main permitted uses.

The main permitted uses in the CD-2 commercial, medium intensity district are commercial uses (including. for example. personal service establishments); apartments; apartment hotels, hotels, hostels, and suite hotels (pursuant to section 142-1105 of this chapter); religious institutions with an occupancy of 199 persons or less and alcoholic beverages establishments pursuant to the regulations set forth in chapter 6; Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

(a) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road.

(b) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(Ord. No. 89-2665, § 6-7(A)(2), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2000-3257, § 2, 7-12-00; Ord. No. 2001-3328, § 4, 10-17-01; Ord. No. 2004-3445, § 1, 5-5-04; Ord. No. 2012-3786, § 4, 12-12-12; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2016-4014, § 2, 5-11-16; Ord. No. 2016-4046, § 1, 10-19-16; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2020-4339, § 2, 5-13-20)

Sec. 142-303. - Conditional uses.

(a) *Generally.* The conditional uses in the CD-2 commercial, medium intensity district include the following:

(1) Reserved;

(2) Funeral home;

(3) Reserved;

(4) Religious institutions;

(5) Pawnshops;

(6) Video game arcades;

(7) Public and private institutions;

(8) Schools;

(9) Any use selling gasoline;

(10)

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;

(11) Outdoor entertainment establishment;

(12) Neighborhood impact establishment; however, for properties that front Washington Avenue from 6th Street to 16th Street, a restaurant with a full kitchen that serves full meals may have entertainment without obtaining conditional use approval, subject to the following additional requirements:

a. Entertainment shall be restricted to an interior enclosed area; and

b. Occupancy shall not exceed 299 persons; and

(13) Open air entertainment establishment; and

(14) Storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located. See section 142-1103.

(b) *Sunset Harbour neighborhood.* The conditional uses for the Sunset Harbour neighborhood, generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall include those conditional uses listed at section 142-303(a), but shall exclude pawnshops, outdoor entertainment establishments, neighborhood impact establishments, and open air entertainment establishments, as these specific uses are prohibited in the Sunset Harbour neighborhood pursuant to section 142-305. The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:

(1) Main use parking garages.

(2) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons and a floor area in excess of 3,500 square feet.

(3) Package stores.

(c) *North Beach neighborhood.* All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the North Beach neighborhood (located north of 65th Street) shall include those listed at section 142-303(a), and shall also include the following:

(1) Alcoholic beverage establishments (not also operating as a full restaurant with a full kitchen, serving full meals);

(2) Dance halls; and

(3) Entertainment establishments.

(d)

South Alton Road corridor. All conditional uses shall comply with the conditional use criteria in section 118-192(a). The conditional uses for the South Alton Road corridor, which includes properties located along Alton Road between 6th and 11th Street, shall include those listed at section 142-303(a), and shall also include the following:

(1) Self storage warehouse, provided the minimum distance separation between self-storage warehouses shall be 300 feet and self-storage warehouses shall follow the development regulations for "self-storage warehouse" in section 142-305 and setback requirements in section 142-307.

(e) *Additional requirements.* Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

(1) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue, and Alton Road.

(2) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(Ord. No. 89-2665, § 6-7(A)(3), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 97-3083, § 4, 6-28-97; Ord. No. 99-3179, § 3, 3-17-99; Ord. No. 2007-3546, 1-17-07; Ord. No. 2012-3786, § 5, 12-12-12; Ord. No. 2013-3791, § 5, 2-6-13; Ord. No. 2013-3799, § 1, 5-8-13; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2014-3916, § 1, 12-18-14; Ord. No. 2016-4014, § 2, 5-11-16; Ord. No. 2016-4046, § 1, 10-19-16; Ord. No. 2018-4175, § 1, 3-7-18; Ord. No. 2019-4312, § 1, 10-16-19; Ord. No. 2021-4395, § 1, 1-13-21)

Sec. 142-304. - Accessory uses.

The accessory uses in the CD-2 commercial, medium intensity district are as required in article IV, division 2 of this chapter; and accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m. Alcoholic beverage establishments located in the following geographic areas within the CD-2 commercial, medium intensity district shall be subject to the additional requirements set forth in section 142-310:

(a) *Alton Road corridor.* Properties on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except

alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road.

(b) *Sunset Harbour neighborhood.* The geographic area generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(Ord. No. 89-2665, § 6-7(A)(4), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2016-4014, § 2, 5-11-16; Ord. No. 2016-4046, § 1, 10-19-16)

Sec. 142-305. - Prohibited uses.

(a) The prohibited uses in the CD-2 commercial, medium intensity district are accessory outdoor bar counters, except as provided in section 142-310, or in article IV, division 2 of this chapter and in chapter 6.

(b) Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district also include the following:

(1) In the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, prohibited uses also include the following:

a. Hotels, apartment hotels, suite hotels and hostels;

b. Outdoor entertainment establishments;

c. Neighborhood impact establishments;

d. Open air entertainment establishments;

e. Bars;

f. Dance halls;

g. Entertainment establishments (as defined in section 114-1 of this Code);

h. Pawnshops;

i. Tobacco and vape dealers;

j. Check cashing stores;

k. Convenience stores;

l. Occult science establishments;

m. Souvenir and T-shirt shops;

n. Tattoo studios.

(c) Except as otherwise provided in these land development regulations, prohibited uses along Normandy Drive and 71st Street are the following:

(1) Tobacco and vape dealers;

(2) Package liquor stores;

(3) Check cashing stores;

(4) Occult science establishments;

(5) Tattoo studios.

(d) Except as otherwise provided in these land development regulations, prohibited uses in the CD-2 commercial medium intensity district along the Alton Road corridor, generally bounded by West Avenue, Michigan Avenue, 5th Street, and 20th Street include the following:

(1) Package liquor stores.

(Ord. No. 89-2665, § 6-7(A)(5), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2012-3786, § 6, 12-12-12; Ord. No. 2015-3983, § 1, eff. 12-19-15; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2020-4339, § 2, 5-13-20; Ord. No. 2020-4358, § 1, 9-16-20; Ord. No. 2021-4395, § 1, 1-13-21; Ord. No. 2021-4437, § 1, 7-28-21; Ord. No. 2022-4467, § 1, 1-20-22)

Sec. 142-306. - Development regulations.

(a) The development regulations in the CD-2 commercial, medium intensity district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square Feet)	Average Apartment Unit Size (Square Feet)	Maximum Building Height (Feet)

1.5	None	None	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel unit: 15%: 300—335; 85%: 335+ For contributing hotel structures located within the Collins Park District, generally bounded by the erosion control line on the east, the east side of Washington	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—N/A. The number of units may not exceed the maximum density set forth in the comprehensive plan.	50 (except as provided in section 142-1161). Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, not to exceed a maximum height of 55 feet. In order to utilize the additional height, the first floor shall provide at least 12 feet in height, as measured from the base flood elevation plus

			Avenue on the west, 23rd Street on the north, and 17th Street on the south, hotel units shall be a minimum of 200 square feet. For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are being renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation		maximum freeboard, to the top of the second floor slab. Self-storage warehouse - 40 feet, except that the building height shall be limited to 25 feet within 50 feet from the rear property line for lots abutting an alley; and within 60 feet from a residential district for blocks with no alley. Mixed-use and commercial buildings that include structured parking for properties on the west side of Alton Road from 6th Street to Collins Canal -

			of Historic Structures as amended, retaining the existing room configuration shall be permitted, provided all rooms are a minimum of 200 square feet. Additionally, existing room configurations for the above-described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided		60 feet. For developments in the Sunset Harbour neighborhood that (i) consist solely of office use above the ground level of the structure, and (ii) are located on lots with a minimum lot size of 10,000 square feet, and (iii) are located within the area bounded by Dade Boulevard on the south, Purdy Avenue on the west, 18th Street on the north, and Bay Road on the east - 65 feet, provided that a full building permit for a tower pursuant to this section must be issued

			the maximum occupancy per hotel room does not exceed 4 persons. In addition, the minimum hotel unit size for a property formerly zoned HD is 250 square feet, provided that the property does not exceed 25,000 square feet as of March 23, 2019. Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic		no later than December 31, 2022, and provided that residential uses may be permitted on such properties up to a maximum FAR of 2.0 pursuant to subsection 142-307(d)(1), but only if

			buildings—200.		
					the first 1.5 FAR of development is dedicated to office use and ground floor commercial use. For office developments that satisfy the applicable requirements in section 142-303 - 75 feet.

(b) Notwithstanding the above regulations, the maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) shall not apply to self-storage warehouse development.

(c) Subject to conditional use approval from the planning board, as of January 1, 2019, sites which (i) are located outside of historic districts, (ii) are greater than 50,000 square feet in area, and (iii) that contain an existing building that is nonconforming as to height (hereinafter "existing building"), may be redeveloped with a new building, which new building shall not exceed the existing building's height. The portion of any new building exceeding 60 feet in height may be placed on a pedestal and shall not exceed 2.25 times the footprint area for the existing building, and may be located on any portion of the site. Additionally, open space not less than the 25 percent of the square feet of the non-conforming building footprint (i.e. the formerly existing building) shall be provided at around level, and shall be directly accessible from a public sidewalk. Such open space may be located in different areas on the site. Under no circumstance shall the redevelopment of the site exceed the maximum floor area ratio permitted under the zoning district regulations.

(Ord. No. 89-2665, § 6-7(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2005-3483, § 6, 5-18-05; Ord. No. 2011-3744, § 8, 10-19-11; Ord. No. 2013-3799, § 2, 5-8-

13; Ord. No. 2014-3851, § 1, 4-23-14; Ord. No. 2016-3992, § 1, 1-27-16; Ord. No. 2016-4007, § 4, 4-13-16; Ord. No. 2017-4124, § 2, 7-26-17; Ord. No. 2017-4148, § 9, 10-18-17; Ord. No. 2017-4149, § 8, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2019-4237, § 1, 2-13-19; Ord. No. 2019-4244, § 1, 2-13-19; Ord. No. 2019-4275, § 4, 6-5-19; Ord. No. 2019-4315, § 3, 10-30-19; Ord. No. 2021-4415, § 1, 5-12-21; Ord. No. 2021-4436, § 1, 7-28-21)

Sec. 142-307. - Setback requirements.

(a) The setback requirements for the CD-2 commercial, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley—0 feet

Subterranean, pedestal and tower (non-oceanfront)	0 feet	10 feet when abutting a residential district, otherwise none. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant.	Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	10 feet	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

(b) The tower setback shall not be less than the pedestal setback.

(c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).

(d) Mixed use buildings: Calculation of floor area ratio:

(1) Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-2 district.

(2) The maximum floor area ratio (FAR) for self-storage warehouses shall be 1.5. The floor area ratio provision for mixed use buildings in section 142-307(d)(2) above shall not apply to self-storage warehouse development.

(e) Notwithstanding the above setback regulations, "self-storage warehouse" in this district shall have the following setbacks:

(1) Front—Five feet;

(2) Side facing a street—Five feet;

(3) Interior side—Seven and one-half feet or eight percent of the lot width, whichever is greater;

(4) Rear—For lots with a rear property line abutting a residential district the rear yard setback shall be a minimum of 25 feet; for lots with a rear property line abutting an alley the rear setback shall be a minimum of seven and one-half feet.

(Ord. No. 89-2665, §§ 6-7(C), 6-9, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 95-3027, eff. 12-16-95; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3799, § 3, 5-8-13; Ord. No. 2018-4160, § 2, 1-17-18; Ord. No. 2019-4315, § 3, 10-30-19)

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Sec. 142-308. - Additional regulations for new construction.

(a) In the CD-2 district, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway; for properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential or commercial uses above the first level along every facade facing a waterway.

(3) For properties less than 60 feet in width, the total amount of commercial space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(b) In the CD-2 district, each side of the first floor frontage of a self-storage warehouse building facing a street or sidewalk, shall include office, retail or commercial uses. Not less than 60 percent of each street frontage shall consist of office, retail or commercial uses, and the remaining portion of each street front shall consist of noncommercial, recessed display areas or similar treatment. The design review board or historic preservation board, as applicable, may permit a lesser amount of office, retail or commercial frontage, if it is determined that site conditions warrant a reduction. In the event a lesser portion of office, retail or commercial space is permitted, the remaining portion of each street front shall consist of noncommercial, recessed display areas or similar treatment.

(Ord. No. 2006-3510, § 6, 3-8-06; Ord. No. 2013-3799, § 4, 5-8-13)

Sec. 142-309. - Washington Avenue development regulations and area requirements.

The following regulations shall apply to properties that front Washington Avenue between 6th Street and 15th Street, referred to herein as "South Washington Avenue," and between 15th Street and 16th Street, referred to herein as "North Washington Avenue"; in the event of a conflict within this division, the regulations below shall apply:

(1) The maximum building height shall be as follows:

a. Fifty-five feet, unless otherwise specified below;

b. Lots that have a frontage equal to or greater than 200 feet: 75 feet;

c. Main use parking garages: 55 feet, regardless of lot frontage.

(2) For lots that have a frontage that is equal to or less than 100 feet, the setbacks shall be pursuant to section 142-307. For lots that have a frontage that is greater than 100 feet, the setbacks shall be as follows:

a. Front:

i. Subterranean: Zero feet.

ii. Ground level: Zero feet.

iii. Above the ground level up to 35 feet in height:

1. Minimum five feet for parking garages with liners; or

2. Minimum ten feet for parking garages without liners; or

3. Minimum 15 feet for all other uses.

iv. Above 35 feet in height:

1. Minimum five feet for parking garages with liners; or

2. Minimum ten feet for parking garages without liners; or

3. Minimum 30 feet for all other uses.

b. Rear:

i. Subterranean: Zero feet.

ii. Ground level: Zero feet.

iii. Above the ground level:

1. Minimum ten percent of lot depth; or

2. Minimum zero feet for parking garage floors above the minimum truck clearance.

c. Side, facing a street:

i. Subterranean: Zero feet;

ii. Nonresidential uses: Zero feet;

iii. Residential and hotel uses: Seven and one-half feet.

d. Side, interior:

i. Subterranean: Zero feet;

ii. Nonresidential uses: Zero feet;

iii. Residential and hotel uses: Seven and one-half feet or eight percent of lot width, whichever is greater, up to ten feet. When abutting a nonresidential or non-hotel use, the minimum interior side setback shall be seven and one-half feet.

(3) The maximum frontage for nightclubs and dance halls, located at the ground level shall not exceed 25 feet in width unless such a space has a certificate of use for nightclub or dance hall, or unless a valid license was issued after January 1, 2011, and before the date of adoption of the ordinance codified in this section for the use of such space as a nightclub or dance hall.

(4) For new hotel construction or conversion to hotel use, the minimum hotel room unit size may be 175 square feet, provided that:

a. A minimum of 20 percent of the gross floor area of the hotel consists of hotel amenity space that is physically connected to and directly accessed from the hotel. Hotel amenity space includes the following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; hotel business center; hotel retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses customarily associated with a hotel. Bars and restaurants shall count no more than 50 percent of the total hotel amenity space requirements.

b. Windows shall be required in all hotel rooms and shall be of dimensions that allow adequate natural lighting, as determined by the historic preservation board.

(5) Co-living or micro residential units are permitted as a voluntary development incentive in South Washington Avenue and North Washing Avenue (as defined in this section) subject to the following regulations:

a. For co-living or micro residential units, the minimum unit size may be 275 square feet, provided that a minimum of 20 percent of the gross floor area consists of amenity space on the same unified development site. Amenity space includes the following types of uses: Common area kitchens; club rooms; business center; retail; screening rooms; fitness center; wellness center; spas; gyms; pools; pool decks; roof decks; and other similar uses whether operated by a condominium or cooperative association or another operator. Fitness centers, wellness centers, spas, and gyms located on the ground floor shall be open to the public. These amenities may be combined with the amenities for hotel units on the same unified development site, provided that residents and hotel guests have access to such amenities.

b. Each unit shall be fully furnished and shall have an individual bathroom.

c. All one-bedroom co-living units shall have a washer and dryer machine located within the unit, and co-living units with two or more bedrooms shall, at a minimum, install a washer and dryer in the common area of the unit.

d. Each co-living unit may contain a maximum of six bedrooms.

e. A maximum of 50 percent of the floor area within the unified development site may consist of co-living or micro units.

f. Formula commercial establishments and formula restaurants, as defined in section 114-1, are prohibited on a unified development site with co-living or micro units.

g. The owner/operator shall submit a covenant running with the land, in a form acceptable to the city attorney, agreeing that any owner/operator of co-living or micro units within the unified development site shall be obligated to clean and maintain (or arrange to have cleaned and maintained) each unit.

h. The owner/operator shall submit a covenant running with the land, in a form acceptable to the city attorney, agreeing that any owner/operator of co-living or micro units within the unified development site shall be required to perform background screening investigations of all tenants of co-living or micro units.

i. Any owner/operator of co-living or micro units must provide onsite security guards 24 hours a day, seven days a week.

j. All exterior windows in any hotel, co-living, or micro units on the unified development site shall contain double-pane glass and/or laminated windows.

k. Ground floor uses fronting on Washington Avenue shall be limited to retail, restaurant, bar, or gym/fitness center. Residential uses fronting Washington Avenue shall be prohibited on the ground floor, except for the lobby and any required vertical circulation.

l. Each co-living unit must include a dining, kitchen, and living area, unless a dining, kitchen, and living area is provided on the same floor.

m. A rooftop seating area, pool, and garden shall be provided within the unified development site.

n. A wellness center shall be provided within a unified development site containing co-living or micro units, which wellness center shall have both self-service and personal training offerings such as strength training, yoga, stretching, recovery, mindfulness, cardiovascular equipment, and nutritional planning.

No variances shall be permitted from the provisions of this subsection (5).

(6) In addition to the foregoing, the following additional regulations shall apply to co-living or micro residential units in South Washington Avenue:

a. Within the same unified development site, office uses with a minimum of 10,000 square feet shall be provided.

b. Co-living units may only be located on the west side of Washington Avenue. In addition, the western lot line of the unified development site must front on a street with an RM-1 or RO zoning designation.

c.

A rooftop seating area, pool, and garden shall be provided within the unified development site.

d. A building permit for co-living or micro residential units in South Washington Avenue must be obtained within one year from the effective date of this section.

No variances shall be permitted from the provisions of this subsection (6).

(7) In addition to the foregoing, for development projects in North Washington Avenue containing co-living or micro residential units, the following additional regulations shall apply:

a. Hotel, suite hotel, apartment hotel and/or hostels shall be prohibited.

b. Retail use shall not be permitted as required amenity space.

c. The inclusion of co-living or micro residential units in North Washington Avenue is a voluntary development incentive that shall only be permitted if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming and agreeing to the following restrictions on the subject development site, in perpetuity:

1. A minimum of 20 percent of the total number of co-living or micro residential units shall be set aside for workforce housing, as defined in chapter 58, article VI of this Code.

2. The minimum rental period for any co-living or micro residential unit on the development site shall be no less than six months and one day.

d. For development projects that comply with the foregoing regulations, a maximum of 80 percent of the floor area within the unified development site may consist of co-living or micro units.

e. A building permit for co-living or micro residential units in North Washington Avenue must be obtained within three years from the effective date of this section.

(8) For lots that have a frontage that is greater than 100 feet, the following shall apply:

a. Maximum building length. Unless otherwise approved by the historic preservation board at its sole discretion, no plane of a building, above the ground floor façade facing Washington Avenue, shall continue for greater than 100 feet without incorporating an offset of a minimum five feet in depth from the setback line. The total offset widths shall total no less than 20 percent of the entire building frontage.

b. Physical separation between buildings. Unless otherwise approved by the historic preservation board at its sole discretion, a physical separation must be provided between buildings greater than 200 feet in length and at/or above 35 feet in height from the ground floor. Notwithstanding the foregoing, for building sites with a lot frontage in excess of 500 feet, no physical separation is required if: (i) the length of the

building at/or above 35 feet in height from the ground floor does not exceed 50 percent of the length of the frontage of the property; and (ii) the offsets required in subsection (a), above, are a minimum of 20 feet in depth from the setback line and the combined offset widths total no less than 30 percent of the entire building frontage.

(Ord. No. 2015-3974, § 1, eff. 10-24-15; Ord. No. 2019-4231, § 1, 1-16-19; Ord. No. 2019-4312, § 1, 10-16-19; Ord. No. 2020-4346, § 1, 7-29-20; Ord. No. 2023-4556, § 1, 5-17-23)

Sec. 142-309.1. - The Wolfsonian Arts District.

(a) The following regulations shall apply to properties that front Washington Avenue between 10th Street and 11th Street. In the event of a conflict within this division, the criteria below shall apply:

(1) The purpose of these regulations is to enrich and sustain a long-standing cultural institution that preserves history and offers educational opportunities to the residents of the city.

(2) The maximum floor area ratio shall be 3.25 for the following properties located on the east side of Washington Avenue: Lots 9, 10, 11, 12, and 13, within Block 30, of the plat of Ocean Beach Addition No. 2, recorded in Plat Book 2, Page 56, of the Public Records of Miami-Dade County.

(3) The maximum building height shall be 75 feet.

(4) The setbacks shall be as follows:

a. *Front:*

i. *Subterranean:* Zero feet.

ii. *Ground level:* Zero feet.

b. *Rear:*

i. *Subterranean:* Zero feet.

ii. *Ground level:* Zero feet.

c. *Side, facing a street:*

i. *Subterranean:* Zero feet.

ii. *Ground level:* Zero feet.

d. *Side, interior:*

i. *Subterranean:* Zero feet.

ii. *Nonresidential uses:* Zero feet.

(Ord. No. 2020-4382, § 1, 12-9-20)

Sec. 142-310. - Special regulations for alcohol beverage establishments.

(a) *Alton Road corridor.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located on the west side of Alton Road and east of Alton Court, between 5th Street and 11th Street, and between 14th Street and Collins Canal; and properties on the east side of West Avenue, between Lincoln Road and 17th Street, except alcoholic beverage establishments fronting Lincoln Road between West Avenue and Alton Road:

(1) Operations shall cease no later than 2:00 a.m.

(2) Establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served in the restaurant, shall cease sidewalk cafe operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.

(3) Commercial uses on rooftops shall be limited to restaurants only, shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.

(4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.

(5) Outdoor bar counters shall be prohibited.

(6) No special event permits shall be issued.

(7) This subsection (a) above shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that (i) is in application status prior to April 14, 2015; or (ii) issued prior to May 21, 2015; or (iii) to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to May 21, 2015. Any increase to the approved hours of operation shall meet the requirements of this subsection (a).

(8) Notwithstanding the foregoing, for properties located between 16th Street and Collins Canal, outdoor motion picture theaters with accessory outdoor bar counters may be permitted, including on rooftops, subject to conditional use approval pursuant to chapter 118, article IV, and subject to the following operational limitations:

a. The outdoor motion picture theater use shall front on Alton Road.

b. No television, radio, and/or recorded background music may exceed an ambient volume level (i.e. a volume that does not interfere with normal conversation). On rooftops, audio from motion picture presentations shall only be delivered to patrons through individually

worn headphones.

c. Movie projectors and related equipment, as well as all theater screens or displays, shall be oriented away from immediately neighboring residential areas, and projections may not be substantially visible from the right-of-way. The projection system shall be designed so as not to negatively impact adjacent residential areas.

d. Outdoor motion picture theaters shall be limited to no more than one screen or display per establishment.

e. Outdoor motion picture theaters shall commence operations no earlier than 4:30 p.m. and shall cease operations no later than 12:00 a.m. on weekdays and 1:00 a.m. on weekends. Any accessory bar counter shall commence operations no earlier than 4:30 p.m. and shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends. The accessory bar counter may be open and operational only during times when the theater use is operational.

f. Outdoor motion picture theaters shall have no more than three movie showings per night.

g. Any outdoor bar counter shall be located away from immediately neighboring residential areas and shall not be substantially visible from the right-of-way.

h. The area surrounding any bar counter in which alcoholic beverages may be served shall be segregated to comply with the applicable requirements of chapter 6 of this Code, and. Additionally, this bar area, as well as any area that allows for the congregation of non-seated patrons, shall incorporate sound attenuation devices in order to reduce the level of noise. Such sound attenuation devices must be submitted as part of a sound study prepared by a licensed acoustical engineer, peer reviewed, and presented to the planning board as part of the review of the CUP application. The sound study shall include methods of absorbing and or re-directing sound and noise generated by ambient music and patron conversation.

i. Theater seats shall be required at all times and shall not be removed from the movie viewing areas during all times the business is open. This shall not preclude the temporary removal of seats for cleaning and maintenance purposes.

(b) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(1) Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.

(2)

Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located; however, outdoor restaurant seating, associated with indoor venues, not exceeding 40 seats, may be permitted above the ground floor until 8:00 p.m. Notwithstanding the foregoing, the provisions of this subsection (b)(2) shall not apply to the following:

a. As it pertains to outside dining areas only, but not outdoor bar counters (which are prohibited), restaurants that front Alton Road and are located south of 18th Street, provided the total number of outdoor dining seats located above the ground floor, which must be associated with an indoor restaurant, shall not exceed 100 seats. Additionally, the combined total number of seats within the outdoor and indoor portions of restaurants above the ground floor shall not exceed 240 seats.

b. Any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016.

(3) Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted. Notwithstanding the foregoing. the provisions of this subsection (b)(3) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016.

(4) Special events shall not be permitted in any alcoholic beverage establishment.

(Ord. No. 2016-2014, § 2, 5-11-16; Ord. No. 2016-4046, § 1, 10-19-16; Ord. No. 2020-4338, § 1, 5-13-20; Ord. No. 2020-4358, § 2, 9-16-20; Ord. No. 2021-4397, § 1, 1-13-21; Ord. No. 2023-4545, § 1, 4-28-23)

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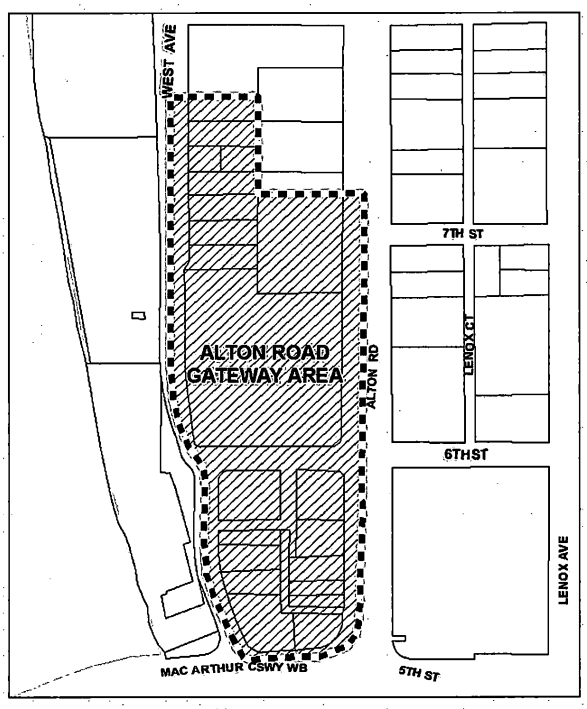
Sec. 142-311. - Alton Road Gateway Area Development Regulations.

(a) The Alton Road Gateway Area incorporates the parcels in the area bounded by 8th Street on the north, Alton Road on the east, 5th Street/MacArthur Causeway/SR A1A on the south, and West Avenue on the west; excluding lots 15 through 22 of the Amended Fleetwood Subdivision,

according to the plat thereof recorded in Plat Book 28, page 34, of the Public Records of Miami-Dade County, Florida; as depicted in the map below:



(2) *Setbacks.* The setbacks established in section 142-307 are modified as follows:

a. Minimum setback from Alton Road: Ten feet for residential and nonresidential buildings; zero feet for elevated open walkways.

b. Minimum setback from West Avenue: 20 feet; zero feet for elevated open walkways.

c. Minimum setback from 5th Street/Mac Arthur Causeway: 17 feet; zero feet for elevated open walkways.

(3) *Clear pedestrian path.* A "clear pedestrian path," free from obstructions including, but not limited to, outdoor cafes, sidewalk cafes, landscaping, signage, utilities, and lighting, shall be maintained along all frontages as follows:

a. The clear pedestrian path may only utilize public sidewalk and setback areas. The clear pedestrian path shall be a minimum of ten feet wide, except along the portions of West Avenue, Alton Road, and 5th Street/MacArthur Causeway south of 6th Street, where it shall be a minimum of five feet wide. The clear pedestrian path may be reduced by up to five feet for the sole purpose of accommodating the trunk diameter of canopy street trees when adjacent to a building.

b. Pedestrians shall have 24-hour access to "clear pedestrian paths."

c. Clear pedestrian paths shall be well lit and consistent with the city's lighting policies.

d. Clear pedestrian paths shall be designed as an extension of the adjacent public sidewalk.

e.

Clear pedestrian paths shall be delineated by in-ground markers that are flush with the path, differing pavement tones, pavement type, or other method to be approved by the planning director.

f. An easement to the city providing for perpetual public access shall be provided for portions of clear pedestrian paths that fall within the setback area.

(4) *Height.* The maximum height for a main use residential building: 519 feet. The maximum height for nonresidential structures: 40 feet. Height shall be measured from the base flood elevation, plus freeboard, provided that the height of the first floor shall be tall enough to allow the first floor to eventually be elevated to base flood elevation, plus freeboard, with a future minimum interior height of at least 12 feet as measured from the height of the future elevated adjacent right-of-way as provided under the city's public works manual.

(5) *Floor plate.* The maximum floor plate size for the tower portion of a residential building is 17,500 square feet, including projecting balconies, per floor.

(6) *Residential buildings containing parking.* Main use residential buildings containing parking, are not required to provide residential or commercial uses at the first level along every façade facing a street or sidewalk as required in subsection 142-308(a). However, the first level shall be architecturally treated to conceal parking, loading, and all internal elements, such as plumbing pipes, fans, ducts, and lighting from public view.

(7) *Green space.* A minimum of three acres of open green space shall be located within the Alton Road Gateway Area. For purposes of this section, green space shall mean open areas that are free from buildings, structures, pavilions, driveways, parking spaces, and underground structures (except non-habitable utility structures). However, sun shade structures, open on all sides, and elevated pedestrian walks may be permitted. Open green space areas shall consist primarily of landscaped open areas, pedestrian and bicycle pathways, plazas, playgrounds, and other recreational amenities.

(b) The following regulations shall apply to the properties located within the Alton Road Gateway Area; where there is conflict within this division, the regulations below shall apply:

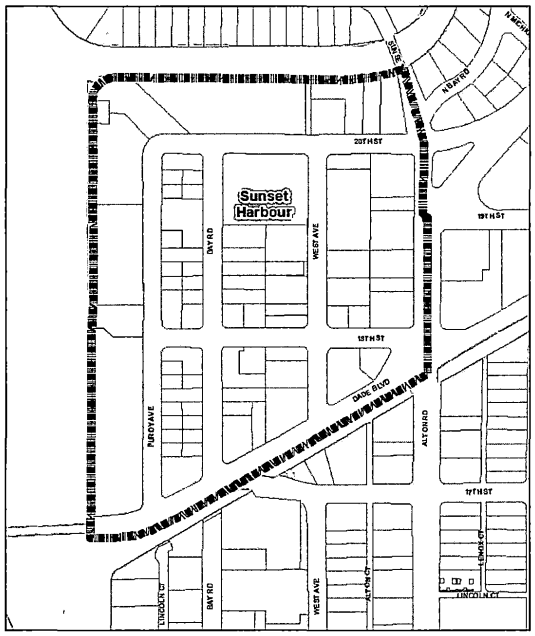
(1) *Prohibited uses.* In addition to the prohibited uses identified in section 142-305, the following uses shall also be prohibited: accessory outdoor bar counters, hostels, hotels, apartment hotels, suite hotels, outdoor entertainment establishments, neighborhood impact establishments, open air entertainment establishments, bars, dance halls, entertainment establishments (as defined in section 114-1), exterior alcoholic beverage service after 12:00 a.m., interior alcoholic beverage service after 2:00 a.m., package stores, any use selling gasoline, storage and/or parking of commercial vehicles on site other than the site at which the associated trade or business is located (in accordance with section 142-1103), pawnshops,

secondhand dealers of precious metals/precious metals dealers, check cashing stores, convenience stores, occult science establishments, souvenir and t-shirt shops, tattoo studios, and tobacco/vape dealers.

(Ord. No. 2108-4228, § 1, 12-12-18; Ord. No. 2019-4255, § 1, 4-10-19; Ord. No. 2019-4269, § 2, 6-5-19)

Sec. 142-312. - Sunset Harbour development regulations.

(a) The Sunset Harbour Neighborhood incorporates the parcels in the area bounded by 20th Street on the north, Alton Road on the east, Dade Boulevard on the south, and Purdy Avenue on the west as depicted in the map below:



(b) The following regulations shall apply to CD-2 properties within the Sunset Harbour Neighborhood:

(1) *Clear pedestrian path.* The applicable standards for a "clear pedestrian path" established in sections 133-61 and 133-62 shall apply to new development, except as follows:

a. The clear pedestrian path shall be at least ten feet wide.

b. The design review board may approve the reduction of the clear pedestrian path requirement to no less than five feet in order to accommodate street trees, required utility apparatus, or other street furniture, subject to the design review criteria. Notwithstanding the foregoing, the design review board may not reduce the clear pedestrian path requirement for properties on the west side of Alton Road and north of Dade Boulevard, specifically Lots 1—8, Block 12, Island View Subdivision, PB 6, Page 115, Public Records of Miami-Dade County, and Lots 1—2, Block 12-A, Island View Addition, PB 9, Page 144, Public Records of Miami-Dade County.

(2) *Height.* Notwithstanding the requirements of section 142-306, the following maximum building height regulations shall apply to the Sunset Harbour Neighborhood:

a. The maximum building height shall be 55 feet, except as noted below.

b. The design review board may approve development at a maximum building height of 65 feet on the following properties:

1. Properties fronting Dade Boulevard between Alton Road and Bay Road.
2. Properties fronting Alton Road between 20th Street and Dade Boulevard.
3. Properties fronting Purdy Avenue between 18th Street and Dade Boulevard.

c. The design review board may approve development at a maximum building height of 75 feet on certain properties on the west side of Alton Road and north of Dade Boulevard, specifically Lots 1—8, Block 12, Island View Subdivision, PB 6, Page 115, Public Records of Miami-Dade County, and Lots 1—2, Block 12-A, Island View Addition, PB 9, Page 144, Public Records of Miami-Dade County.

d. The design review board may only approve development at a height greater than 55 feet subject to the design review criteria and the following regulations:

1. The property shall have a minimum lot size of 10,000 square feet.
2. The development shall consist solely of office use above the ground level of the structure, and provided that residential uses may be permitted on such properties up to a maximum FAR of 2.0 pursuant to subsection 142-307(d)(1), but only if the first 1.5 FAR of development is dedicated to office use and ground floor commercial use.
3. The ground floor shall contain retail, personal service, restaurant and similar types of active uses fronting the clear pedestrian path.
4. Portions of the building exceeding 55 feet in height that abut a residential use shall be set back a minimum of ten feet from the residential use.
5. Portions of the building exceeding 55 feet in height that are located on Alton Road shall be set back a minimum of 150 feet from 20th Street.
6. Portions of the building exceeding 55 feet in height that are located on Dade Boulevard shall be set back a minimum of 100 feet from Bay Road.
7. Portions of the building exceeding 55 feet in height that are located along 18th Street between Bay Road and Purdy Avenue shall be set back a minimum of 12 feet from the property line.

(3) *Height exceptions.* In general, rooftop elements that are exempt from a building's maximum building height pursuant to this subsection (b)(3) shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not

apply to the Sunset Harbour Neighborhood. Instead, only the following height exceptions shall apply to the Sunset Harbour Neighborhood and, unless otherwise specified, shall not exceed ten feet above the main roof of the structure:

a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab. The foregoing operational and mechanical equipment shall require the review and approval of the design review board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades.

b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the Florida Building Code. The foregoing elements shall require the review and approval of the design review board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street-facing facades. Notwithstanding the foregoing, the requirement for design review board approval, as well as the perimeter setback, shall not apply to private elevator and/or private stairs from a residential unit to a private roof deck.

c. Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.

d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.

e. Rooftop areas that are accessible only to the owners or tenants of residential units may have trellises, pergolas or similar structures that have an open roof of cross rafters or latticework. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below and shall be set back a minimum of 20 feet from the property line and no less than ten feet from the roof parapets on street-facing facades.

f. Roof-top pools, not to exceed five feet above the roof slab, shall be limited to main use residential buildings, or mixed use/office buildings where at least 25 percent of the floor area is dedicated to non-transient residential units. Such pools may have up to a four-foot-wide walkway around the pool. Additionally, bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Florida

Building Code, may be permitted provided such bathrooms are set back a minimum of 20 feet from the property line and no less than ten feet from the roof parapets on street-facing facades and shall not exceed 13 feet in height measured from the finished elevation of the roof deck or 16 feet in height measured from the roof slab, whichever is less.

g. Parapets shall not exceed four feet in height above the main roof.

h. Exterior speakers required to meet applicable requirements of the Life Safety or Florida Building Code.

i. Decorative rooftop elements, not to exceed 16 feet in height above the roof slab, may be permitted for office development located on certain properties on the west side of Alton Road and north of Dade Boulevard, specifically Lots 1—8, Block 12, Island View Subdivision, PB 6, Page 115, Public Records of Miami-Dade County, and Lots 1—2, Block 12-A, Island View Addition, PB 9, Page 144, Public Records of Miami-Dade County.

j. Allowable height exceptions located within 25 feet of the property line along a street facing façade of the building, or within 20 feet of an interior lot line abutting a residential use, shall not exceed ten feet in height measured from the finished elevation of the roof deck or 13 feet in height measured from the roof slab, whichever is less. The design review board may waive this minimum setback along a street facing façade of the building, but in no instance shall the setback be less than 15 feet from the property line.

(4) *Lot aggregation.* Except for office or residential development, no more than six platted lots may be aggregated.

(5) *Lot size.* Except for office or residential development, the maximum lot size shall not exceed 36,000 square feet. Notwithstanding the foregoing, the provisions of this paragraph shall not apply to any lot larger than 36,000 square feet that existed prior to January 1, 2021.

(6) *Number of large establishments and conditional use permit (CUP) requirements.* Conditional use approval from the planning board shall be required for retail, personal service, and/or restaurant uses within a development that is greater than 25,000 square feet in size. Additionally, no more than two such developments shall be permitted within the Sunset Harbour Neighborhood.

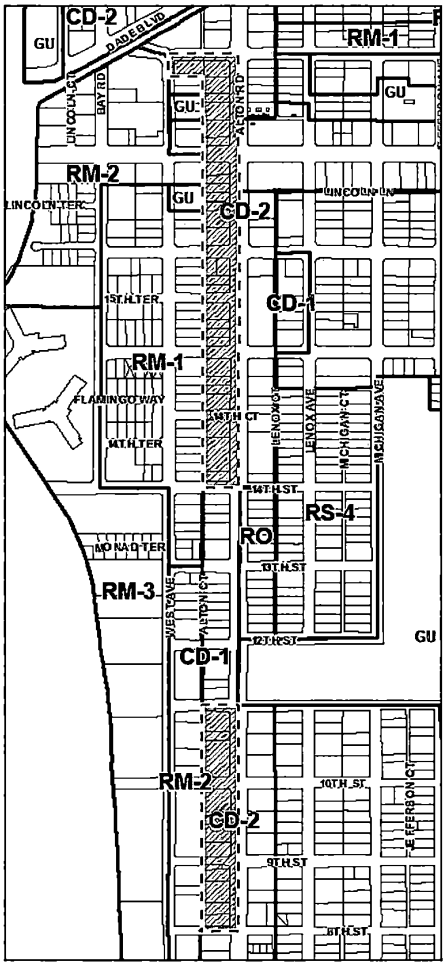
(7) *Special events.* City approved special events shall be prohibited at alcoholic beverage establishments. Notwithstanding the foregoing, permitted special events at venues not meeting the definition of an alcoholic beverage establishment shall cease no later than 9:00 p.m., seven days a week.

(8) *Outdoor speakers.* Outdoor speakers shall be prohibited on all levels of the exterior of a building, including roof tops, unless such speakers are required pursuant to the Life Safety or Florida Building Code.

(Ord. No. 2021-4437, § 1, 7-28-21; Ord. No. 2022-4503, § 1, 7-20-22)

Sec. 142-313. - Alton Road office development overlay.

(a) The Alton Road office development overlay includes the parcels on the west side of Alton Road, between 8th Street and 11th Street, and between 14th Street and 17th Street, as depicted in the map below:



(b) Voluntary office height incentive program. The following regulations shall apply to developments within the Alton Road office development overlay that are proposed to be constructed at a height that exceeds 60 feet:

(1) *Minimum office requirement.* The development shall consist solely of office use above the ground level of the structure; provided, however, that residential uses, but not hotel units, may be permitted on such properties up to a maximum FAR of 2.0, pursuant to section 142-307(d)(1), but only if, at a minimum, the floor area associated with an FAR of 1.5 is dedicated to office use and ground floor commercial use.

(2) *Covenant.* New development may only be eligible for the voluntary office height incentive provided in this subsection (b) if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the

City Attorney, affirming that, for a term of 30 years, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.

(3) *Ground level activation.* The ground level of the building shall consist of active retail, restaurant, personal service or similar uses. Office uses, including, but not limited to, professional offices, banks, and financial services, shall not be permitted at the ground level. A lobby may be permitted at the ground level for access to upper floors.

(4) *Clear pedestrian path.* The applicable standards for a "clear pedestrian path," as established in sections 133-61 and 133-62, shall apply to new development under this section, except as follows:

a. The clear pedestrian path shall be at least ten feet wide.

b. The design review board may approve a reduction of the clear pedestrian path requirement to no less than a width of five feet in order to accommodate street trees, required utility apparatus, or other street furniture, subject to the design review criteria.

(5) *Height.* Notwithstanding the requirements of section 142-306, the maximum building height shall be 75 feet for development permitted under this voluntary office height incentive program. Additionally, all portions of the building above 60 feet in height shall be set back a minimum of 20 feet from the rear property line.

(6) *Height exceptions.* In general, rooftop elements that are exempt from a building's height calculations shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not apply to the Alton Road office development overlay. Instead, only the following rooftop elements shall be excluded from a building's maximum height and, unless otherwise specified, such elements shall not exceed a height of ten feet above the main roof of the structure:

a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet above the roof slab.

b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the building code.

c.

Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.

d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.

e. Rooftop areas that are accessible only to the owners or tenants of office or residential units may have trellises, pergolas or similar structures that have an open roof of cross rafters or latticework. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below and shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.

f. Parapets shall not exceed four feet in height above the main roof.

g. Exterior speakers required to meet applicable requirements of the life safety or building code.

(7) *Outdoor uses and special events.* Commercial uses of any kind, including, but not limited to restaurants, bars and entertainment, as well as special events of any kind, shall be prohibited within any outdoor areas above the ground floor.

(8) *Outdoor mechanical equipment.* Any outdoor mechanical equipment located above the ground floor including, but not limited to, air conditioning equipment, cooling towers, compressors and generators shall be fully screened with sound attenuating materials on all sides.

(9) *Sunset provision.* The development regulations in this section 142-313 shall only apply to projects that have obtained a full building permit on or before December 31, 2031.

(Ord. No. 2021-4436, § 1, 7-28-21)

Secs. 142-314—142-330. - Reserved.

DIVISION 6. - CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT

> *Footnotes:*
> *--- (**4**) ---*
> ***Cross reference—** Businesses, ch. 18.*

Sec. 142-331. - Purpose.

The CD-3 commercial, high intensity district is designed to accommodate a highly concentrated business core in which activities serving the entire city are located.

(Ord. No. 89-2665, § 6-8(A)(1), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2784, eff. 6-28-92)

Sec. 142-332. - Main permitted uses.

(a) The main permitted uses in the CD-3 commercial, high intensity district are:

(1) Commercial uses;

(2) Apartments;

(3) Apartment hotels, hotels, hostels, and suite hotels (pursuant to section 142-1105 of this chapter);

(4) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6;

(5) Religious institutions with occupancy of 199 persons or less; and

(6) For those lots fronting that portion of Lincoln Road which is closed to traffic, office uses may be located in a mezzanine or, when located on the ground floor, shall be set back at least 75 feet from the storefront.

(b) In addition to the provisions of subsection (a), on properties located south of 17th Street, between Lenox Avenue and Meridian Avenue, and properties with a lot line adjoining Lincoln Road, from Collins Avenue to Alton Road, dance halls (as defined in section 114-1 of this Code) licensed as alcoholic beverage establishments shall only operate as restaurants with full kitchens and serving full meals. Additionally, such dance halls shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.

(c) In addition to the main permitted uses listed in subsection (a), the following uses shall be permitted above the ground floor on properties with a lot size greater than 50,000 square feet and with a lot line adjoining Lincoln Road between Collins Avenue and Alton Road:

(1) Artisanal retail for on-site sales only;

(2) Production studios;

(3) Furniture sale establishments larger than 45,000 SF; and

(4) Major cultural institutions.

(Ord. No. 89-2665, § 6-8(A)(2), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2784, eff. 6-28-92; Ord. No. 99-3223, § 1, 12-15-99; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2016-4052, § 2, 11-9-16; Ord. No. 2017-4067, § 1, 1-11-17; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2021-4438, § 2, 7-28-21)

Sec. 142-333. - Conditional uses.

(a) The conditional uses in the CD-3 commercial, high intensity district are as follows:

(1)

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;

(2) Outdoor entertainment establishment;

(3) Neighborhood impact establishment;

(4) Open air entertainment establishment;

(5) Religious institutions with an occupancy greater than 199 persons;

(6) Video game arcades;

(7) Public and private institutions;

(8) Schools and major cultural dormitory facilities as specified in section 142-1332; and

(9) Storage and/or parking of commercial vehicles on a site other than the site at which the associated commerce, trade or business is located, except such storage and/or parking of commercial vehicles shall not be permitted on lots with frontage on Lincoln Road, Collins Avenue, 41st Street and 71st Street. See subsection 142-1103(c);

(10) Alcoholic beverage establishments located in the area generally bounded by 40th Street to the south, 42nd Street to the north, Alton Road to the west, and the Indian Creek waterway to the east, shall be subject to the additional requirements set forth in section 142-340; and

(11) When located above the ground floor on properties with a lot size greater than 50,000 square feet and with a lot line adjoining Lincoln Road between Collins Avenue and Alton Road: artisanal retail with off-site sales.

(Ord. No. 89-2665, § 6-8(A)(3), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2784, eff. 6-28-92; Ord. No. 95-3019, eff. 11-4-95; Ord. No. 97-3100, § 1, 10-21-97; Ord. No. 99-3179, § 4, 3-17-99; Ord. No. 2007-3546, 1-17-07; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4052, § 2, 11-9-16; Ord. No. 2018-4175, § 1, 3-7-18; Ord. No. 2021-4438, § 2, 7-28-21)

Sec. 142-334. - Accessory uses.

The accessory uses in the CD-3 commercial, high intensity district are as follows:

(1) Those uses permitted in article IV, division 2 of this chapter.

(2) Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

(3) Alcoholic beverage establishments located in the area generally bounded by 40th Street to the south, 42nd Street to the north, Alton Road to the west, and the Indian Creek waterway to the east, shall be subject to the additional requirements set forth in section 142-340.

(Ord. No. 89-2665, § 6-8(A)(4), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2784, eff. 6-28-92; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2016-4052, § 2, 11-9-16)

Sec. 142-335. - Prohibited uses.

(a) The prohibited uses in the CD-3 commercial, high intensity district are as follows:

(1) Pawnshops;

(2) Secondhand dealers of precious metals/precious metals dealers;

(3) Accessory outdoor bar counter, except as provided in article IV, division 2 of this chapter and in chapter 6;

(4) Tobacco/vape dealers; and

(5) The storage and/or parking of commercial vehicles on lots with frontage on Lincoln Road, Collins Avenue, 41st Street or 71st Street.

(b) For properties with a lot line on Lincoln Road, between Alton Road and Collins Avenue, the following additional uses are prohibited:

(1) Check cashing stores;

(2) Medical cannabis dispensaries (medical marijuana dispensaries);

(3) Convenience stores;

(4) Grocery stores;

(5) Occult science establishments;

(6) Pharmacy stores;

(7) Souvenir and t-shirt shops;

(8) Tattoo studios;

(9) Retail establishments larger than 45,000 square feet (except as otherwise provided in section 142-332 and 142-333) (note: no variances shall be granted from the regulations in this subsection (b)(9));

(10) Offices on the ground floor on that portion of Lincoln Road which is closed to traffic; notwithstanding the foregoing, this prohibition does not include office uses located in a mezzanine, or set back at least 75 feet back from the storefront; and

(11) Vitamin shops.

(Ord. No. 89-2665, § 6-8(A)(5), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2784, eff. 6-28-92; Ord. No. 94-2925, eff. 6-15-94; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2013-3791, § 6, 2-6-13; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2017-4078, § 2, 3-1-17; Ord. No. 2019-4269, § 3, 6-5-19; Ord. No. 2019-4280, § 2, 6-5-19; Ord. No. 2021-4438, § 2, 7-28-21; Ord. No. 2022-4531, § 2, 12-14-22)

Sec. 142-336. - Lincoln Road requirements.

The following additional regulations shall apply to the portion of Lincoln Road that is closed to vehicular traffic:

(a) Apartments, apartment/hotels, hotels and the conditional uses, as described in this division, may have first floor entrances and lobbies occupying up to 20 percent of their total street frontage(s). The remainder of their first floor frontage shall consist solely of commercial uses, extending back at least 75 feet from the street frontage(s).

(b) The following requirements shall apply to the installation or placement of speakers:

(1) Restaurant uses may only be permitted to place or install exterior speakers if the following conditions have been met:

a. A certificate of appropriateness is granted, in accordance with the applicable requirements of chapter 118, article X of this Code.

b. Music or any other sound shall be played at or below ambient volume levels at all times.

c. If a restaurant use with approved exterior speakers is replaced by a use other than a restaurant, then all exterior speakers shall be removed.

(2) Interior speakers may be permitted within the first 20 feet of the boundary facing Lincoln Road or within the first 20 feet of the boundary of a side street, provided, however, that any music or other sound that is played does not exceed ambient levels. Additionally, any music or other sound played indoors at a volume above ambient levels must be inaudible from the exterior of the premises at all times.

(3) In the event that the doors of an establishment remain open to the sidewalk, only ambient music shall be permitted within the premises.

(4) No variances shall be granted from the requirements of this subsection 142-336(b).

(5) Except as provided in this subsection (b), no other commercial establishments shall be permitted to place or install exterior speakers.

(c) Penalties and enforcement.

(1) A violation of subsection (b) shall be subject to the following civil fines and penalties:

a. If the violation is the first violation, a person or business shall receive a written warning or a civil fine of $250.00;

b. If the violation is the second violation within the preceding 12 months, a person or business shall receive a civil fine of $1,000.00;

c. If the violation is the third violation within the preceding 12 months, a person or business shall receive a civil fine of $2,000.00;

d.

If the violation is the fourth violation within the preceding 12 months, a person or business shall receive a civil fine of $3,000.00; and

e. If the violation is the fifth or subsequent violation within the preceding 12 months, a person or business shall receive a civil fine of $5,000.00, and the city shall suspend the business tax receipt.

(2) 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 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.

(3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

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 service 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 this Code. A request for administrative hearing 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.

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 the code compliance officer. The failure of the named violator to appeal the decision of the code compliance 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.

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. 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.

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 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.

g. The special magistrate shall not have discretion to alter the penalties prescribed in subsection (c)(1).

(Ord. No. 89-2665, § 6-8(A)(6), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2784, eff. 6-28-92; Ord. No. 2017-4096, § 1, 5-17-17; Ord. No. 2019-4278, § 1, 6-5-19; Ord. No. 2021-4431, 7-28-21)

Sec. 142-337. - Development regulations and area requirements.

(a) The development regulations in the CD-3 commercial, high intensity district are as follows:

(1) Max FAR: Lot area equal to or less than 45,000 square feet—2.25; lot area greater than 45,000 square feet—2.75; oceanfront lots with lot area greater than 45,000 square feet—3.0.

(2) Notwithstanding the above, oceanfront lots in architectural district shall have a maximum FAR of 2.0.

(3) Notwithstanding the above, lots located between Drexel Avenue and Collins Avenue and between 16th Street and 17th Street shall have a maximum FAR of 2.75.

(4) Notwithstanding the above, lots which, as of the effective date of this ordinance (November 14, 1998), are oceanfront lots with a lot area greater than 100,000 square feet with an existing building, shall have a maximum FAR of 3.0; however, additional FAR shall be available for the sole purpose of providing hotel amenities as follows: the lesser of 0.15 FAR or 20,000 square feet.

(b) However, the floor area ratio maximum for residential development, inclusive of hotels, in the architectural district shall be 2.50.

(c) The lot area, lot width, unit size and building height requirements for the CD-3 commercial, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)

None	None	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel unit: 15%: 300—335 85%: 335+ For hotel structures located within the Collins Park District, generally bounded by the erosion control line on the east, the east side of Washington Avenue on the west, 23rd Street on the north, and 17th Street on the south, hotel	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—N/A. The number of units may not exceed the maximum density set forth in the comprehensive plan.	75 feet. Lots on the north side of Lincoln Road between Pennsylvania Avenue and Lenox Avenue, with a minimum lot area of 30,000 square feet, and which contain a contributing building and an attached addition providing a minimum of 100 hotel units, where the addition is set back at least 75 feet from the Lincoln Road property line, and has a street side setback of no less than 25 feet - 75 feet. Notwithstanding the foregoing

		units shall be a minimum of 200 square feet. For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are being renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration shall be permitted, provided all rooms are a minimum of 200 square feet.		requirements for lots within the architectural district, for lots fronting on James Avenue, bounded by 17th Street to the north and Lincoln Road to the south, the historic preservation board, in accordance with the certificate of appropriateness criteria in chapter 118, article X, shall have discretion to allow up to 75 feet in height for those properties that provide a minimum of five stories of parking, of which a minimum of 250 spaces must be unencumbered by any use at

		Additionally, existing room configurations for the above-described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. For new hotel units within attached or detached additions to contributing buildings on the north side of Lincoln Road, between Pennsylvania		the property and provided further that a minimum setback of 75 feet shall be required from Collins and Washington Avenue for any portion of a building above 50 feet in height. Lots within the architectural district: 50 feet. Lots fronting on 17th Street: 80 feet. Lots fronting on Washington Avenue between Lincoln Road and 17th Street for main use office building: 80 feet. City Center Area (bounded by Drexel Avenue, 16th Street, Collins Avenue and the south

		Avenue and Lenox Avenue, with at least 5% of the total floor area dedicated to amenity space, the minimum unit size shall be 200 square feet.		property line of those lots fronting on the south side of Lincoln Road): 100 feet.
				Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab.

		For new hotel units within attached or detached additions to contributing buildings on the south side of Lincoln Road, between Pennsylvania Avenue and Lenox Avenue, with at least 5% of the total floor area dedicated to amenity space, the average unit size shall be 250 square feet. Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings—200.		Notwithstanding the foregoing requirement for City Center Area, the following additional shall apply: The height for lots fronting on Lincoln Road and 16th Street between Drexel Avenue and Washington Avenue are limited to 50 feet for the first 50' of lot depth. The height for lots fronting on Drexel Avenue is limited to 50 feet for the first 25' of lot depth (except as provided in section 142-1161).

(d) *Lincoln Road hotel incentives and public benefits program.* In order for a hotel on Lincoln Road to be constructed with a minimum unit size of 200 square feet (as applicable to hotels on the north side of Lincoln Road) or a minimum average unit size of 250 square feet (as applicable to hotels on the south side of Lincoln Road), and in order to construct a hotel on Lincoln Road that is taller than 50 feet, the portion of Lincoln Lane abutting the subject property, as well as the remaining portion of Lincoln Lane from block-end to block-end, shall be fully improved subject to the review and approval of the public works department. Additionally, for a hotel to be eligible for the unit size and height incentives set forth herein, participation in a public benefits program, as further set forth below, shall be required:

(1) *Provide ground-floor public benefit space.* On-site, ground floor space within the building in which the hotel is located shall be provided, with a minimum area of 500 square feet, for use by Miami Beach-based not-for-profit entities and/or artisans, as workshops, or for display or demonstration purposes, either of which shall be open to public view ("public benefit space"). Any required land use board approvals associated with a public benefit space approved pursuant to this paragraph shall be the responsibility of the non-profit entity or artisan, respectively.

(2) *Contribution to Art in Public Places fund.* In addition to providing an on-site public benefit space pursuant to subsection (d)(1) above, a hotel shall provide a contribution to the city's Art in Public Places fund, the amount of which shall be equal to 0.5% of the total of all construction costs associated with the proposed hotel project, regardless of the number of permits associated with the project or whether the applicant intends to construct the hotel in phases. Full payment of the contribution shall be made prior to the issuance of a certificate of occupancy.

(3) *Final approval.* Prior to the issuance of a final certificate of occupancy for the property, a covenant executed by the property owner shall be submitted to the city, in a form approved by the city attorney and city manager, which covenant shall, at a minimum, identify the location of the public benefit space, and require a hotel owner and/or operator to maintain the public benefit space for so long as the hotel use on the subject property remains active, unless a shorter term is approved by resolution of the city commission.

(4) *[Limitation.]* There shall be a limit of 500 hotel units constructed between Pennsylvania Avenue and Lenox Avenue, which utilize the unit size and/or height incentives set forth in this subsection (d).

(Ord. No. 89-2665, § 6-8(A)(1), (B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 92-2784, eff. 6-28-92; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 3149, § 1, 11-4-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2005-3483, § 7, 5-18-05; Ord. No. 2011-3744, § 9, 10-19-11; Ord. No. 2014-3851, § 2, 4-23-14; Ord. No. 2015-3960, § 1, 9-2-15; Ord. No. 2016-4007, § 5, 4-13-16; Ord. No. 2017-

4124, § 2, 7-26-17; Ord. No. 2017-4148, § 10, 10-18-17; Ord. No. 2017-4149, § 9, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2018-4225, § 1, 12-12-18; Ord. No. 2019-4275, § 4, 6-5-19; Ord. No. 2019-4303, §§ 2, 3, 10-16-19; Ord. No. 2019-4315, § 4, 10-30-19; Ord. No. 2022-4500, § 1, 6-22-22)

Sec. 142-338. - Setback requirements.

(a) The setback requirements for the CD-3 commercial, high intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	5 feet	5 feet	5 feet	5 feet If abutting an alley—0 feet

Subterranean, pedestal and tower (non-oceanfront)	0 feet	10 feet when abutting a residential district, otherwise none. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming side, interior pedestal setbacks.	10 feet when abutting a residential district, unless separated by a street or waterway otherwise none	5 feet 10 feet when abutting a residential district unless separated by a street or waterway in which case it shall be 0 feet. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

Subterranean, pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant.	10 feet Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	10 feet	25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater

(b) The tower setback shall not be less than the pedestal setback.

(c) Parking lots and garages: If located on the same lot as the main structure the above setbacks shall apply. If primary use the setbacks are listed in subsection 142-1132(n).

(d) Mixed use buildings: Calculation of floor area ratio:

(1) Floor area ratio. When more than 25 percent of the total area of a building is used for residential or hotel units, the floor area ratio range shall be as set forth in the RM-3 district.

(Ord. No. 89-2665, § 6-9, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 95-3027, eff. 12-16-95; Ord. No. 2018-4160, § 2, 1-17-18; Ord. No. 2019-4315, § 4, 10-30-19)

Sec. 142-339. - Additional regulations for new construction.

In the CD-3 district, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway; for properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential or commercial uses above the first level along every facade facing a waterway.

(3)

For properties less than 60 feet in width, the total amount of commercial space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(Ord. No. 2006-3510, § 7, 3-8-06)

Sec. 142-340. - Special regulations for alcohol beverage establishments.

The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the area generally bounded by 40th Street to the south, 42nd Street to the north, Alton Road to the west, and the Indian Creek waterway to the east:

(1) Operations shall cease no later than 2:00 a.m.

(2) Alcoholic beverage establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafés during hours when food is served in the restaurant, shall cease sidewalk café operations at 12:00 a.m., and shall not be permitted to have outdoor speakers.

(3) Commercial uses on rooftops shall be limited to restaurants only shall cease operations no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends, and shall only be permitted to have ambient, background music.

(4) Entertainment establishments shall be required to obtain conditional use approval from the planning board, in accordance with the requirements and procedures of chapter 118, article IV. Additionally, if approved as a conditional use, entertainment establishments shall be required to install a double door vestibule at all access points from the sidewalk, with the exception of emergency exits.

(5) Outdoor bar counters shall be prohibited.

(6) No special event permits shall be issued to alcoholic beverage establishments.

(7) The provisions of this section shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board. and which land use board order is active and has not expired, prior to August 23, 2016. Any increase to the approved hours of operation shall meet the requirements of this section.

(Ord. No. 2016-4052, § 2, 11-9-16)

Secs. 142-341—142-360. - Reserved.

DIVISION 7. - CCC CIVIC AND CONVENTION CENTER DISTRICT

Footnotes:
*--- (**5**) ---*
Cross reference— *Businesses, ch. 18.*

Sec. 142-361. - Purpose.

The CCC civic and convention center district accommodates the facilities necessary to support the convention center.

(Ord. No. 89-2665, § 6-10(A)(1), eff. 10-1-89)

Sec. 142-362. - Main permitted uses.

The main permitted uses in the CCC civic and convention center district are parking lots, garages, performing arts and cultural facilities; hotel; alcoholic beverage establishments pursuant to the regulations set forth in chapter 6, merchandise mart; commercial or office development; landscape open space; parks. Any use not listed above shall only be approved after the city commission holds a public hearing. See section 142-367 for public notice requirements.

(Ord. No. 89-2665, § 6-10(A)(2), eff. 10-1-89; Ord. No. 2016-4005, § 1, 3-9-16)

Sec. 142-363. - Conditional uses.

There are no conditional uses in the CCC civic and convention center district.

(Ord. No. 89-2665, § 6-10(A)(3), eff. 10-1-89)

Sec. 142-364. - Accessory uses.

The accessory uses in the CCC civic and convention center district are any use that is customarily associated with a convention center or governmental buildings and uses.

(Ord. No. 89-2665, § 6-10(A)(4), eff. 10-1-89)

Sec. 142-365. - Development regulations and area requirements.

(a) The development regulations in the CCC civic and convention center district are as follows:
    (1) Max. FAR: 2.75.
(b) There are no lot area, lot width or unit size requirements for the CCC civic and convention center district. Building height and story requirements are as follows:

(1) Maximum building height for hotels: 300 feet; for all other uses: 100 feet.

(Ord. No. 89-2665, § 6-10(B), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3149, § 1, 11-4-98; Ord. No. 2015-3919, § 2, 1-14-15; Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-366. - Setback requirements.

(a) Other than the minimum setbacks set forth in subsections (b) and (c) below, the development regulations (setbacks, floor area ratio, signs, parking, etc.) shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director. Setback regulations for parking lots and garages when they are the main permitted use are listed in subsection 142-1132(n).

(b) The subterranean, pedestal, and tower setback requirements for a hotel use shall be as follows:

(1) *Fronting 17th Street:* Ten feet at ground level; zero feet above 15 feet in height, as measured from grade. Additionally, there shall be no permanent encroachments within this ten-foot setback at the ground level, including, but not limited to, columns, raised platforms, raised terraces, and raised porches. This prohibition on encroachments shall not apply to stairs and accessibility ramps, including associated hand rails.

(2) *Fronting Convention Center Drive:* Ten feet at ground level; zero feet above 15 feet in height, as measured from grade. Additionally, there shall be no permanent encroachments within this ten-foot setback at the ground level, including, but not limited to, columns, raised platforms, raised terraces, and raised porches. This prohibition on encroachments shall not apply to stairs and accessibility ramps, including associated hand rails.

(3) *Interior side:* Five feet.

(4) *Rear:* Zero feet.

(c) Balcony projections setback requirement for a hotel use: Zero feet.

(Ord. No. 89-2665, § 6-10(C), eff. 10-1-89; Ord. No. 2019-4250, § 1, 5-13-19; Ord. No. 2019-4290, § 1, 7-31-19)

Sec. 142-367. - Notice of public hearing; vote.

When a public hearing is required before the city commission, the public notice shall be advertised in a newspaper of general paid circulation in the community. Thirty days prior to the public hearing date, a description of the request, the time and place of such hearing shall be posted on the property; notice shall also be given by mail to the owners of land lying within 375 feet of the property and the advertisement shall be placed in the newspaper. A five-sevenths vote of the city commission is required to approve a use that is considered under this subsection.

(Ord. No. 89-2665, § 6-10(D), eff. 10-1-89)

Sec. 142-368. - Off-site parking.

Required parking provided for performing arts and cultural facilities in this district, located off-site pursuant to section 130-36, shall not be included in permitted floor area wherever located, including outside of this district.

(Ord. No. 2004-3463, § 1, 11-10-04)

Secs. 142-369—142-390. - Reserved.

DIVISION 8. - GC GOLF COURSE DISTRICT

Sec. 142-391. - Purpose.

The GC golf course district is designed to accommodate golf courses on private property.

(Ord. No. 89-2665, § 6-11(A)(1), eff. 10-1-89)

Sec. 142-392. - Main permitted uses.

The main permitted uses in the GC golf course district are golf courses, tennis courts, clubhouses, and those uses normally associated with a golf course, provided that all such uses are under a unified ownership and operation.

For purposes of this section, 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.

(Ord. No. 89-2665, § 6-11(A)(2), eff. 10-1-89; Ord. No. 2002-3367, § 1, 5-8-02)

Sec. 142-393. - Conditional uses.

There are no conditional uses in the GC golf course district.

(Ord. No. 89-2665, § 6-11(A)(3), eff. 10-1-89)

Sec. 142-394. - Accessory uses.

The accessory uses in the GC golf course district are as required in article IV, division 2 of this chapter and the sale or distribution of alcoholic beverages pursuant to the regulations set forth in chapter 6.

(Ord. No. 89-2665, § 6-11(A)(4), eff. 10-1-89; Ord. No. 2016-4005, § 1, 3-9-16)

Sec. 142-395. - Development regulations.

There are no floor area ratio, lot area, lot width, unit area or unit size requirements in the GC zoning district. Building height, story, and total construction requirements are as follows:

(1) Maximum building height is 42 feet, except that 1,400 square feet of the footprint of the clubhouse may exceed 42 feet up to 50 feet with the location of the added height to be generally at the center of the clubhouse, inclusive of all allowed extensions, parapets and similar design elements.

(2) Maximum total construction: 100,000 square feet.

(Ord. No. 89-2665, § 6-11(B), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 2002-3367, § 2, 5-8-02)

Editor's note— A legal memorandum dated August 1, 2011, stated: "In the case styled *La Gorce County Club, Inc., v City of Miami Beach, Florida,"* case no. 03-12377 CA 30, in the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, the Court found that the fence and landscaping provisions in section 142-395(3) were unconstitutional." To that end, subsection 142-395(3) has been removed.

Sec. 142-396. - Setback requirements.

The setback requirements in the GC golf course district are as follows:

(1) Any yard adjacent to Alton Road 200 feet, except for at-grade parking lots and other one-story ancillary structures not to exceed 20 feet in height and 2,000 square feet in floor area. The foregoing ancillary structures shall be setback at least 125 feet.

(2) Yards abutting single family homes: 75 feet from the property line of any single-family residence abutting the golf course property. The setback on the golf course adjacent to 51st Terrace and homes whose side property line abuts the golf course shall be 87.5 feet. There shall be no structures, including restroom facilities or rest stations, new parking lots or roads, excluding golf cart paths and existing maintenance roads, within this setback area, except that the existing comfort station within this buffer zone may remain and may be reconstructed, repaired and/or rehabilitated. Any new structures that may be proposed in the future, including, but not limited to, restroom facilities or comfort stations shall be setback 75 feet from the rear yards of residential homes abutting the golf course property and shall not exceed 2,000 square feet.

All other yards: The setback shall be 170 feet from the property line of any abutting single family home. Any and all storage facilities, dumping sites, waste service facility and fuel storage tanks shall be located at a site within the principal maintenance area, or another site central to the golf course, screened from surrounding residential properties, in a location and manner to be reviewed and approved through the design review process.

(3) Existing at-grade parking lots: 50 feet from the rear lot line and ten feet from the side lot line of any abutting single family home, except that parking lots existing as of the effective date of Ord. No. 2002-3367, shall be set back ten feet from public rights-of-way and from adjacent properties. The design of the parking lot shall be reviewed in accordance with the regulations set forth in sections 130-61—130-67.

(4) Garbage, trash and vegetative debris pick up shall occur between the hours of 7:00 a.m. and 7:00 p.m., seven days a week from the main access point on Alton Road. All other access points shall be restricted to pick up between 9:00 a.m. and 5:00 p.m. Monday through Saturday only.

(Ord. No. 89-2665, § 6-11(C), eff. 10-1-89; Ord. No. 2002-3367, § 3, 5-8-02)

Sec. 142-397. - Noise regulations.

At all times, all noise emanating from the clubhouse or accessory structures that is unreasonably loud shall be contained within the property lines of the golf course property. An unreasonably loud noise is defined as a noise that is plainly audible and which interferes with normal conversation.

(Ord. No. 2002-3367, § 3, 5-8-02)

Editor's note— Ord. No. 2002-3367, § 3, adopted May 8, 2002, enacted provisions intended for use as § 142-396.1. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as § 142-397.

Secs. 142-398—142-420. - Reserved.

DIVISION 9. - GU GOVERNMENT USE DISTRICT

Sec. 142-421. - Purpose.

Any land or air rights owned by or leased to the city or other governmental agency for no less than an initial term of 20 years shall automatically convert to a GU government use district.

(Ord. No. 89-2665, § 6-12(A)(1), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3033, eff. 2-3-96; Ord. No. 99-3202, § 1, 9-17-99)

Sec. 142-422. - Main permitted uses.

The main permitted uses in the GU government use district are government buildings and uses, including but not limited to parking lots and garages; parks and associated parking; schools; performing arts and cultural facilities; monuments and memorials. Any use not listed above shall only be approved after the city commission holds a public hearing. See subsection 142-425(e) for public notice requirements.

(Ord. No. 89-2665, § 6-12(A)(2), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3033, eff. 2-3-96)

Sec. 142-423. - Private uses.

Private or joint government/private uses in the GU government use district, including air rights, shall be reviewed by the planning board prior to approval by the city commission. See subsection 142-425(e) for public notice requirements.

(Ord. No. 89-2665, § 6-12(A)(3), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3033, eff. 2-3-96)

Sec. 142-424. - Accessory uses.

Accessory uses in the GU government use district are as required in section 142-903.

(Ord. No. 89-2665, § 6-12(A)(4), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3033, eff. 2-3-96)

Sec. 142-425. - Development regulations.

(a) The development regulations (setbacks, floor area ratio, signs, parking, etc.) in the GU government use district shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director, which shall be approved by the city commission.

(b) Upon the sale of GU property, the zoning district classification shall be determined, after public hearing with notice pursuant to Florida Statutes, by the city commission in a manner consistent with the comprehensive plan. Upon the expiration of a lease to the city or other government agency, the district shall revert to the zoning district and its regulations in effect at the initiation of the lease.

(c) Setback regulations for parking lots and garages when they are the main permitted use are listed in subsection 142-1132(n).

(d)

Following a public hearing, the development regulations required by these land development regulations, except for the historic preservation and design review processes, may be waived by a five-sevenths vote of the city commission for developments pertaining to governmental owned or leased buildings, uses and sites which are wholly used by, open and accessible to the general public, or used by not-for-profit, educational, or cultural organizations, or for convention center hotels, or convention center hotel accessory garages, or city utilized parking lots, provided they are continually used for such purposes.

(e) Notwithstanding the above, no GU property may be used in a manner inconsistent with the comprehensive plan.

(f) The following regulations shall apply to the use or development of GU property by entities other than the city:

(1) In all cases involving the use of GU property by the private sector, or joint government/private use, development shall conform to all development regulations in addition to all applicable sections contained in these land development regulations and shall be reviewed by the planning board prior to approval by the city commission. All such private or joint government/private uses are allowed to apply for any permitted variances but shall not be eligible for a waiver of any regulations as described in this paragraph. However, not-for-profit, educational, or cultural organizations as forth herein, shall be eligible for a city commission waiver of development regulations as described in this paragraph, except for the historic preservation and design review processes.

(2) In cases involving the use of GU property by the private sector, for developments incorporating public parking spaces within the structure(s), owned by and/or operated by or for the benefit of the city, the permitted building height shall be 100 feet for those sites located within the area bounded by 17th Street on the north, North Lincoln Lane on the south, Alton road on the west, and Washington Avenue on the east.

(3) Private uses on the GU lots fronting Collins Avenue between 79th and 87th Streets approved by the city commission for a period of less than ten years shall be eligible for a city commission waiver of the development regulations, as described in this paragraph, for temporary structures only. Such waivers applicable to GU lots fronting Collins Avenue between 79th and 87th Streets may include, but not be limited to, the design review process, provided the city commission, as part of the waiver process, evaluates and considers all applicable design review requirements and criteria in chapter 118 of the land development regulations.

(g) If a waiver for eligible GU property under this subsection pertains to building height, and the subject property is located within a local historic district. the city commission shall first refer the proposed height waiver to the historic preservation board for the board's review and to obtain an advisory recommendation as to whether the proposed waiver should be approved or denied. The historic preservation board shall review the proposed waiver and provide an advisory

recommendation within 45 days of the referral by the city commission. Notwithstanding the foregoing, the requirement set forth in this paragraph shall be deemed to have been satisfied in the event that the board fails, for any reason whatsoever, to review a proposed height waiver and/or provide a recommendation to the city commission within the 45-day period following the referral.

(h) When a public hearing is required to waive development regulations before the city commission, the public notice shall be advertised in a newspaper of general paid circulation in the city at least 15 days prior to the hearing. Fifteen days prior to the public hearing date, both a description of the request and the time and place of such hearing shall be posted on the property, and notice shall also be given by mail to the owners of land lying within 375 feet of the property. A five-sevenths vote of the city commission is required to approve a waiver or use that is considered under this regulation.

(Ord. No. 89-2665, § 6-12(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3033, eff. 2-3-96; Ord. No. 99-3202, § 2, 9-17-99; Ord. No. 2014-4128, § 2, 9-25-17; Ord. No. 2018-4197, § 1, 5-16-18; Ord. No. 2020-4341, § 1, 6-24-20; Ord. No. 2022-4499, § 1, 6-22-22)

Secs. 142-426—142-450. - Reserved.

DIVISION 10. - HD HOSPITAL DISTRICT

Sec. 142-451. - Purpose.

The HD hospital district is designed to accommodate hospital facilities.

(Ord. No. 89-2665, § 6-13(A), eff. 10-1-89)

Sec. 142-452. - Permitted uses.

In the HD hospital district, no land, water or structure may be used, in whole or in part, except for one or more of the following permitted uses. The sale of alcohol within the HD shall be regulated pursuant to the requirements of chapter 6.

(1) Hospital.

(2) All accessory structures and parking facilities shall be subordinate to the main use and incidental to and customarily associated with a hospital, including accessory hospital facilities, consisting of:

a. Laundry.

b. Centralized services.

c. Educational, research and diagnostic facilities.

d. Recreational facilities.

e. Day care facilities.

f. Place of worship.

g. Out-patient care facilities including hospital-based clinics and ambulatory surgical centers.

h. Offices for:

    1. Medical students, fellows, and residents; administrative employees; nurses; laboratory personnel; hospital-based physicians; and

    2. Physicians and hospital employees who perform hospital functions and do not provide private patient care. These include department heads and medical staff responsible for hospital employee health care. The offices described in this subsection 142-452(2)h shall not be included in the computation which determines the maximum amount of hospital staff office space allowed under these land development regulations.

i. Offices for hospital staff and their employees, which may include examination rooms, excluding those identified in subsection 142-452(2)h, provided that:

    1. The maximum permitted amount of hospital staff office space, without bonus, shall not exceed 15 percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

    2. The maximum permitted amount of hospital staff office space, with bonuses as set forth below, shall not exceed 25 percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

        i. There shall be a bonus for the provision of charity and indigent care by the hospital. For each two percent of charity and Medicaid care in-patient days as a percentage of total acute care days less Medicare days provided by the hospital and reported to the state department of revenue by the state agency for health care administration for the year preceding the date of application for a building permit for hospital staff offices, there shall be a bonus of one percent in hospital staff office space. The maximum bonus under this provision shall not exceed three percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

        ii. There shall be a bonus of one square foot of hospital staff office space for each 0.25 gross square feet of affordable housing in the city which is constructed, rehabilitated, or operated by: (i) the office space developer; (ii) the hospital; and/or (iii) a hospital affiliated entity. 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. The maximum bonus under this provision shall not exceed two percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

iii. There shall be a bonus of hospital staff office space for the operation of an on-campus hospital teaching program, accredited by nationally recognized professional accreditation boards. The ratio shall be 100 square feet of office space for each student, fellow, and resident enrolled in such program on an average monthly basis during the three years preceding the application for a building permit for hospital staff offices. The maximum bonus under this provision shall not exceed two percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

iv. There shall be a bonus of one square foot of hospital staff office space for every $4.00 contributed to the city commercial revitalization fund, the terms and requirements of which shall be established by resolution of the city commission. The maximum bonus under this provision shall not exceed one percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

v. There shall be a bonus of hospital staff office space for the developer and/or hospital sponsored operation of day care facilities in the city. The ratio shall be 100 square feet of office space per each child, which the day care facility is licensed to admit. The maximum bonus under this provision shall not exceed one percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

vi. There shall be a bonus of hospital staff office space for the operation of an emergency room on the hospital campus which is open to the public 24 hours a day, seven days a week, as regulated by the state. The bonus under this provision shall be three percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

vii. There shall be a bonus for encouraging new physicians and other medical professionals to relocate their offices to the city. New physicians and medical professionals are those individuals who do not have existing offices and occupational licenses in the city one year prior to the issuance of a building permit for hospital staff office space. In order to receive this bonus, the hospital shall execute a written agreement with the planning, design and historic preservation division prior to the issuance of a building permit for the construction of hospital staff offices, which sets forth the amount of space that will be available for new physicians and medical staff. For each 25 percent of the proposed office space

which the hospital agrees to lease to new physicians and medical professionals on the medical staff of the hospital, there shall be a bonus of one percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space. The maximum bonus under this provision shall not exceed three percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

viii. The design review board may grant a bonus of additional hospital staff office space for exceptional achievement in urban design of space which is visible from a public street or causeway and which may be located either on or off the hospital campus or on public property. The amenities listed below are more fully defined in article IV, division 6 of this chapter. For each design review board approved amenity, there shall be a bonus range permitting increased hospital staff office space as a percentage of the hospital gross floor area, excluding parking structures and other hospital staff office space, as shown below:

Planting/landscaping	0.10% to 0.35%
Paving/grading	0.05% to 0.15%
Water features	0.05% to 0.15%
Signs/graphics	0.10% to 0.25%
Street furniture	0.05% to 0.10%
Lighting	0.05% to 0.10%
Arcades	0.05% to 0.15%
Site planning	0.10% to 0.25%
Building design	0.20% to 0.50%
Total bonus	0.75% to 2.00%

The maximum bonus under this provision shall not exceed two percent of the hospital's gross floor area, excluding parking structures and other hospital staff office space.

3. All hospital staff office space, including other space, renovated space, or new construction, shall be identified in the hospital's master development plan, as required in section 142-454.
4. No building permit shall be issued for hospital staff office space under the bonus provisions of section 142-452(2)i.2.viii unless the applicant has submitted evidence of compliance with these provisions. Evidence of compliance shall consist of:
    i. A check to the city in the amount required for contribution to the commercial revitalization fund;
    ii. Issuance of certificate of occupancy for the affordable housing or licensed day care facility or other appropriate evidence;
    iii. Reports of the state agency for health care administration showing hospital's contribution to indigent, charity care;
    iv. Evidence of a teaching program and/or emergency room;
    v. Evidence that medical staff did not have city occupational licenses or offices earlier than one year prior to the issuance of a building permit for hospital staff offices; or
    vi. Design review board approval of design amenities.
5. Hospitals with a valid building permit pursuant to plans and applications for the construction of staff office space at the effective date of these land development regulations shall be permitted to retain and occupy such space. This hospital staff office space shall be considered as an accessory use, and parking shall be provided at the rate of one space per 400 square feet of hospital staff office space. This hospital staff office space shall be included in the computation which determines the maximum amount of hospital staff office space allowed under these land development regulations. This permitted space shall be exempt from the provisions of chapter 118, article VI. Prior to the issuance of an occupational license, floor plans and other supporting documentation shall be submitted to the planning, design and historic preservation division indicating the dimensions and location of each hospital staff office. All hospital staff with existing offices in the HD hospital district shall obtain city occupational licenses within 90 days of the effective date of these land development regulations.
6. Hospitals with existing hospital office space which is occupied by hospital staff at the effective date of these land development regulations but which have not received valid building permits for "staff offices" for such space shall be permitted to retain

such space based upon the application of provisions listed in subsection 142-452(2)i(1. and 2.). This office space shall be included in the computation which determines the maximum amount of hospital staff office space allowed under these land development regulations. This hospital staff office space shall be considered as an accessory use, and the required parking as set forth in chapter 130 of this Code shall be provided. This space shall be exempt from the provisions of chapter 118, article VI. Within 60 days of the effective date of these land development regulations, each hospital shall submit to the planning, design and historic preservation division a floor plan and supporting documentation indicating the dimensions and location of each hospital staff office. All hospital staff with offices in the HD hospital district shall obtain city occupational licenses within 90 days of the effective date of these land development regulations.

j. Parking structures and lots.
k. Related facilities which are incidental to and customarily associated with a hospital.
l. Commercial service facilities:
    1. Service facilities shall be restricted to cafeteria or restaurant, florist shop, gift shop, automatic teller machine, credit union, pharmacy, newspaper and magazine stand.
    2. Services shall be permitted and available exclusively for use by medical staff, hospital personnel, patients and visitors of the hospital.
    3. Outside advertising or signs (including wall signs) shall be prohibited.
    4. Commercial service facilities shall not exceed three percent of the hospital floor area within a hospital, excluding parking structures and hospital staff office space, nor shall they exceed seven percent of the office floor area within an office building.

(Ord. No. 89-2665, § 6-13(B), eff. 10-1-89; Ord. No. 2016-4005, § 1, 3-9-16)

Sec. 142-453. - Minimum yards and maximum height.

(a) *Yards.* Minimum yards in the HD hospital district shall be as follows:

Hospital	Front (Feet)	Rear (Feet)	Side (Feet)
St. Francis	25	40	15
Mt. Sinai	25	40	15
South Shore	20	20	15

Heart Institute	20	20	15

The enlargement of existing HD hospital districts and the establishment of new HD hospital districts with their respective yard setbacks shall be subject to city commission approval.

(b) *Height restrictions.* There shall be a maximum building height of 150 feet for any building located in the HD district. However, any building within 500 feet of a single-family or multifamily district shall have a maximum building height of 100 feet. For those buildings located within a historic district the maximum building height shall be 50 feet.

(Ord. No. 89-2665, § 6-13(C), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97)

Sec. 142-454. - Master plan for hospital development.

(a) By January 1, 1990, each hospital within the HD hospital district shall prepare and submit to the planning, design and historic preservation division a master plan for hospital development for the years 1993 and 2000. The hospitals shall have the right to amend their master plans on a quarterly basis by submitting amendments to the planning, design and historic preservation division.

(b) The master plan shall contain, at a minimum, the following:

(1) Inventory of existing facilities and services.

(2) Projected expansion plans for new construction and/or substantial rehabilitation of existing facilities indicating the type, size and location of each facility.

(3) Proposed site plans showing the physical location of the items in subsection (b)(2) of this section.

(4) Goals, objectives, and policies.

(5) Consistency with the city's comprehensive plan.

(6) Data and information pertaining to new construction or substantial rehabilitation to be submitted to the planning, design and historic preservation division for the purpose of determining whether such work is within the level of services as set forth in the comprehensive plan.

(7) A traffic impact study that would substantiate that the resulting impact from any proposed new development of the hospital would not cause the level of service on the neighboring streets to fall below the standards contained in the city's comprehensive plan.

(8)

An air quality study that would substantiate that the resulting impact of any proposed new development in the hospital would not cause the ambient air quality of the neighborhood surrounding the hospitals to exceed the standards established by the county department of environmental resources management.

(9) The master plan shall be updated every five years and considered as supporting documentation in the city's comprehensive plan, as amended; however, it shall not be a component of the comprehensive plan.

(10) No building permit for any new construction or substantial rehabilitation shall be issued after January 1, 1990, unless it is consistent with the hospital's master plan.

(Ord. No. 89-2665, § 6-13(D), eff. 10-1-89)

Sec. 142-455. - Special use regulations.

(a) Uses identified in chapter 142, article V, division 2 as permitted in HD districts, may exist independent of the main hospital use after the main hospital use is discontinued subject to approval by the planning board pursuant to the provisions of chapter 118, article IV, and provided such uses comply with the provisions contained in subsections (b) through (d) below.

(b) Such uses shall only occupy buildings and or structures that existed as of (the effective date of this ordinance}.

(c) There shall be no new construction or replacement of demolished structures on the site unless the main permitted hospital use is reinstated by the appropriate agencies.

(d) Any building existing on the property may be adaptively reused consistent with subsection (a) above, while retaining existing nonconforming height, setbacks, floor area ratio and off- street parking, regardless whether the rehabilitation exceeds 50 percent of the value determination, provided that the repaired or rehabilitated building shall be subject to the regulations in subsection 118-395(b)(1)a. through d.

(Ord. No. 2008-3593, § 2, 1-16-08; Ord. No. 2018-4175, § 1, 3-7-18)

Sec. 142-456. - Rezoning of HD district.

(a) If an application is filed pursuant to section 118-162 to rezone all or part of an HD district, the rezoning shall be to a district or combination of districts with a floor area ratio no greater than the abutting land (sharing lot line).

(b) Properties rezoned under this section that exceed 15 acres may be rezoned to allow for a mix of districts, uses and intensities compatible with zoning districts of abutting properties, and may exceed the limitation provided for in subsection (a) above, if adequate buffers are provided to protect less intense abutting and nearby uses, as submitted to and approved by the planning board and city commission.

(c)

Any building existing on the property may be adaptively reused consistent with the underlying zoning regulations retaining existing nonconforming height, setbacks, floor area ratio and off-street parking, regardless whether the rehabilitation exceeds 50 percent of the value determination, provided that the repaired or rehabilitated building shall be subject to the regulations in subsection 118-395(b)(1)a.—d.

(Ord. No. 2008-3593, § 3, 1-16-08)

Secs. 142-457—142-480. - Reserved.

DIVISION 11. - I-1 LIGHT INDUSTRIAL DISTRICT

Footnotes:
*--- (**6**) ---*
***Cross reference—** Businesses, ch. 18.*

Sec. 142-481. - Purpose.

The primary purpose of the I-1 urban light industrial district is to permit light industrial uses that are generally compatible with one another and with adjoining residential or commercial districts. Uses that are compatible and complement light industrial uses, such as a limited range of offices, and commercial uses shall also be permitted. This district shall not include any residential uses, except as provided herein.

(Ord. No. 89-2665, § 6-14(A)(1), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2001-3328, § 1, 10-17-01; Ord. No. 2008-3608, § 1, 6-25-08; Ord. No. 2009-3663, § 1, 10-14-09)

Sec. 142-482. - Main permitted uses.

The main permitted uses in the I-1 urban light industrial district are those uses that are consistent with the district purpose including the following:

(1) Assembly or packaging of goods not utilizing heavy machinery, including food and beverage products, small electronics, watches, jewelry, clocks, musical instruments, and products from previously prepared materials (cloth, leather, canvas, rubber, etc.);

(2) Light manufacturing, not utilizing heavy machinery, including: Ceramic products, glass products, hand tools, and electronic equipment;

(3) Professional, business, research or administrative offices, either as a main permitted use or as part of a permitted light industrial use;

(4) Printing, engraving, lithographing, media services and publishing, not utilizing heavy machinery;

(5)

Wholesale businesses and sales, warehouses, mini and other storage buildings, and distribution facilities, except those storing or distributing flammable or explosive materials;

(6) Hand car wash services;

(7) Artisan studios, including, but not limited to, crafts, furniture, cabinet and wood working shops, glass blowing and similar shops;

(8) Plumbing, electrical, air conditioning and other similar type shops, which may wholesale and store parts on site;

(9) Tailoring services, including dry cleaning;

(10) Main use parking garages and parking lots;

(11) Utilities;

(12) Landscaping services, including nursery facilities;

(13) Commercial uses that provide support services to the light industrial uses and to the adjacent RM-3 residents, including, but not limited to, retail sales, photocopying, coffee shops, video rentals, banks, restaurants, and alcoholic beverage establishments pursuant to the regulations set forth in chapter 6. Alcoholic beverage establishments located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall be subject to the additional requirements set forth in section 142-488;

(14) Marine-related uses;

(15) Religious institutions with an occupancy of 199 persons or less; and

(16) Any use similar and compatible to the uses described in this district and the district purpose as determined by the planning director.

(Ord. No. 89-2665, § 6-14(A)(2), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 2008-3608, § 1, 6-25-08; Ord. No. 2009-3663, § 1, 10-14-09; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2016-4046, § 2, 10-19-16)

Sec. 142-483. - Conditional uses.

(a) The conditional uses in the 1-1 urban light industrial district are:

(1) Any use that includes the retail sale of gasoline;

(2) Automobile service stations;

(3) Mechanical car wash facilities;

(4) Auto repair;

(5) New construction of structures, as defined in section 114-1, of 50,000 square feet and over, which review shall be the first step in the process before the review by any of the other land development boards;

(6) Developments on properties greater than 20,000 square feet of lot area;

(7) Machine, welding, and printing shops, involving heavy machinery;

(8) Recycling receiving stations;

(9) Utilities;

(10) Residential uses, including live-work units, when included in rehabilitation of buildings existing as of October 24, 2009;

(11) Towing services: Lots reviewed pursuant to the conditional use process shall also comply with the following criteria:

a. A schedule of hours of vehicle storage and of hours of operation shall be submitted for review and approval by the planning board.

b. If the towing yard is proposed to be within 100 feet of a property line of a lot upon which there is a residential use, the planning board shall analyze the impact of such storage and/or parking on the residential use. The analysis shall include, but not be limited to, visual impacts, noise, odors, effect of egress and ingress and any other relevant factor that may have an impact of the residential use.

c. Towing yards must be fully screened from view as seen from any right-of-way or adjoining property, when viewed from five feet six inches above grade, with an opaque wood fence, masonry wall or other opaque screening device not less than six feet in height.

d. Parking spaces, backup areas and drives shall be appropriately dimensioned for the type of vehicles being parked or stored.

e. Towing yards shall be required to satisfy the landscaping requirements of subsection 126-6(2), and shall be subject to the design review procedures, requirements and criteria as set forth in chapter 118, article VI.

(12) Main use parking garages;

(13) Religious institutions with an occupancy greater than 199 persons.

(b) Sunset Harbour neighborhood. The conditional uses for the Sunset Harbour neighborhood, generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall include those conditional uses listed in subsection 142-483(a). The following additional uses shall require conditional use approval in the Sunset Harbour neighborhood:

(1) Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) with more than 100 seats or an occupancy content (as determined by the fire marshal) in excess of 125, but less than 199 persons, and a floor area in excess of 3,500 square feet. Restaurants with alcoholic beverage licenses (alcoholic beverage establishments) shall also be subject to the additional requirements set forth in section 142-488.

(2) Package stores.

(Ord. No. 89-2665, § 6-14(A)(3), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 2006-3513, § 1, 5-10-06; Ord. No. 2006-3514, § 1, 5-10-06; Ord. No. 2006-3517, § 1, 7-12-06; Ord. No. 2008-3608, § 1, 6-25-08; Ord. No. 2009-3663, § 1, 10-14-09; Ord. No. 2012-3786, § 3, 12-12-12; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2016-4046, § 2, 10-19-16; Ord. No. 2021-4395, § 2, 1-13-21)

Sec. 142-484. - Accessory uses.

The accessory uses in the 1-1 urban light industrial district are as follows: Those uses customarily associated with the district purpose. (See article IV, division 2 of this chapter). Alcoholic beverage establishments located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, shall be subject to the additional requirements set forth in section 142-488.

(Ord. No. 89-2665, § 6-14(A)(4), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2001-3328, § 2, 10-17-01; Ord. No. 2008-3608, § 1, 6-25-08; Ord. No. 2016-4046, § 2, 10-19-16)

Sec. 142-485. - Prohibited uses.

(a) The prohibited uses in the I-1 urban light industrial district are accessory outdoor bar counters, bars, dance halls, or entertainment establishments (as defined in section 114-1 of this Code), outdoor entertainment establishments, neighborhood impact establishments, open air entertainment establishments, and residential uses, except as provided for in subsection 142-483(10).

(b) Except as otherwise provided in these land development regulations, prohibited uses in the I-1 urban light industrial district in the Sunset Harbour Neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road and Dade Boulevard, are the following:

(1) Hostels;

(2) Outdoor entertainment establishments;

(3) Neighborhood impact establishments;

(4) Open air entertainment establishments;

(5) Bars;

(6) Dance halls;

(7) Entertainment establishments (as defined in section 114-1 of this Code);

(8) Pawnshops;

(9) Tobacco and vape dealers;

(10) Check cashing stores;

(11)

Convenience stores;

(12) Occult science establishments;

(13) Souvenir and T-shirt shops;

(14) Tattoo studios.

(Ord. No. 89-2665, § 6-14(A)(5), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 2001-3328, § 3, 10-17-01; Ord. No. 2004-3445, § 2, 5-5-04; Ord. No. 2008-3608, § 1, 6-25-08; Ord. No. 2009-3663, § 1, 10-14-09; Ord. No. 2016-4046, § 2, 10-19-16; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2021-4395, § 2, 1-13-21)

Sec. 142-486. - Development regulations.

There are no lot area, lot width or unit area or unit size requirements in the I-1 light industrial district. The maximum floor area ratio, building height and story requirements are as follows:

(1) Maximum floor area ratio is 1.0.

(2) Maximum building height is 40 feet; except that on Terminal Island, the maximum building height for commercial and office buildings is 75 feet.

(Ord. No. 89-2665, § 6-14(B), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2021-4391, § 1, 1-13-21)

Sec. 142-487. - Setback requirements.

The setback requirements for the I-1 light industrial district are as follows:

(1) *Front yard:* 20 feet when abutting a residential district, otherwise none.

(2) *Side yard, interior:* Ten feet when abutting a residential district, otherwise none.

(3) *Side yard, facing a street:* Ten feet when abutting a residential district, otherwise none.

(4) *Rear yard:* Ten feet when abutting a residential district, otherwise none.

(Ord. No. 89-2665, § 6-14(C), eff. 10-1-89; Ord. No. 2009-3663, § 1, 10-14-09)

Sec. 142-488. - Special regulations for alcohol beverage establishments.

(a) *Sunset Harbour neighborhood.* The following additional requirements shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located in the Sunset Harbour neighborhood, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south.

(1) Operations shall cease no later than 2:00 a.m., except that outdoor operations (including sidewalk cafe operations) shall cease no later than 12:00 a.m.

(2) Alcoholic beverage establishments may not operate any outside dining areas or accessory bar counters above the ground floor of the building in which they are located; however, outdoor restaurant seating, associated with indoor venues, not exceeding 40 seats, may be permitted above the ground floor until 8:00 p.m. Notwithstanding the foregoing, the provisions of this subsection (a)(2) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016.

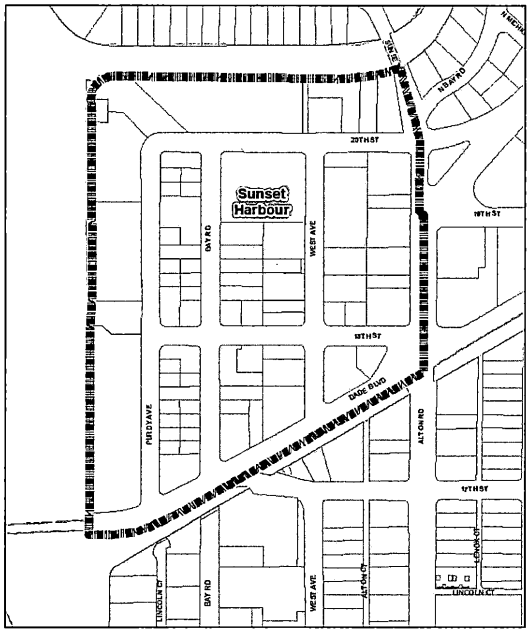
(3) Except as may be required by any applicable fire prevention code or building code, outdoor speakers shall not be permitted. Notwithstanding the foregoing, the provisions of this subsection (a)(3) shall not apply to any valid, pre-existing permitted use with a valid business tax receipt (BTR) for an alcoholic beverage establishment that was issued prior to August 23, 2016, or to a proposed establishment that has submitted a completed application for an alcoholic beverage establishment to a land use board prior to August 23, 2016, or to an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired, prior to August 23, 2016.

(4) Special events shall not be permitted in any alcoholic beverage establishment.

(Ord. No. 2106-4046, § 2, 10-19-16; Ord. No. 2020-4338, § 2, 5-13-20)

Sec. 142-489. - Sunset Harbour development regulations.

(a) The Sunset Harbour Neighborhood incorporates the parcels in the area bounded by 20th Street on the north, Alton Road on the east, Dade Boulevard on the south, and Purdy Avenue on the west as depicted in the map below:



(b) The following regulations shall apply to I-1 properties within the Sunset Harbour Neighborhood:

(1) *Clear pedestrian path.* The applicable standards for a "clear pedestrian path" established in sections 133-61 and 133-62 shall apply to new development, as follows:

a. The clear pedestrian path shall be at least ten feet wide.

b. The design review board may approve the reduction of the clear pedestrian path requirement to no less than five feet in order to accommodate street trees, required utility apparatus, or other street furniture, subject to the design review criteria.

(2) *Height.* Notwithstanding the requirements of section 142-486, the following maximum building height requirements shall apply to the Sunset Harbour Neighborhood:

a. The maximum height shall be 55 feet.

(3) *Height Exceptions.* In general, rooftop elements that are exempt from a building's maximum building height pursuant to this subsection (b)(3) shall be located in a manner to minimize visual impacts on predominant neighborhood view corridors as viewed from public rights-of-way and waterways. The height regulation exceptions contained in section 142-1161 shall not apply to the Sunset Harbour Area. Instead, only the following height exceptions shall apply to the Sunset Harbour Area, and unless otherwise specified, shall not exceed ten feet above the main roof of the structure:

a. Roof-top operational and mechanical equipment. This exception shall be limited to essential, non-habitable, building elements such as mechanical rooms/devices, air conditioning and cooling equipment, generators, electrical and plumbing equipment, as well as any required screening. The height of such elements shall not exceed 25 feet

above the roof slab. The foregoing operational and mechanical equipment shall require the review and approval of the design review board and shall be set back from the building perimeter by no less than 25 feet from roof parapets on street facing facades.

b. Roof-top elevator towers, including code required vestibules, and stair towers, with the height of such structures not exceeding 25 feet above the roof slab. Projecting overhangs at the doorways to elevator vestibules and stair towers required by the Florida Building Code may be permitted, provided the projection does not exceed the minimum size dimensions required under the Florida Building Code. The foregoing elements shall require the review and approval of the design review board and shall be set back from the building perimeter by no less than 25 feet from the roof parapets on street facing facades.

c. Satellite dishes, antennas, sustainable roofing systems, solar panels and similar elements. Such elements shall be set back a minimum of 15 feet from the roof parapets on street-facing facades.

d. Decks located more than six inches above the top of the roof slab, and not exceeding three feet above the roof slab, may be permitted provided the deck area is no more than 50 percent of the enclosed floor area immediately one floor below.

e. Rooftop areas that are accessible only to the owners or tenants of residential units may have trellises, pergolas or similar structures that have an open roof of cross rafters or latticework. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below and shall be set back a minimum of 20 feet from the property line and no less than ten feet from the roof parapets on street-facing facades.

f. Roof-top pools, not to exceed five feet above the roof slab, shall be limited to main use residential buildings, or mixed use/office buildings where at least 25 percent of the floor area is dedicated to non-transient residential units. Such pools may have up to a four-foot-wide walkway around the pool. Additionally, bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Florida Building Code, may be permitted provided such bathrooms are set back a minimum of 20 feet from the property line and no less than ten feet from the roof parapets on street-facing facades and shall not exceed 13 feet in height measured from the finished elevation of the roof deck or 16 feet in height measured from the roof slab, whichever is less.

g. Parapets shall not exceed four feet in height above the main roof.

h. Exterior speakers required to meet applicable requirements of the Life Safety or Florida Building Code.

i.

Allowable height exceptions located within 25 feet of the property line along a street facing façade of the building, or within 20 feet of an interior lot line abutting a residential use, shall not exceed ten feet in height measured from the finished elevation of the roof deck or 13 feet in height measured from the roof slab, whichever is less. The design review board may waive this minimum setback along a street facing façade of the building, but in no instance shall the setback be less than 15 feet from the property line.

(4) *Lot aggregation.* Except for office development, no more than six platted lots may be aggregated.

(5) *Lot size.* Except for office development, the maximum lot size shall not exceed 36,000 square feet. Notwithstanding the forgoing, the provisions of this paragraph shall not apply to any lot larger than 36,000 square feet that existed prior to January 1, 2021.

(6) *Number of large establishments and conditional use permit (CUP) requirements.* Conditional use approval from the planning board shall be required for retail, personal service, and/or restaurant uses within a development that is greater than 25,000 square feet in size. Additionally, no more than two such developments shall be permitted within the Sunset Harbour Neighborhood.

(7) *Special events.* City approved special events shall be prohibited at alcoholic beverage establishments. Notwithstanding the foregoing, permitted special events at venues not meeting the definition of an alcoholic beverage establishment shall cease no later than 9:00 p.m., seven days a week.

(8) *Outdoor speakers.* Outdoor speakers shall be prohibited on all levels of the exterior of a building, including roof tops, unless such speakers are required pursuant to the Life-Safety or Florida Building Code.

(Ord. No. 2021-4437, § 2, 7-28-21)

Secs. 142-490—142-510. - Reserved.

DIVISION 12. - MR MARINE RECREATION DISTRICT

Sec. 142-511. - Purpose.

The MR marine recreation district is a waterfront district designed to accommodate recreational boating activities, recreational facilities, accessory uses and service facilities.

(Ord. No. 89-2665, § 6-15(A)(1), eff. 10-1-89; Ord. No. 2004-3452, § 1, 7-28-04)

Sec. 142-512. - Main permitted uses.

The main permitted uses in the MR marine recreation district are marinas, boat docks, piers, etc., for noncommercial or commercial vessels and related upland structures; aquarium; restaurants; commercial uses; parks; baywalks; public facilities; and required parking for adjacent properties not separated by road or alley. Dancehalls and entertainment establishments are not permitted as a main permitted or accessory use.

(Ord. No. 89-2665, § 6-15(A)(2), eff. 10-1-89; Ord. No. 2004-3452, § 1, 7-28-04)

Sec. 142-513. - Conditional uses.

There are no conditional uses in the MR marine recreation district, except as may otherwise be provided in these land development regulations.

(Ord. No. 89-2665, § 6-15(A)(3), eff. 10-1-89; Ord. No. 2002-3347, § 1, 1-30-02)

Sec. 142-514. - Accessory uses.

The accessory uses in the MR marine recreation district are as required in article IV, division 2 of this chapter. Accessory uses in this district shall be any use that is customarily associated with a main permitted use, including, but not limited to, alcoholic beverage establishments pursuant to the regulations set forth in chapter 6.

(Ord. No. 89-2665, § 6-15(A)(4), eff. 10-1-89; Ord. No. 2016-4005, § 1, 3-9-16)

Sec. 142-515. - Development regulations.

There are no lot area, lot width or unit area or unit size requirements in the MR marine recreation district. The maximum floor area ratio, building height and story requirements are as follows:

(1) Maximum floor area ratio is 0.25, except that required parking for adjacent properties not separated by road or alley shall not be included in permitted floor area.
(2) Maximum building height is 40 feet.

(Ord. No. 89-2665, § 6-15(B), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 2004-3452, § 2, 7-28-04; Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-516. - Setback requirements.

In the MR marine recreation district, any yard facing a waterway, Government Cut, ocean or bay shall be set back 50 feet, all other yards 20 feet; however, walkways are permitted in the setback area.

(Ord. No. 89-2665, § 6-15(C), eff. 10-1-89)

Secs. 142-517—142-539. - Reserved.

DIVISION 13. - MXE MIXED USE ENTERTAINMENT DISTRICT

> *Footnotes:*
> *--- (**7**) ---*
> ***Cross reference—** Businesses, ch. 18.*

Sec. 142-540. - Purpose.

The MXE mixed use entertainment district is designed to encourage the substantial restoration of existing structures and allow for new construction.

(Ord. No. 89-2665, § 6-16(A)(1), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-541. - Main permitted uses.

The main permitted uses in the MXE mixed use entertainment district are apartments; apartment hotels, hotels, hostels, and suite hotels (pursuant to section 142-1105 of this chapter); commercial development as specified in section 142-546, and religious institutions with an occupancy of 199 persons or less.

(Ord. No. 89-2665, § 6-16(A)(2), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-542. - Conditional uses.

The conditional uses in the MXE mixed use entertainment district are:

(1) Major cultural dormitory facilities as specified in section 142-1332;
(2) Public and private cultural institutions open to the public;
(3) Religious institutions with an occupancy greater than 199 persons;
(4) Banquet facilities; For purposes of this section, banquet facilities shall be defined as an establishment that provides catering and entertainment to private parties on the premises and are not otherwise accessory to another main use;
(5) 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;
(6) Outdoor entertainment establishment;
(7) Neighborhood impact establishment;

(8) Open air entertainment establishment; and

(9) Artisanal retail with off-site sales as an accessory use to a hotel.

(Ord. No. 89-2665, § 6-16(A)(3), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2004-3447, § 1, 5-26-04; Ord. No. 2007-3546, 1-17-07; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-543. - Accessory uses.

The accessory uses in the MXE mixed use entertainment district are as follows:

(1) Those uses permitted in article IV, division 2 of this chapter.

(2) Uses that serve alcoholic beverages are also subject to the regulations set forth in chapter 6.

(3) Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

(4) Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the restriction on the hours of operation, set forth in subsection (1) of this section, provided the accessory outdoor bar counter is located in the rear yard and set back 20 percent of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.

(5) Accessory uses shall be subject to the supplemental accessory use regulations in section 142-543.1.

(Ord. No. 89-2665, § 6-16(A)(4), eff. 10-1-89; Ord. No. 96-3050, § 2, 7-17-96; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-543.1. - Supplemental accessory use regulations.

(a) *General provisions.* Accessory uses in the MXE district shall comply with the following mandatory criteria in addition to the regulations contained in sections 142-901 and 142-902:

(1) All structures shall conform to the Florida Building Code, the city's property maintenance standards, the Florida Fire Prevention Code, and the Life Safety Code.

(2) Both existing buildings and new improvements shall be built in a manner that is substantially consistent with the design recommendations in any applicable neighborhood or master plan, and the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as may be amended from time to time.

(3) The minimum and average unit size requirements as set forth in this article shall be satisfied.

(4) If the building or plans do not indicate compliance with subsections (a)(1), (a)(2) and (a)(3) of this section, then accessory uses shall not be permitted.

(b) *Permitted accessory uses.* The following are permitted accessory uses in the mixed-use entertainment district:

(1) *Permitted accessory uses in hotels.*

a. Those accessory uses that are customarily associated with the operation of a hotel, as determined by the planning director. A hotel's total amount of retail space shall not exceed 75 square feet per hotel unit.

b. Hotels may have offices not associated with the operation of a hotel. The floor space associated with offices shall not exceed 35 square feet per hotel unit; provided, however, that medical and dental offices shall be prohibited.

c. Restaurants, outdoor cafes, sidewalk cafes.

d. Solarium, sauna, exercise studio, health club or massage service which is operated by an individual licensed by the state (if such a license is required).

e. Antiques, bookstore, art/craft galleries, artist studios.

f. Sale of alcoholic beverages pursuant to chapter 6.

g. Uses located on the porch, terrace, or patio of a building are limited to table seating for eating and drinking establishments, which have their fixtures and cooking facilities located in the interior of the building.

h. The sale of cigars and cigarettes on the porch, terrace or patio of a building, or in permitted sidewalk café areas to seated patrons, by a vendor licensed on the premises with the consent of the restaurant and sidewalk café permittee, is permitted provided that such sale or transaction shall only occur on such premises, and not on other city rights-of-way. Any solicitation of passersby or obstruction of the right-of-way shall be prohibited. Goods and merchandise transported from one location to another shall be covered and obscured from view. Vendors shall not use flashing lights, signs, markings, or other devices to call attention to themselves or the goods and merchandise, and shall not otherwise violate the provisions of section 74-1 of this Code. The following civil fines and penalties shall be imposed for violations of this subsection (b)(1)(h):

1. If the offense is the first offense, $100.00 fine.
2. If the offense is the second offense within six months of the first offense, $250.00 fine.
3. If the offense is the third offense within 12 months of the first offense, one seven-consecutive-day suspension.
4. If the offense is the fourth offense within 12 months of the first offense, one 30-consecutive-day suspension.

5. If the offense is the fifth offense within 12 months of the first offense, the vendor shall be considered a habitual offender, and the city manager shall issue an administrative complaint for suspension or revocation of a business tax receipt as provided in section 102-383.

For purposes of this section, suspension or revocation of a business tax receipt shall apply to all business tax receipts held by a principal or all individuals with a controlling financial interest in the business entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm.

In the event of a revocation, as a condition of being permitted to resume operation under the business tax receipt, the city manager may impose conditions or restrictions as deemed appropriate to assure compliance with the city Code.

A vendor who has been served with a notice of violation shall be subject to enforcement provisions as set forth in chapter 30 of the Code. If the special master finds that a violation has occurred, the applicable penalty set forth above shall be imposed.

i. Artisanal retail for on-site sales only.
j. Artisanal retail with off-site sales subject to conditional use approval.
k. Experiential retail.

(2) *Permitted accessory uses in apartment buildings.* The following are permitted accessory uses in apartment buildings:

a. Office, subject to the requirement that office uses must be located at least 50 feet from the front property line;
b. Retail;
c. Personal services; and
d. Restaurants, outdoor cafes, and sidewalk cafés with sale of alcoholic beverages pursuant to chapter 6, with access to the street, on the first level, subterranean level or in the highest floor of a building.

No more than 25 percent of the floor area of the subterranean and/or first level shall be used for accessory uses unless approved by the historic preservation board.

(3) *Permitted accessory uses in apartment hotels.* Apartment hotels shall be subject to the same accessory use regulations as apartment buildings. Notwithstanding the foregoing, apartment hotels may be subject to the same accessory use regulations as hotels if a minimum of 75 percent of the total number of units are hotel units.

(c)

Additional requirements. In addition to the regulations and accessory uses listed in subsections (a) and (b) of this section, permitted accessory uses for properties on both sides of Collins Avenue from Sixth to 15th Streets, on the west side of Collins Avenue from 15th to 16th Streets, and on Ocean Terrace must additionally comply with the following requirements:

(1) Medical and dental offices shall be prohibited.

(2) Offices are only allowed in existing structures, otherwise, they are prohibited.

(3) If a building has a lobby or was originally constructed with a lobby, the lobby shall be retained or reconstructed. Such lobby may be used for a reception area with no partitions. Offices shall be prohibited in the lobby.

(d) No variances shall be granted from the requirements of this section.

(Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-544. - Prohibited uses.

The prohibited uses in the MXE mixed use entertainment district are:

(1) Accessory outdoor bar counters, except as provided in this chapter;

(2) Package stores; and package sales of alcoholic beverages by any retail store or alcoholic beverage establishment. Additionally, entertainment uses shall be prohibited in package stores;

(3) Medical and dental offices; and

(4) Stand-alone bars and stand-alone drinking establishments, unless as an accessory use to a hotel and located within a hotel lobby.

(Ord. No. 89-2665, § 6-16(A)(5), eff. 10-1-89; Ord. No. 2016-4047, § 2, 10-19-16; Ord. No. 2021-4421, § 2, 5-12-21)

Sec. 142-545. - Development regulations.

The development regulations in the MXE mixed use entertainment district are as follows:

Maximum Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)

All uses—2.0 Except convention hotel development (as set forth in section 142-841)—3.5	N/A	N/A	Existing structures: Apartment units—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Hotel units—in a local historic district/site—200 Otherwise: 15%: 300—335 85%: 335+ New construction: Apartment units—550 Hotel units: 15%: 300—335 85%: 335+. Hotel units within rooftop additions or	Existing structures: Apartment units—550 Hotel units—N/A New construction: Apartment units—800 Hotel units—N/A	Architectural district: Oceanfront—150 Non-oceanfront— 50 (except as provided in section 142-1161) All other areas—75 (except as provided in section 142-1161) Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus

			within ground level additions to contributing structures in a historic district and individually designated historic buildings—200.		maximum freeboard, to the top of the second floor slab.

(Ord. No. 89-2665, § 6-16(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 92-2830, eff. 1-16-93; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2017-4124, § 2, 7-26-17; Ord. No. 2017-4148, § 11, 10-18-17; Ord. No. 2017-4149, § 10, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2019-4315, § 5, 10-30-19; Ord. No. 2020-4342, § 1, 6-24-20)

Sec. 142-546. - Additional regulations.

(a) In the MXE mixed use entertainment district, permitted uses shall comply with the following regulations:

(1) Sidewalk café permits shall only be permitted for restaurants and cafes with full kitchen facilities.

(2) Alcoholic beverage establishments with sidewalk café permits shall only serve alcoholic beverages at sidewalk cafés during hours when food is served in the restaurant and shall not be permitted to have outdoor speakers anywhere within the public right-of-way.

(3) Commercial uses on rooftops shall be limited to restaurants only and shall only be permitted in accordance with the following:

a. The building shall be fully renovated including all guest rooms;

b. The building shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street;

c. All non-impact resistant windows and doors shall be replaced with impact resistant windows and doors;

d. Any contributing building shall be renovated in accordance with the Secretary of Interior's Standards for Rehabilitation, including public interior spaces.

(4) Buildings existing as of October 1, 1989, with two stories or less fronting on Ocean Drive or Ocean Terrace may contain offices, retail, personal service, food service establishments, food service establishments serving alcohol, and residential uses or any combination thereof.

(5) The entire building shall be substantially renovated and comply with the South Florida Building Code, Fire Prevention Code, Life Safety Code, and the city's property maintenance standards. If the building is a historic structure, the plans shall substantially comply with the Secretary of the Interior Standards and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (revised 1983), as amended.

(6) Buildings fronting on Collins Avenue from Sixth Street to 16th Street may contain offices, retail, food service establishments, personal service, food service establishments serving alcohol, and residential uses or any combination thereof.

(7) No existing building, constructed prior to December 31, 1966, shall be internally reconstructed to change the number of stories except that 20 percent of each floor plate may be removed to create an open area or atrium.

(8) For existing buildings with two stories or less fronting on Ocean Drive or Ocean Terrace, the addition of a story shall require that commercial uses comply with all provisions of section 142-904 for accessory uses. For purposes of example only, in buildings described in the foregoing sentence, the existence of commercial uses on the ground floor which exceed 25 percent of the floor area shall not, upon the addition of one story, be deemed grandfathered in, and the percentage of commercial uses on the ground floor, upon the addition of one story, must comply with the requirements of section 142-904.

(9) No variances shall be granted from the requirements of this section 142-546.

(b) Speaker regulations.

(1) Commercial establishments fronting on Ocean Drive, except retail establishments, may only place or install outdoor speakers within 20 feet of the property boundary facing Ocean Drive or a side street, if such speakers are played at ambient levels.

(2) Retail establishments shall be prohibited from placing or installing speakers outdoors. Any music played indoors at retail establishments must be inaudible from the exterior of the premises at all times.

(3) No variances shall be granted from the requirements of this section 142-546(b).

(c) Penalties and enforcement.

(1) A violation of subsection (b) shall be subject to the following civil fines and penalties:

a.

If the violation is the first violation, a person or business shall receive a written warning or a civil fine of $250.00;

b. If the violation is the second violation within the preceding 12 months, a person or business shall receive a civil fine of $1,000.00;

c. If the violation is the third violation within the preceding 12 months, a person or business shall receive a civil fine of $2,000.00;

d. If the violation is the fourth violation within the preceding 12 months, a person or business shall receive a civil fine of $3,000.00; and

e. If the violation is the fifth or subsequent violation within the preceding 12 months, a person or business shall receive a civil fine of $5,000.00, and the city shall suspend the business tax receipt.

(2) 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 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.

(3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

a. 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 magistrate to appeal the notice of violation, which must be requested within ten days of the service 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 this Code. A request for administrative hearing 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.

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 the code compliance officer. The failure of the named violator to appeal the decision of the code compliance 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.

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. 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.

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 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.

g. The special magistrate shall not have discretion to alter the penalties prescribed in subsection (c)(1).

Section 46-151 et seq. establishes noise exceptions for a specific area as described in those sections.

(Ord. No. 89-2665, § 6-16(C), eff. 10-1-89; Ord. No. 92-2830, eff. 1-16-93; Ord. No. 96-3052, § 1, 9-11-96; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2017-4079, § 1, 3-1-17; Ord. No. 2017-4085, § 1, 4-26-17; Ord. No. 2019-4243, § 1, 2-13-19; Ord. No. 2021-4421, § 2, 5-12-21; Ord. No. 2021-4431, 7-28-21)

Sec. 142-547. - Setback requirements.

(a) The setback requirements for the MXE mixed use entertainment district are as follows:

(1) *Front.*

a. Oceanfront: Pedestal and tower, 50 feet; however, sculptures, fountains or architectural features when approved by the design review board are permitted in the required front yard.

b. Non-oceanfront:

1. Pedestal, ten feet.

2. Lots 100 feet in width or greater, 20 feet; for buildings with a ten-foot-deep covered front porch running substantially the full width of the building front, the front setback shall be five feet. Furthermore, for lots 100 feet in width or greater, the front setback

shall be extended to include at least one courtyard, open to the sky, with a minimum width of ten feet and a minimum area of three square feet for every linear foot of lot frontage.

3. Tower, 50 feet.

(2) *Side, interior.*

a. Oceanfront: Pedestal and tower, 15 percent of the lot width.

b. Nonoceanfront:

1. Architectural district, five feet.

2. All other areas:

i. Pedestal, five feet.

ii. Tower, 7.5 feet.

(3) *Side, facing a street.*

a. Oceanfront: Pedestal and tower, 15 percent of the lot width, plus five feet.

b. Nonoceanfront: Ten percent of the lot width plus five feet, not to exceed 25 feet. However, lots less than 100 feet in width shall have a setback of five feet.

1. Nonoceanfront structures may comply with these requirements or have the option of the following:

i. Pedestal, five feet.

ii. Tower, 7.5 feet.

2. Provided that nonoceanfront lots 100 feet or greater in width shall incorporate the following:

i. A ten-foot-deep porch running substantially the full side length of the building, with a minimum floor-to-ceiling height of 12 feet; and

ii. One courtyard, open to the sky, with a minimum of 1,000 square feet and a minimum average depth of 20 feet. The long edge of the courtyard shall be along the side property line. The area of the courtyard shall be increased by an additional 50 square feet for every one foot of building height above 30 feet as measured from grade.

(4) *Rear.*

a. Oceanfront: 25 percent of the lot depth or 75 feet minimum from the bulkhead line, whichever is greater.

b. Nonoceanfront:

1. Architectural district, zero feet if abutting an alley, otherwise ten feet.

2. All other areas, ten feet.

(b)

Existing structures which are being substantially renovated are permitted to retain the existing setback areas; however, the setback area shall not be reduced. When additional floors are constructed, they shall be permitted to retain the same setbacks as the existing floors. The provisions of section 118-398 relating to bulk shall not be applicable to the foregoing setback requirements.

(Ord. No. 89-2665, § 6-16(D), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3052, § 1, 9-11-96)

Sec. 142-548. - Reserved.

Editor's note— Ord. No. 98-3150, § 1, adopted Nov. 4, 1998, repealed § 142-548, which pertained to additional maximum height regulations, and derived from Ord. No. 89-2665, § 6-16(e), eff. 10-1-89; Ord. No. 92-2830, eff. 1-16-93; and Ord. No. 96-3052, § 1, adopted 9-11-96.

Sec. 142-549. - Noise overlay district.

Section 46-151 et seq. establishes noise exceptions for a specific area as described in those sections.

(Ord. No. 89-2665, § 12C, eff. 10-1-89)

Sec. 142-550. - Additional regulations for new construction.

In the MXE district, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential or commercial uses above the first level along every facade facing a waterway.

(3) For properties less than 60 feet in width, the total amount of residential or commercial space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(Ord. No. 2006-3510, § 8, 3-8-06)

Secs. 142-551—142-570. - Reserved.

DIVISION 14. - RO RESIDENTIAL/OFFICE DISTRICT

Footnotes:
*--- (**8**) ---*
***Cross reference—** Businesses, ch. 18.*

Subdivision I. - RO Residential/Office

Sec. 142-571. - Purpose.

The RO residential/office district is designed to accommodate an office corridor or development compatible with the scale of surrounding residential neighborhoods. The development shall be designed to maintain a residential character.

(Ord. No. 89-2665, § 6-17(A)(1), eff. 10-1-89)

Sec. 142-572. - Main permitted and prohibited uses.

(a) The main permitted uses in the RO residential/office district are single-family dwelling; apartments; and offices.

(b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the City Code, are prohibited use. Moreover, all uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

(Ord. No. 89-2665, § 6-17(A)(2), eff. 10-1-89; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2018-4166, § 1, 1-17-18)

Sec. 142-573. - Conditional uses.

Religious institutions with an occupancy of 199 persons or less.

(Ord. No. 89-2665, § 6-17(A)(3), eff. 10-1-89; Ord. No. 2014-3869, § 1, 5-21-14)

Sec. 142-574. - Accessory uses.

The accessory uses in the RO residential/office district are those uses customarily associated with the district purpose. See article IV, division 2 of this chapter.

(Ord. No. 89-2665, § 6-17(A)(4), eff. 10-1-89)

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Sec. 142-575. - Development regulations.

The development regulations in the RO residential/office district are as follows:

Max. Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Apartment Unit Size (Square Feet)	Average Apartment Unit Size (Square Feet)	Maximum Building Height (Feet)
.75	Residential—6,000 Office—None	Residential—50 Office—None	Single-family—1,800 Multifamily—550 Office—N/A	Single-family—N/A Multifamily—800 Office—N/A	33 (except as provided in section 142-1161)

(Ord. No. 89-2665, § 6-17(B), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2018-4158, § 2, 1-17-18)

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Sec. 142-576. - Design review.

All construction or rehabilitation shall be approved under design review procedures as set forth in chapter 118, article VI.

(Ord. No. 89-2665, § 6-17(C), eff. 10-1-89)

Sec. 142-577. - Setback requirements.

The setback requirements for the RO residential/office district are as follows:

(1) Front yard: 20 feet.

(2) Side yard, interior: The sum of each side yard shall be at least 25 percent of the lot width, not to exceed 50 feet, any one side yard shall have a minimum of 7.5 feet. When an existing building has a minimum five-foot side yard the setback may be allowed to follow the existing building line. The maintenance of the minimum required side yard setback shall apply to the linear extension of a single-story building or the construction of a second floor addition to existing single-family buildings.

(3) Side yard, facing a street: 15 feet minimum.

(4) Rear yard: 15 percent of the lot depth, 20 feet minimum.

(Ord. No. 89-2665, § 6-17(D), eff. 10-1-89)

Secs. 142-578—142-580. - Reserved.

Subdivision II. - Reserved

Secs. 142-581—142-584. - Reserved.

Subdivision III. - RO-2 Residential/Office Low Intensity

Sec. 142-585. - Purpose.

The RO-2 residential/office low intensity district is designed to accommodate an office corridor or development compatible with the scale of surrounding low-scale residential neighborhoods. The development shall be designed to maintain a single-family residential character.

(Ord. No. 99-3215, § 1, 11-17-99)

Sec. 142-586. - Main permitted and prohibited uses.

(a) The main permitted uses in the RO-2 residential/office low intensity district are single-family dwellings; and offices, and religious institutions with an occupancy of 199 persons or less.

(b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the City Code, are prohibited use. Moreover, all uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

(Ord. No. 99-3215, § 1, 11-17-99; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2018-4166, § 1, 1-17-18)

Sec. 142-587. - Conditional uses.

Conditional uses in the RO-2 residential/office low intensity district are day care facility; religious institutions with an occupancy greater than 199 persons; private and public institutions.

(Ord. No. 99-3215, § 1, 11-17-99; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2018-4175, § 1, 3-7-18)

Sec. 142-588. - Accessory uses.

The accessory uses in the RO-2 residential/office low intensity district are those uses customarily associated with the district purpose. See article IV, division 2 of this chapter.

(Ord. No. 99-3215, § 1, 11-17-99)

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Sec. 142-589. - Development regulations.

The development regulations in the RO-2 residential/office low intensity district are as follows:

Max. Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Maximum Building Height
.5	6,000	50	1,800	25 (except as provided in section 142-1161)

(Ord. No. 99-3215, § 1, 11-17-99; Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-590. - Design review.

All construction or rehabilitation shall be approved under design review procedures as set forth in chapter 118, article VI.

(Ord. No. 99-3215, § 1, 11-17-99)

Sec. 142-591. - Setback requirements.

The setback requirements for the RO-2 residential/office low intensity district are as follows:

(1) Front yard: 20 feet.

(2) Side yard, interior: The sum of each side yard shall be at least 25 percent of the lot width, not to exceed 50 feet, any one side yard shall have a minimum of 7.5 feet. When an existing building has a minimum five-foot side yard the setback may be allowed to follow the existing building line. The maintenance of the minimum required side yard setback shall apply to the linear extension of a single-story building or the construction of a second floor addition to existing single-family buildings.

(3) Side yard, facing a street: 15 feet minimum.

(4) Rear yard: 15 percent of the lot depth, 20 feet minimum.

(Ord. No. 99-3215, § 1, 11-17-99)

Subdivision IV. - RO-3 Residential/Office Medium Intensity

Sec. 142-592. - Purpose.

The RO-3 residential/office medium intensity district is designed to accommodate an office corridor or development compatible with the scale of surrounding multi-family residential neighborhoods. The development shall be designed to maintain a residential character.

(Ord. No. 99-3215, § 1, 11-17-99)

Sec. 142-593. - Main permitted and prohibited uses.

(a) The main permitted uses in the RO-3 residential/office medium intensity district are single-family dwelling; apartments; and offices religious institutions with an occupancy of 199 persons or less.

(b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the City Code, are prohibited use. Moreover, all uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

(Ord. No. 99-3215, § 1, 11-17-99; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2018-4166, § 1, 1-17-18)

Sec. 142-594. - Conditional uses.

Conditional uses in the RO-3 residential/office medium intensity district are day care facility; religious institutions with an occupancy greater than 199 persons; private and public institutions; schools.

(Ord. No. 99-3215, § 1, 11-17-99; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2018-4175, § 1, 3-7-18)

Sec. 142-595. - Accessory uses.

The accessory uses in the RO-3 residential/office medium intensity district are those uses customarily associated with the district purpose. See article IV, division 2 of this chapter.

(Ord. No. 99-3215, § 1, 11-17-99)

———

Sec. 142-596. - Development regulations.

The development regulations in the RO-3 residential/office medium intensity district are as follows:

Max. Floor Area Ratio	Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
1.25	5,600	50	New construction—550 Rehabilitated buildings—400	New construction—800 Rehabilitated buildings—550	Historic district—40 (except as provided in section 142-1161) Otherwise—50

(Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-597. - Design review.

All construction or rehabilitation shall be approved under design review procedures as set forth in chapter 118, article VI.

(Ord. No. 99-3215, § 1, 11-17-99)

Sec. 142-598. - Setback requirements.

The setback requirements for the RO-3 residential/office medium intensity district are as follows:

(1) Front yard: 20 feet.

(2) Side yard, interior: The sum of each side yard shall be at least 25 percent of the lot width, not to exceed 50 feet, any one side yard shall have a minimum of 7.5 feet. When an existing building has a minimum five-foot side yard the setback may be allowed to follow the existing building line. The maintenance of the minimum required side yard setback shall apply to the linear extension of a single-story building or the construction of a second floor addition to existing single-family buildings.

(3) Side yard, facing a street: 15 feet minimum.

(4) Rear yard: 15 percent of the lot depth, 20 feet minimum.

(Ord. No. 99-3215, § 1, 11-17-99)

Sec. 142-599. - Setback requirements.

(a) The setback requirements for the RO-3 residential/office medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot on the same lot	20 feet	5 feet, or 5% of lot width, whichever is greater	5 feet, or 5% of lot width, whichever is greater	Non-oceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line
Pedestal and subterranean	20 feet Except lots A and 1—30 of Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Sum of the side yards shall equal 16% of lot width Minimum—7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—10% of lot depth Ocean front lots—20% of lot depth, or 50 feet from the bulkhead line, whichever is greater

Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet	The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet	Sum of the side yards shall equal 16% of the lot width Minimum —7.5 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots —25% of lot depth, or 75 feet minimum from the bulkhead line, whichever is greater

(b) In the RO-3 residential/office medium intensity district, the ground floor level of a building when viewed from a street shall be screened or enclosed. The method of screening or enclosure shall be approved under the design review process.

(Ord. No. 99-3215, § 1, 11-17-99; Ord. No. 2018-4160, § 2, 1-17-18)

Sec. 142-600. - Reserved.

DIVISION 15. - TH TOWNHOME RESIDENTIAL DISTRICT

Sec. 142-601. - Purpose.

The TH townhome residential district is designed to accommodate townhome developments.

(Ord. No. 89-2665, § 6-18(A)(1), eff. 10-1-89)

Sec. 142-602. - Main permitted and prohibited uses.

(a) The main permitted uses in the TH townhome residential district are single-family detached dwellings; and townhomes.

(b) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the City Code, are prohibited use. Moreover, all uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

(Ord. No. 89-2665, § 6-18(A)(2), eff. 10-1-89; Ord. No. 2018-4166, § 1, 1-17-18)

Sec. 142-603. - Conditional uses.

There are no conditional uses in the TH townhome residential district.

(Ord. No. 89-2665, § 6-18(A)(3), eff. 10-1-89)

Sec. 142-604. - Accessory uses.

The accessory uses in the TH townhome residential district are those noncommercial uses customarily associated with townhome developments, including floor area associated with public uses that are open to the general public. However, projects that exceed 200 units may have ten percent of the floor area of the project as retail uses. See article IV, division 2 of this chapter.

(Ord. No. 89-2665, § 6-18(A)(4), eff. 10-1-89)

Sec. 142-605. - Development regulations.

The development regulations in the TH townhome residential district are as follows:

(1) Maximum floor area ratio is 0.70.

(2) Minimum lot area is 5,000 square feet.

(3) Minimum lot width is 50 feet.

(4) Minimum apartment unit size is 900 square feet.

(5) Average apartment unit size is 1,100 square feet.

(6) Maximum building height is 40 feet (except as provided in section 142-1161).

(Ord. No. 89-2665, § 6-18(B), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-606. - Setback requirements.

The setback requirements for the TH townhome residential district are as follows:

(1) Front yard: 20 feet.

(2) Side yard: 15 feet between buildings; 15 feet on sides facing a street; 7.5 feet for interior sides.

(3) Rear yard: 20 feet minimum.

(4) In cases where the city commission approves after public hearing a public-private parking agreement for a neighborhood based upon an approved street improvement plan, the minimum front yard setback for parking subject to the agreement shall be zero feet. The street improvement plan must be approved by the design review board if outside an historic district, or the historic preservation board if inside an historic district.

(Ord. No. 89-2665, § 6-18(C), eff. 10-1-89; Ord. No. 2004-3464, § 3, 11-10-04)

Sec. 142-607. - Design review.

All townhome projects shall be reviewed pursuant to the design review procedures as set forth in chapter 118, article VI.

(Ord. No. 89-2665, § 6-18(D), eff. 10-1-89)

Secs. 142-608—142-630. - Reserved.

DIVISION 16. - WD-1 WATERWAY DISTRICT

> *Footnotes:*
> *--- (**9**) ---*
> ***Cross reference—** Marine structures, facilities and vehicles, ch. 66.*

Sec. 142-631. - Purpose.

The WD-1 waterway district is designed to create a landscaped environment with uses that are of desirable character and in harmony with the waterway and the upland development.

(Ord. No. 89-2665, § 6-19(A)(1), eff. 10-1-89)

Sec. 142-632. - Main permitted uses.

The main permitted uses in the WD-1 waterway district are water transportation stops; rental of watercraft, excluding jet skis and similar uses; wet dockage of pleasure craft; kiosks; walkways and decks.

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

Sec. 142-633. - Conditional uses.

There are no conditional uses in the WD-1 waterway district.

(Ord. No. 89-2665, § 6-19(A)(3), eff. 10-1-89)

Sec. 142-634. - Accessory uses.

The accessory uses in the WD-1 waterway district are as required by article IV, division 2 of this chapter and as delineated in chapter 6, as it relates to alcoholic beverage establishments.

(Ord. No. 89-2665, § 6-19(A)(4), eff. 10-1-89; Ord. No. 2016-4005, § 1, 3-9-16)

Sec. 142-635. - Development regulations.

The development regulations in the WD-1 waterway district are as follows:

(1) Maximum floor area ratio is not applicable.

(2) Minimum lot area is not applicable.

(3) Minimum lot width is not applicable.

(4) Maximum floor area of building is 40 square feet.

(5) Maximum number of buildings per site is one.

(6) Maximum building height is 12 feet and must use pitched roof.

(Ord. No. 89-2665, § 6-19(B), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-636. - Setback requirements.

The setback requirements for the WD-1 waterway district are as follows:

(1) Front yard: Zero feet.

(2) Side yard, interior: 20 percent of lot width.

(3) Side yard, facing a street: Ten feet.

(4) Rear yard: Zero feet.

The setbacks do not apply to interconnected walkways between properties.

(Ord. No. 89-2665, § 6-19(C), (D), eff. 10-1-89)

Sec. 142-637. - Supplementary regulations.

(a) Structures in the WD-1 waterway district shall be constructed of concrete block and stucco and have a pitch roof of tile or concrete, and shall be open on all sides. All areas not covered by decks or structures shall be maintained as landscaped area.

(b) Structures and rentals of watercraft are only permitted if there is at least ten feet of lot depth and a minimum of five feet of public sidewalk.

(c) Landscaped area not including walkways shall be a minimum of 50 percent.

(d) The rental of watercraft shall be associated with an upland hotel with a minimum of 350 units.

(e) Properties located adjacent to Lake Pancoast are not required to meet the 350 hotel room requirement and existing structures are permitted to be re-opened if they meet all applicable building, fire and property maintenance standards, ordinances and regulations and are approved by the design review board. The permitted uses are limited to concessions, sales or rental of watercraft with the exception of jet skis and other similar motorized uses.

(Ord. No. 89-2665, § 6-19(E)—(I), eff. 10-1-89)

Secs. 142-638—142-660. - Reserved.

DIVISION 17. - WD-2 WATERWAY DISTRICT

Footnotes:
*--- (**10**) ---*
***Cross reference—** Marine structures, facilities and vehicles, ch. 66.*

Sec. 142-661. - Purpose.

The WD-2 waterway district is designed to accommodate beach-related accessory uses on the east side of Miami Beach Drive.

(Ord. No. 89-2665, § 6-20(A)(1), eff. 10-1-89)

Sec. 142-662. - Main permitted uses.

The main permitted uses in the WD-2 waterway district are outdoor cafes, pool decks, cabanas and similar recreational uses which are water-related or beach-related.

(Ord. No. 89-2665, § 6-20(A)(2), eff. 10-1-89)

Sec. 142-663. - Conditional uses.

There are no conditional uses in the WD-2 waterway district.

(Ord. No. 89-2665, § 6-20(A)(3), eff. 10-1-89)

Sec. 142-664. - Accessory uses.

The accessory uses in the WD-2 waterway district are as required in article IV, division 2 of this chapter, and as delineated in chapter 6 as it relates to alcoholic beverage.

(Ord. No. 89-2665, § 6-20(A)(4), eff. 10-1-89; Ord. No. 2016-4005, § 1, 3-9-16)

Sec. 142-665. - Development regulations.

The development regulations in the WD-2 waterway district are as follows:

(1) Maximum floor area ratio is 0.01.
(2) Minimum lot area is not applicable.
(3) Minimum lot width is not applicable.
(4) Minimum apartment unit size is not applicable.
(5) Average apartment unit size is not applicable.
(6) Maximum building height is 15 feet.

(Ord. No. 89-2665, § 6-20(B), eff. 10-1-89; Ord. No. 97-3097, § 2, 10-8-97; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-666. - Setback requirements.

The setback requirements for the WD-2 waterway district are as follows:

(1) Front (Miami Beach Drive): Five feet.
(2) Rear (erosion control line): 50 feet. Ten feet if development is connected to a project in the dune preservation overlay district.
(3) Side yards: Zero feet.

(Ord. No. 89-2665, § 6-20(C), eff. 10-1-89)

Secs. 142-667—142-690. - Reserved.

DIVISION 18. - PS PERFORMANCE STANDARD DISTRICT

Sec. 142-691. - Purpose.

(a) *Establishment of district and divisions.* The PS performance standard district is hereby established as shown on the map designated as the city zoning district map. The PS district consists of all land in the redevelopment area and consists of five districts including: a residential performance standard (R-PS) district, a commercial performance standard (C-PS) district, a residential limited mixed use performance standard (M-PS) district (each of which is further subdivided based upon the type and density or intensity of permitted uses), a GU government use district and MR marine recreation district.

(b) *Residential performance standards.*

(1) The residential-performance standards districts are designed to accommodate a broad spectrum of medium-low to high density residential development including townhome development and multiple-family development pursuant to performance standards which control the permissible type and density of residential development. Performance standards development will allow for modification of requirements affecting certain individual lots, greater flexibility, particularly for large-scale development, and incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development, in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.

(2) In order to adequately and properly distinguish among the permissible types and densities of residential development, the redevelopment area is divided into the following residential districts:

R-PS1	Medium-Low Density
R-PS2	Medium Density
R-PS3	Medium-High Density
R-PS4	High Density

(c) *Commercial performance standards.*

(1) The commercial performance standards districts are designed to accommodate a range of business, commercial, office and hotel uses, as well as medium to high density residential development pursuant to performance standards which control the permissible type, density or intensity, and mix of development. Performance standards development will allow for modification of requirements affecting certain individual lots; greater flexibility, particularly

for large-scale development; large commercial, medium to high density residential and mixed use developments in phases over time where the overall development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.

(2) In order to adequately and properly distinguish between types, densities and intensities of uses and mix of permitted commercial development in the redevelopment area, districts are divided as follows:

C-PS1	Limited mixed-use commercial
C-PS2	General mixed-use commercial
C-PS3	Intensive mixed-use commercial
C-PS4	Intensive mixed-use phased bayside commercial

(d) *Residential limited mixed use performance standards.*

(1) The residential limited mixed use performance standards district is designed to accommodate the new construction of light commercial, office and public uses, as well as low density residential development pursuant to performance standards which control the permissible type, density or intensity, and mix of development. Performance standards development will allow for modification of requirements affecting certain individual sites; greater flexibility, particularly for large-scale development; light commercial, low density residential and mixed use developments in phases over time where the overall development at a single point in time or in a single instance by private owners would not be practical; providing incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan.

(2) In order to adequately and properly distinguish between types, densities and intensities of uses and mix of permitted mixed development in the redevelopment area the RM-PS1 residential limited mixed use development is established.

(Ord. No. 89-2665, §§ 20-1, 20-2, eff. 10-1-89)

Sec. 142-692. - Uses permitted by right, uses permitted by conditional use permit and uses not permitted.

No building, structure or land shall be used or occupied except as a main permitted use, a conditional use, or an accessory use to a main permitted use, in accordance with the table and text of permitted uses. A use in any district denoted by the letter "P" is a use permitted by right in such district or subdistrict, provided that all requirements and performance standards applicable to such uses have been met. A use in any district denoted by the letter "C" is permissible as a conditional use in such district or subdistrict, provided that all requirements and performance standards applicable to such use have been met and provided that all requirements of chapter 118, article IV, have been met. A use in any district denoted by the letter "N," or specifically listed as a use not permitted in the text of section 142-693, is not permitted in such district or subdistrict. Uses permitted by right, as a conditional use, or as an accessory use shall be subject to all use regulations and performance standards contained herein and to such other regulations as may be applicable, including site plan review and design review. Uses not listed in the table of permitted uses are not permitted in the district or subdistrict. Notwithstanding any provision of this section, no use is permitted on a parcel, whether listed by right, as a conditional use or as an accessory use in such district, unless it can be located on such parcel in full compliance with all of the performance standards and other requirements of these land development regulations applicable to the specific use and parcel in question.

(Ord. No. 89-2665, § 20-3(A), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94)

Sec. 142-693. - Permitted uses.

(a) The following uses are permitted in the performance standard districts:

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
Single-family; townhome; apartment; apartment hotel pursuant to section 142-1105 of this chapter	P Apartment hotel not permitted	P	P	P Apartment hotel not permitted
Hotel and suite hotels pursuant to section 142-1105 of this chapter	N	P	P	N

Hostel, pursuant to section 142-1105 of this chapter	N	N	Not permitteed in C-PS1, C-PS2; Permitted in C-PS3 and C-PS4	N
Commercial	N	N	P	P 8% of floor area
Institutional	C	C	C	C 1.25% of floor area
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	N	N	P* North of 5th Street only.	N

Entertainment establishments, outdoor entertainment establishments, and open air entertainment establishments	N	N	N	N

Neighborhood impact establishments	N	N However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment entrance shall be only from the interior lobby of the hotel and not from the street. In addition, in the R-PS4 district, this use is also permitted as an accessory use to an oceanfront apartment building with more than 300 units that is adjacent to a park, as a conditional use, provided that the accessory use is located in a separate building from the primary use, and the accessory use is a minimum of 8,000 square feet in size.	C	N

Accessory	P* Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 are prohibited in the RPS-1 district, unless otherwise specified.	P*	P*	P*
Convenience stores, tobacco/vape dealers, package stores, and the retail sale of alcohol for off-premises consumption			Not permitted in that portion of the C-PS2 district south of Fifth Street	

P—Main permitted use C—Conditional use N—Not permitted

* — Accessory use only

Floor area in the RM-PS1 district refers to total floor area in project. Commercial uses in RM-PS1 limited to stores and restaurants.

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(b) For purposes of this section, a car wash, filling station and any use that sells gasoline, automobiles or automotive or related repair uses are considered as industrial uses and are not permitted within any PS district.

(c)

For purposes of this section, pawnshops and dance halls and entertainment establishments are not permitted as a main permitted or accessory use within any PS district.

(d) In the R-PS1, 2, 3 and 4 districts, the number of seats for accessory restaurants or bars that serve alcohol shall be limited to a maximum of 1.25 seats per hotel or apartment unit for the entire site. The patron occupant load, as determined by the planning director or designee, for all accessory restaurants and bars that serve alcohol on the entire site shall not exceed 1.5 persons per hotel and/or apartment unit. For a hotel or apartment property of 20 units or more, but less than 32 units, the restaurant or bar may have a maximum of 40 seats in the aggregate on the site. The number of units shall be those that result after any renovation.

(e) Commercial and noncommercial parking lots and garages shall be considered as a conditional use in the R-PS1, 2, 3 and 4 districts.

(f) Video game arcades shall be considered as a conditional use in the C-PS1, C- PS2, C-PS3, and C-PS4 districts.

(g) New construction of structures 50,000 square feet and over in the C-PS1, 2, 3, and 4 districts (even when divided by a district boundary line) shall be considered as a conditional use, which review shall be the first step in the process before the review by any of the other land development boards.

(h) Religious institutions in R-PS1-4 and C-PS1-4 districts shall be permitted as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.

(i) Additional regulations for alcoholic beverage establishments located south of 5th Street.

(1) The following additional regulations shall apply to alcoholic beverage establishments, whether as a main use, conditional use, or accessory use, that are located south of 5th Street:

(i) Alcoholic beverages shall not be offered for sale or consumed on-premises at alcoholic beverage establishments between the hours of 2:00 a.m. and 8:00 a.m. each night.

(ii) Notwithstanding the foregoing, alcoholic beverages shall not be offered for sale or consumed on premises in outdoor or open air areas of an alcoholic beverage establishment between the hours of 12:00 a.m. and 8:00 a.m. each night.

(iii) Alcoholic beverage establishments with sidewalk cafe permits shall only serve alcoholic beverages at sidewalk cafes during hours when food is served, shall cease sidewalk cafe operations no later than 12:00 a.m. (except as otherwise provided herein), and shall not be permitted to have outdoor speakers.

(iv) Outdoor bar counters shall be prohibited.

(v) No special event permits shall be issued.

(vi)

The provisions of this subsection (i)(1) shall not apply, to the extent the requirements of this subsection are more restrictive, to an alcoholic beverage establishment with a valid business tax receipt that is in application status or issued prior to June 28, 2016; or an establishment that has obtained approval for an alcoholic beverage establishment from a land use board, and which land use board order is active and has not expired prior to June 28, 2016. In order to be eligible for the exception in this paragraph, the establishment must also meet the following criteria:

A. The establishment has an occupant content of less than 100 people, as determined by the chief fire marshal.

B. The establishment does not have an entertainment license nor contain a dance hall.

C. There shall be no outdoor service or consumption past 2:00 a.m.

(vii) Determination of vested rights. The owner or operator of any alcoholic beverage establishment which, as of February 22, 2023, has a valid business tax receipt for hours greater than the hours permitted under subsection (i)(1)(i) or (i)(1)(ii), and which is claiming a vested right to conduct alcohol sales for on-premises consumption for hours greater than the hours permitted under subsection (i)(1)(i) or (i)(1)(ii) may so operate only after applying for a determination of its vested right(s) and having those rights confirmed by an alcohol hours special magistrate as follows:

A. *Appointment; qualifications; term.* The city commission shall appoint a special magistrate for the specific purpose of adjudicating applications for determinations of vested rights under this subsection (i)(1)(vii). The special magistrate shall be an attorney in good standing with the Florida Bar, with expertise in the areas of local government law, business licensing, vested rights, and/or property law. The special magistrate shall serve a term of one year. Compensation for the special magistrate shall be determined by the city commission.

B. *Filing period.* Any application for a determination of vested rights must be filed with the city manager, city attorney, and city clerk no later than March 31, 2024.

C. *Standard for finding of a vested right.* A vested right to conduct alcohol sales for on-premises consumption later than the hours prescribed in this section (i)(1)(i) or (i)(1)(ii) shall be found to exist only where:

1. An active order of the planning board, an active order of the board of adjustment, or other active development order issued by the city, expressly authorizes the alcoholic beverage establishment to conduct alcohol sales for on-premises consumption during specified hours;

2. In good faith reliance upon such prior order, the applicant has made a substantial change in position or incurred extensive contractual obligations and financial expenses; and

3. It would be highly inequitable to interfere with the acquired right.

In accordance with Florida law, no right to conduct alcohol sales at certain hours may be determined to have vested as a result of the adoption of an ordinance by the city commission. The special magistrate shall dismiss any application that relies solely upon a previously enacted ordinance of the city commission.

D. *Procedure.* Applications for vested rights determinations shall be heard in accordance with the procedures for hearings before the special magistrate specified in chapter 30 except that:

1. Applications for a vested rights determination shall be made in writing and filed with the city manager, city attorney, and city clerk.
2. At a minimum, applications shall:
    i. Identify all prior orders from which the alleged vested right arises;
    ii. Include a copy of each such prior order;
    iii. Specify how the adoption of this ordinance adversely affected the alleged vested right including how the standard in subsection (i)(1)(vii)(C) is satisfied;
    iv. Specify the applicant's requested relief; and
    v. Be sworn to by the applicant.
3. The signature of the applicant or the applicant's attorney shall constitute a certificate that the person signing has read the applicant's written submissions and, to the best of their knowledge, the application is made in good faith and not for purposes of delay. The applicant or its attorney shall have a continuing obligation to correct any statement or representation found to have been incurred when made or which becomes incorrect by virtue of changed circumstances. If a claim of taking or abrogation of vested rights is: (1) based upon facts that the claimant or the attorney for the claimant knew or should have known were not true; or (2) frivolous or filed solely for the purpose of delay, the alcohol hours special magistrate shall make such findings in writing and deny the application.
4. The city manager, city attorney, and city clerk shall acknowledge receipt of an application for vested rights within three business days of receipt of the application, and shall promptly schedule a hearing before the special magistrate.
5. Effect of filing application for vested rights determination. During the pendency of an application for a vested rights determination, the applicant shall comply with all requirements of this section. The filing of an application shall not be construed to stay enforcement of this section against the applicant.

E.

Appeals. An aggrieved party, including the city administration, may appeal a final administrative order of the special magistrate to the circuit court by petition for writ of certiorari, pursuant to the Florida Rules of Appellate Procedure.

(2) Notwithstanding the uses permitted in (a) and (d) above, in all districts except GU, Government Use District, no alcoholic beverage establishment, or restaurant, may be licensed or operated as a main permitted, conditional, or accessory use in any open area above the ground floor (any area that is not included in the FAR calculations) located south of 5th Street, Except that:

(i) Outdoor restaurant seating above the ground floor, not exceeding 40 seats, associated with indoor venues (except as provided under (iii) below) may be permitted until 8:00 p.m.

(ii) Outdoor music, whether amplified or nonamplified, and television sets shall be prohibited.

(iii) Oceanfront hotels in the R-PS4 district. For purposes of this subsection (iii), eastward-facing oceanfront portions of an open-air seating area shall be limited to the open area 50 feet west of the eastern boundary of the above-ground structure.

A. Oceanfront hotels in the R-PS4 district with at least 200 hotel units may have no more than 100 outdoor restaurant seats in open-air seating areas on one level that are located above the ground floor, of which at least half shall be located on eastward-facing oceanfront portions of an open-air seating area, at which patrons shall be seated no later than 12:00 a.m., and the seating area shall be closed to the public no later than 1:30 a.m. Patrons shall not be seated in the remainder of any open-air seating areas in a particular hotel later than 11:00 p.m., and such seating areas shall be closed to the public no later than 12:00 a.m. Seating on the main roof shall not be permitted under any circumstances.

B. Oceanfront hotels in the R-PS4 district with at least 100 hotel units, but less than 200 hotel units, may have no more than 50 outdoor restaurant seats in eastward-facing oceanfront portions of open-air seating areas that are located on one level above the ground floor, at which patrons shall be seated no later than 12:00 a.m., and the seating area shall be closed to the public no later than 1:30 a.m. Seating on the main roof shall not be permitted under any circumstances.

(iv) Oceanfront apartment buildings in the R-PS4 district. Accessory uses, with a minimum square footage of 8,000 square feet, approved as a conditional use to oceanfront apartment buildings with more than 300 units, located adjacent to a park and in a separate building from the primary use, shall be permitted subject to the following restrictions:

A.

A maximum patron-occupant load of no more than 250 individuals may be permitted on an open level above the ground floor. The patron-occupant load shall be determined by the fire marshal.

B. The hours of operation for the open level above the ground floor shall be no later than 11:00 p.m. each night on Sunday through Wednesday, and no later than 12:00 a.m. each night Thursday through Saturday, with an additional 30 minutes for cessation of operations permitted each night. The additional 30 minutes for cessation of operations shall only be utilized for staff to close and clean up the area. No patrons shall be served later than 11:00 p.m. each night on Sunday through Wednesday, and no later than 12:00 a.m. each night on Thursday through Saturday.

C. Outdoor music and television sets, whether amplified or nonamplified, shall be prohibited in any open level above the ground floor. Notwithstanding the foregoing, recorded background music, played at a level that does not interfere with normal conversation, may be permitted, provided that a sound system with directional speakers and a digital tamper-resistant sound level limiter is used to minimize impacts to adjacent properties. Nothing in this subparagraph shall be construed to exempt an establishments from, or otherwise limit the applicability to section 46-152 to the accessory uses permitted by the subsection.

D. Outdoor bar counters shall be prohibited.

E. Special event permits are prohibited.

F. Notwithstanding the prohibition set forth in subsection 142-693(i)(2), alcoholic beverages may be served in an open level above the ground floor during the hours of operations permitted by this subsection.

G. Any open area above the ground floor shall only be open when the restaurant is open and serving full meals.

H. With regard to ground floor outdoor areas the following restrictions shall apply:

i. Outdoor bar counters shall be prohibited;

ii. No special event permits may be issued for this area;

iii. This area shall not be occupied later than 12:00 a.m. midnight each night.

I. With regard to the interior area of a separate accessory use building, as defined herein, the following restrictions shall apply:

i. The area shall not be occupied past 2:00 a.m.;

ii. No special event permits may be issued for this area.

(v) Other than as permitted in subsection (i)(2)iii and (i)(2)iv, no commercial activity may be permitted on areas as described in this subsection (i)(2) between the hours of 8:00 p.m. and 10:00 a.m.

(vi) Nothing herein shall prohibit residents of a multifamily (apartment or condominium) building, or hotel guests and their invitees to use these areas as described in this subsection (i)(2), which may include a pool or other recreational amenities, for their individual, personal use.

(3) Any increase to an alcoholic beverage establishment's approved hours of operation shall meet the requirements of this section.

(4) Variances from this subsection (i) shall not be permitted. Special events shall not be permitted.

(j) Reserved.

(k) The following additional regulations shall apply to properties located within the C-PS2 district that are within 100 feet of the north side of 4th Street. In the event of a conflict within this division, the following provisions shall control:

(1) Outdoor music and television sets shall be prohibited within 100 feet of the north side of 4th street, unless approved by the planning board as a conditional use, pursuant to chapter 118, article IV of this Code. Outdoor music and television sets shall not exceed an ambient volume level (i.e. a volume that does not interfere with normal conversation).

(2) Entrances/exits to/from hotels, apartment hotels, and suite hotels, as well as food and beverage establishments serving alcohol, shall be limited to side streets only, and shall not be permitted on 4th Street. Additionally, a minimum setback of 25 feet from the north side of 4th Street, for all public entrances to the aforementioned uses, shall be required. Notwithstanding the foregoing, this subsection shall not be applicable to existing contributing structures.

(Ord. No. 89-2665, § 20-3(B), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 94-2925, eff. 6-15-94; Ord. No. 96-3050, § 3, 7-17-96; Ord. No. 99-3179, § 5, 3-17-99; Ord. No. 99-3222, § 4, 12-15-99; Ord. No. 2003-3417, § 1, 6-11-03; Ord. No. 2004-3445, § 3, 5-5-04; Ord. No. 2007-3546, 1-17-07; Ord. No. 2008-3602, § 1, 3-12-08; Ord. No. 2009-3631, § 1, 3-18-09; Ord. No. 2009-3649, § 1, 9-9-09; Ord. No. 2011-3715, § 1, 1-19-11; Ord. No. 2013-3791, § 7, 2-6-13; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2015-3948, § 1, 7-8-15; Ord. No. 2016-4054, § 1, 11-9-16; Ord. No. 2017-4112, § 1, 7-26-17; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2018-4166, § 1, 1-17-18; Ord. No. 2020-4379, § 1, 11-18-20; Ord. No. 2021-4448, § 1, 10-13-21; Ord. No. 2022-4519, § 1, 10-26-22; Ord. No. 2022-4527, § 1, 11-16-22; Ord. No. 2023-4542, § 1, 2-22-23)

Sec. 142-694. - Nonconforming uses, lots and structures.

(a) Nonconforming uses, lots and structures shall be subject to the regulations contained in chapter 118, article IX.

(b)

The following regulations shall apply to the conversion of a legally established, nonconforming apartment hotel use located in the R-PS1 or R-PS2 district, to a conforming residential apartment use, notwithstanding the underlying district regulations in section 142-696:

(1) For those properties located in the R-PS1 district, the maximum floor area ratio (FAR) shall not exceed 1.50 and the maximum building height shall be 55 feet, except for lots that are 50 feet wide or less, in which case the maximum building height shall be 50 feet.

(2) For those properties located in the R-PS2 district, the maximum floor are rate (FAR) shall not exceed 1.75 and the maximum building height shall be 65 feet, except for lots 50 feet wide or less, in which case the maximum building height shall be 60 feet.

(3) The above-noted FAR and building height limits shall only apply (i) to those properties that, as of the date of Ordinance No. 2022-4511 [September 14, 2022], have a legally established apartment hotel as the main permitted use, and (ii) if the entire property is converted to a conforming residential use.

(4) A property may only be eligible for the FAR and building height incentives set forth herein if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming that, for a term of 30 years, none of the residential units on the property shall be leased o rented for a period of less than six months and one day.

(5) The above-noted FAR and building height limits shall not apply to transient uses of any kind including, but not limited to, hotel, suite hotel, apartment-hotel, or the short-term rental of apartment units.

(6) The above-noted provisions pertaining to FAR and building height shall only apply to projects that have obtained a full building permit or certificate of use for the conversion to a conforming residential use by December 31, 2025.

(7) There shall be no variances from any of the above-noted provisions.

(Ord. No. 89-2665, § 20-3(C), eff. 10-1-89; Ord. No. 96-3050, § 3, 7-17-96; Ord. No. 2022-4511, § 1, 9-14-22)

Sec. 142-695. - Performance standard regulations generally.

(a) No building, structure or land shall be used or occupied except in conformance with the performance standards applicable to the use and subdistrict as set forth in the applicable table of performance standards. The purpose of the performance standards are:

(1) To provide detailed regulations by means of minimum criteria which must be met by all uses in order to ensure development consistent with the goals and objectives of the comprehensive plan and the redevelopment plan;

(2)

To protect the integrity of the comprehensive plan and the redevelopment plan and the relationships between uses and densities that are essential to the viability of these plans and the redevelopment area; and

(3) To promote and protect the public health, safety, and general welfare by requiring all development to be consistent with the land use, circulation and amenities components of the redevelopment element of the comprehensive plan and the capital improvements program for the area, as specified in the comprehensive plan.

(b) In the R-PS and RM-PS districts, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential uses above the first level along every facade facing a waterway.

(3) For properties less than 60 feet in width, the total amount of residential space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(c) In the C-PS districts, all floors of a building containing parking spaces shall incorporate the following:

(1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway. For properties not having access to an alley, the required residential space shall accommodate entrance and exit drives.

(2) Residential or commercial uses above the first level along every facade facing a waterway.

(3) For properties less than 60 feet in width, the total amount of commercial space at the first level along a street side shall be determined by the design review or historic preservation board, as applicable. All facades above the first level, facing a street or sidewalk, shall include a substantial portion of residential or commercial uses; the total amount of residential or commercial space shall be determined by the design review or historic preservation board, as applicable, based upon their respective criteria.

(Ord. No. 89-2665, § 20-4(A), eff. 10-1-89; Ord. No. 2006-3510, § 9, 3-8-06)

Sec. 142-696. - Residential performance standard area requirements.

(a) The residential performance standard area requirements are as follows:

	Residential Subdistricts			
Performance Standard	*R-PS1*	*R-PS2*	*R-PS3*	*R-PS4*
Minimum lot area	5,750 square feet	5,750 square feet	5,750 square feet	5,750 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet
Required open space ratio	0.60, See section 142-704	0.65, See section 142-704	0.70, See section 142-704	0.70, See section 142-704
Maximum building height*	45 feet Lots 50 feet wide or less—40 feet	45 feet Lots 50 feet wide or less—40 feet	50 feet Lots 50 feet wide or less—40 feet	Nonoceanfront—80 feet; Oceanfront—100 feet; Lots 50 feet wide or less—40 feet (Except as provided below)
Maximum floor area ratio**	1.25	1.50	1.75	2.0 (Except as provided below)

Minimum floor area per apartment unit (square feet)	New construction—700 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—650 Rehabilitated buildings—400	New construction—600 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workfoce housing—400
Minimum average floor area per apartment unit (square feet)	New construction—900 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—900 Rehabilitated buildings—550 Non-elderly and elderly low and moderate housing—400 Workforce housing 400	New construction—850 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400
Minimum floor area per hotel unit (square feet)	N/A	N/A	15% = 300—335 square feet 85% = 335+ square feet	15% = 300—335 square feet 85% = 335+ square feet
Minimum parking	Pursuant to chapter 130 and section 142-705 requirement.			

Minimum off-street loading	Pursuant to chapter 130, article III.
Signs	Pursuant to chapter 138.
Suites hotel	Pursuant to article IV, division 3 of this chapter.

* Notwithstanding the foregoing provisions regarding maximum building height, in the Ocean Beach historic district, as defined in subsection 118-593(e)(2)f., the maximum building height for a lot located in the R-PS1, R-PS2, or R-PS3 zoning districts:

(i) With a lot exceeding 50 feet, and

(ii) Upon which there exists a contributing structure which has not received a certificate of appropriateness for demolition (or any such approval has expired), shall be 40 feet.

1. Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.
2. In the R-PS4 zoning district, within the Ocean Beach historic district, when an existing contributing structure is nonconforming with respect to the height regulations in section 142-696, such structure may be repaired, renovated or rehabilitated regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of chapter 118, article IX, "Nonconformances."
3. Reserved.
4. Notwithstanding the above height restrictions, in the R-PS4 zoning district, within the Ocean Beach historic district, for lots 100 feet or more in width, the maximum height shall be 35 feet for the first 60 feet of lot depth, 75 feet thereafter, subject to the line-of-sight analysis of section 142-697(d). However, for residential apartment buildings, on lots 100 feet or more in width, the historic preservation board, in accordance with certificate of appropriateness criteria, may allow an increase in the overall height not to exceed 60 feet for the first 60 feet of lot depth, and 100 feet thereafter, and on lots 50 feet wide or less may allow an increase in overall height not to exceed 35 feet for the first 60 feet of lot depth, 60 feet thereafter, provided all of the following conditions are satisfied:
    a. The property shall be an oceanfront lot;
    b. The property shall not contain a contributing building;
    c. The top level of the front portion of the new construction on lots 100 feet or more in width shall meet a line-of-sight, which for the purpose of this section, is defined as not being visible when viewed at eye-level (five feet six inches from grade) from the opposite

side of the Ocean Drive right-of-way, and on lots 50 feet or less wide shall be subject to the line-of-sight analysis of section 142-697(d);

d. The proposed building shall be sited and massed in a manner that promotes and protects view corridors. At a minimum, a substantial separation of the tower portion of any structure shall be required;

e. For lots greater than 50 feet in width, the front portion of the structure shall incorporate a separation in the center of the structure, which is open to sky, and is at least ten feet in width and 25 feet in depth; the exact location of such separation shall be subject to the historic preservation board, in accordance with certificate of appropriateness criteria. Alternatively, the massing and architectural design of the front portion of the structure shall acknowledge the historic pattern of residential structures along Ocean Drive;

[g. Reserved;]

h. The maximum residential density is 60 units per acre;

i. All required off-street parking for the building shall be provided on site; required parking may not be satisfied through parking impact fees;

j. The owner restricts the property to permit only rentals that are no less than six months and one day per calendar year, through language in its condominium or cooperative documents, and by proffering a restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, which shall be executed and recorded prior to the issuance of a building permit, to ensure that the building remains solely as a residential apartment building for a minimum of 30 years, and that no uses under section 142-902(2)e. are permitted on the premises during that time period;

k. Accepting that the value in the increased height, and the incremental traffic burden and effect on aesthetics in the district are offset by the conveyance of an easement for an extension of the beachwalk east of their structures, the owner provides an easement, acceptable to and approved as to form by the city attorney, for a public beachwalk on the easterly portion of its property, as more specifically provided in the plans on file with the city's public works department.

(b) Voluntary FAR incentive for conversion from hotel to residential use. Notwithstanding the foregoing FAR limitations, for a property with a main use of hotel as of January 1, 2022, which, as built, exceeds a FAR of 2.0 and is located within the R-PS4 zoning district, the maximum FAR may be increased to 2.75 as a voluntary development incentive, subject to the property owner's voluntary agreement to strictly comply with the following conditions:

(1) The main use on the property shall be converted to residential and shall remain residential in perpetuity; hostel, hotel, apartment-hotel, and suite-hotel use shall be prohibited.

(2) A new structure, consisting solely of main-use residential and allowable accessory uses, may be constructed, in accordance with all applicable development regulations, with a maximum FAR of 2.75. Alternatively, the entire existing building may be converted to main-use residential and allowable accessory uses, including any repairs, alterations, and modifications that may exceed the 50 percent rule (as set forth in section 118-395), provided any alterations and modification do not result in the building exceeding a FAR of 2.75.

(3) A property shall only be eligible for the FAR incentive set forth in this subsection, not to exceed a total FAR of 2.75, if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming that, in perpetuity, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.

(4) Any existing contributing building shall be retained in a manner reviewed and approved by the historic preservation board.

(5) There shall be no variances from this subsection (b).

(Ord. No. 89-2665, § 20-4(B), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 97-3097, § 3, 10-8-97; Ord. No. 98-3107, § 7, 1-21-98; Ord. No. 98-3150, § 2, 11-4-98; Ord. No. 99-3169, § 1, 2-3-99; Ord. No. 2002-3386, § 1, 11-13-02; Ord. No. 2005-3483, § 8, 5-18-05; Ord. No. 2006-3522, § 1, 7-12-06; Ord. No. 2011-3744, § 10, 10-19-11; Ord. No. 2012-3753, § 1, 2-8-12; Ord. No. 2014-3906, § 1, 11-19-14; Ord. No. 2017-4148, § 12, 10-18-17; Ord. No. 2017-4149, § 11, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2023-4555, § 1, 5-17-23)

Sec. 142-697. - Setback requirements in the R-PS1, 2, 3, 4 districts.

(a) The setback requirements in the R-PS1, 2, 3, 4 districts are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot (below building)	5 feet	5 feet	5 feet	Nonoceanfront lots—5 feet Oceanfront lots—50 feet from bulkhead line

Pedestal and subterranean	5 feet	7.5 feet, except when section (e) below applies. Lots 50 feet wide or less—5 feet, however, for residential apartment structures seeking approval under section 142-696.4 above, on lots greater than 50 feet in width, 15 feet for any portion of the pedestial above 35 feet in height.	5 feet	Nonoceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet minimum from bulkhead line.

Tower	50 feet, except that in the R-PS4 within the Ocean Beach historic district, the minimum shall be 60 feet; however, for residential apartment structures seeking approval under section 142-696.4 above, the tower setback shall be determined by the historic preservation board.	The required pedestal setback plus 10% the height of the building; however, for residential apartment structures seeking approval under section 142-696.4 above, 15 feet.	The required pedestal setback plus 10% the height of the building.	Nonoceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from bulkhead line; however, for residential apartment structures seeking approval under section 142-696.4 above, the tower setback shall be the same as the pedestal setback.

(b) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and pedestal side yard facing a street setback which shall be considered as both minimum and maximum requirements.

(c) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of three square feet for every linear foot of lot frontage.

(d) In the R-PS4 zoning district, within the Ocean Beach historic district, the tower portion of ground-floor additions to contributing buildings shall meet a line-of-sight, which for the purpose of this section is defined as not visible when viewed at eye-level (five feet six inches from grade) from the opposite side of the adjacent right-of-way.

(e)

In the R-PS4 zoning district within the Ocean Beach historic district, when an existing contributing structure has a minimum five-foot side yard setback, the setback of new construction in connection with the existing building may be allowed to follow the existing building line. The maintenance of the existing setback shall apply to the linear extension of the existing building.

(Ord. No. 89-2665, § 20-4(C), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2002-3386, § 2, 11-13-02; Ord. No. 2006-3522, § 2, 7-12-06; Ord. No. 2012-3753, § 1, 2-8-12; Ord. No. 2018-4160, § 2, 1-17-18)

Sec. 142-698. - Commercial performance standard area requirements.

(a) Definitions. For purposes of this district, the following parcels are defined as set forth below:

(1) The "Block 51 Properties" shall mean Lots 5-9, 11, 12, 18-30 (and adjacent 10-foot strip of land), Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.

(2) The "Block 51 Swap Property" shall mean Lot 4, Block 51, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.

(3) The "Block 52 Properties" shall mean Lots 4-11, Block 52, Ocean Beach Addition No. 3, PB2, Pg81, Public Records of Miami-Dade County.

(4) The "Block 1 Properties" shall mean Lots 1-3, 5-13 (and alley adjacent thereto), 17, Block 1, Ocean Beach Florida, PB2, Pg38, Public Records of Miami-Dade County.

(5) The "Goodman Terrace and Hinson Parcels" shall mean those properties commonly known as the Goodman Terrace and Hinson Parcels, located south of South Pointe Drive and West of Washington Avenue, whose legal description is on file in the City Clerk's Office.

(6) The "Retail Parcel" shall mean the commercial building located south of South Pointe Drive, between Washington Avenue and the theoretical extension of Collins Avenue.

(b) The commercial performance standard area requirements are as follows:

	Commercial Subdistricts			
Performance Standard	C-PS1	C-PS2	C-PS3	C-PS4
Minimum lot area	6,000 square feet	6,000 square feet	6,000 square feet	6,000 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet

Maximum building height	40 feet; 75 feet for the Block 51 Properties, the Block 51 Swap Property, Block 52 Properties, and Block 1 Properties	50 feet—East of Lenox Avenue 75 feet—West of Lenox Avenue	Non-oceanfront—80 feet Oceanfront—100 feet	150 Notwithstanding the above, the design review board or historic preservation board, in accordance with the applicable review criteria, may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second floor slab. This provision shall not apply to existing historic districts or existing overlay districts (existing as of 7/26/2017), or commercial buildings immediately

				adjacent to residential district not separated by a street. However, an applicant may seek approval from the historic preservation board or design review board, as may be applicable, to increase height in accordance with the foregoing within any historic district or overlay district created after 7/26/2017
Maximum floor area ratio	1.0; 1.5 for the Block 51 Properties and Block 52 Properties, and 2.0 for the Block 1 Properties	2.0	2.5	2.5

Residential and/or hotel development	Pursuant to all R-PS2 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet	Pursuant to all R-PS3 district regulations, except maximum building height for residential and mixed use buildings shall be 75 feet	Pursuant to all R-PS4 district regulations except maximum floor area ratio shall be 2.5; on the Goodman Terrace and Hinson Parcels, the FAR shall be that necessary to achieve 305,500 sq. ft. (estimated at 3.2 FAR), and 300 ft. height maximum for the Goodman Terrace and Hinson Parcels, and open space ratio 0.60 measured at or above grade	Pursuant to all R-PS4 district regulations, except maximum floor area ratio shall be 2.5, and open space ratio 0.60 measured at or above grade

Minimum apartment unit size (square feet)	New construction—650 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—600 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400
Average apartment unit size (square feet)	New construction—900 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—850 Rehabilitated buildings—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate housing—400 Workforce housing—400	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and moderate housing—400 Workforce housing—400
Minimum floor area per hotel unit (square feet)		15% = 300—335 square feet; 85% = 335 + square feet in all districts.		
Minimum parking requirements		Pursuant to chapter 130 and section 142-702 requirement.		
Minimum off-street loading		Pursuant to chapter 130.		

Signs	Pursuant to chapter 138.

(c) Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.

(d) Notwithstanding the above floor area ratio limits, 75 spaces of required parking located on Block 51 for the Retail Parcel pursuant to a covenant under section 130-36, shall not be counted as permitted floor area. Further, the floor area on the Block 51 Properties and the Block 51 Swap Property may be distributed among such properties by covenant in lieu of unity of title; and the floor area on the Block 1 Properties may be distributed among such properties within the block by covenant in lieu of unity of title.

(e) Notwithstanding the building height regulations set forth above, for unified development sites in the CPS-2 district with a lot line on the south side of 5th Street, which are located west of Jefferson Avenue, the maximum building height for office buildings is 75 feet.

(f) Notwithstanding the building height regulations set forth above, in the C-PS2 district, the maximum permitted height within 100 feet of the north side of 4th Street shall not exceed 50 feet, regardless of the use of the property. This paragraph shall not apply to unified development sites governed by subsection 142-698(e).

(Ord. No. 89-2665, § 20-4(D), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 97-3097, § 3, 10-8-97; Ord. No. 98-3107, § 7, 1-21-98; Ord. No. 98-3150, § 2, 11-4-98; Ord. No. 2004-3452, § 3, 7-28-04; Ord. No. 2004-3452, § 3, 7-28-04; Ord. No. 2006-3539, § 2, 10-11-06; Ord. No. 2017-4124, § 2, 7-26-17; Ord. No. 2017-4148, § 12, 10-18-17; Ord. No. 2017-4149, § 11, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18; Ord. No. 2022-4471, § 1, 2-9-22; Ord. No. 2022-4527, § 1, 11-16-22)

Sec. 142-699. - Setback requirements in the C-PS1, 2, 3, 4 districts.

(a) The setback requirements in the C-PS1, 2, 3, 4 districts are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
Subterranean	0 feet	0 feet	0 feet	0 feet

Pedestal and tower (non-oceanfront)	0 feet; for residential, 5 feet; 20 feet from adjacent streets above the first 40 feet in height for the Block 1 Properties, Block 51 Properties (except lots 11 and 12), Block 51 Swap Property and Block 52 Properties	7.5 feet when abutting a residential district, otherwise none. Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See section 142-697)	0 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See section 142-697)	10 feet when abutting a residential district, otherwise—5 feet; 3.5 feet for the Block 1 Properties, Block 51 Properties (except lots 11 and 12), Block 51 Swap Property and Block 52 Properties; unless separated by a waterway—None
Pedestal and tower (oceanfront)	Pedestal—15 feet Tower—20 feet plus one foot for every one foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant	Commercial uses—10 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See section 142-697)	Commercial uses—10 feet Residential uses shall follow the R-PS1, 2, 3, 4 setbacks (See section 142-697)	25% of lot depth, 75 feet minimum

Parking lots and garages	If located on the same lot as the main structure the above setbacks shall apply, if primary use the setbacks are listed in section 142-1132(n).

(b) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and the pedestal side yard facing a street setback, which shall be considered as both a minimum and maximum requirements, except for the Goodman Terrace and Hinson Parcels.

(c) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of three square feet for every linear foot of lot frontage, except for those properties located in the C-PS1 district described in section 142-698(a).

(Ord. No. 89-2665, § 20-4(E), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2004-3452, § 4, 7-28-04)

Sec. 142-699.1. - First Street overlay.

(a) The following regulations shall apply to properties that front the east side of Washington Avenue between 1st Street and 2nd Street. In the event of a conflict within this division, the regulations below shall apply:

(1) The purpose of these regulations is:

a. To sustain and enhance existing office uses;

b. To induce the construction of new office and residential uses; and

c. To provide incentive for the removal of transient uses.

(2) As a voluntary development incentive, subject to the property owner's strict compliance with the following conditions, the maximum floor area ratio ("FAR") for properties within the overly shall be a base of 2.0 FAR with an additional 0.7 FAR available for developments or redevelopments that include office or residential use. The additional 0.7 FAR shall be used exclusively for either office or residential use, and shall remain as office or residential in perpetuity. The additional 0.7 FAR shall not be used for hostel, hotel, apartment-hotel, or suite-hotel use.

(3) New development or redevelopment shall only be eligible for the base FAR of 2.0, with an additional 0.7 available for office or residential use, under this subsection, if the property owner elects, at the owner's discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming that, in perpetuity, the property shall not be used as a hostel, hotel, apartment-hotel, and/or suite-hotel use, and none of the residential units on the property shall be leased or rented for a period of less than six months and one day.

(4)

Notwithstanding any height regulations contained in these land development regulations, the maximum floor-to-ceiling height of eligible rooftop additions to existing non-contributing buildings within the First Street overlay shall not exceed 15 feet in height. The overall building height shall not exceed 90 feet and shall be subject to the provisions regarding line of sight as set forth in section 142-1161.

(Ord. No. 2023-4553, § 1, 5-17-23)

Sec. 142-700. - Mixed use buildings.

The calculation of setbacks and floor area ratio for mixed use buildings shall be as follows:

(1) *Setbacks.* When more than 25 percent of the total area of a building in a C-PS district is used for residential or hotel units, any floor containing such units shall follow the R-PS1, 2, 3, 4 setback regulations.

(2) *Floor area ratio.* When at least 75 percent of the linear frontage of the building at the ground floor level is used for commercial uses, the floor area ratio shall follow the range of the commercial district in which the building is located. In all other instances the floor area ratio range shall follow the floor area ratios as follows: In the C-PS1 district, the floor area ratio as set forth in the R-PS1 district; in the C-PS2 district, the floor area ratio as set forth in the R-PS2 district; in the C-PS3 district, the floor area ratio as set forth in the R-PS3 district; in the C-PS4 district, the floor area ratio as set forth in the R-PS4 district.

(3) Notwithstanding the above, the properties defined in section 142-698(a), except the retail parcel, shall be governed by the development regulations in sections 142-698 and 142-699.

(Ord. No. 89-2665, § 20-4(F), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2004-3452, § 5, 7-28-04)

Sec. 142-701. - Residential limited mixed use performance standards.

Residential limited mixed use performance standards shall be as follows:

Mixed Subdistricts	
Performance Standard	RM-PS1
Minimum site area	120,000
Minimum site width	350 feet
Required open space ratio	0.60

Maximum building height	60 feet above ground or above enclosed parking
Maximum floor area ratio	1.5
Minimum floor area per apartment unit (square feet)	600 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400
Minimum average floor area per apartment unit (square feet)	1,000 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400
Minimum floor area per hotel unit (square feet)	N/A
Minimum parking	Pursuant to chapter 130 and subsection 142-706(c) requirement herein
Minimum off-street loading	Pursuant to chapter 130, article IV
Signs	Pursuant to chapter 138
Suites hotel	N/A

(Ord. No. 89-2665, § 20-4(G), eff. 10-1-89; Ord. No. 92-2775, eff. 3-1-92; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 97-3097, § 3, 10-8-97; Ord. No. 98-3107, § 7, 1-21-98; Ord. No. 2017-4148, § 12, 10-18-17; Ord. No. 2017-4149, § 11, 10-18-17; Ord. No. 2018-4158, § 2, 1-17-18)

Sec. 142-702. - Setback requirements in the RM-PS1 district.

The setback requirements in the RM-PS1 district shall be as follows:

(1) Front, rear, side yard facing street: Two feet when approved by the design review board; otherwise section 142-697 applies.

(2) Side interior: See section 142-697.

(Ord. No. 89-2665, § 20-4(H), eff. 10-1-89)

Sec. 142-703. - Reserved.

Editor's note— Ord. No. 98-3107, § 7, adopted Jan. 21, 1998, repealed § 142-703, which pertained to performance standard bonuses and derived from Ord. No. 89-2665, § 20-4(I), effective Oct. 1, 1989.

Sec. 142-704. - Minimum required yards in relation to minimum open space ratio.

(a) *Open space.*

(1) Open space ratio in the PS performance standard district refers to a percentage calculated as the area of open space, including required yards, at grade to the gross lot area of a parcel.

(2) Open space is that part of a lot in the performance standard district, including courts and yards which:

a. Is open and unobstructed from its lowest level upward;

b. Is generally accessible to all residents of the building on the lot without access restrictions, except as may be required for public safety. However, for lots in the RPS districts that are 60 feet in width or less, private spaces accessible only by residents of individual units, excluding balconies, may be considered open space despite not being generally accessible to all residents; and

c. Is not occupied by off-street parking, streets, drives, or other surfaces for vehicles. Open space is, in general, that part of a lot available for entry and use by the occupants of the building or buildings on the premises, but may include space located and treated to enhance the amenity of the development by providing landscaping, screening for the benefit of the occupants or neighboring areas, or a general appearance of openness. Open space may include water surfaces that comprise not more than ten percent of total open space, and may include landscaped roofs and decks pursuant to conditions contained in the district regulations.

(b) *Calculation.* In all cases, except as otherwise provided herein, an applicant shall comply with both minimum required yard and minimum open space requirements.

(1) The open space ratio may include open space on roof top decks which are 50 feet or less above grade. At least 25 percent of the roof top deck shall constitute living landscape material.

(2) Required yards and open space, whether at or above grade in the C-PS4 and RM-PS1 districts may also be utilized for drives and off-street parking spaces, except that if drives are ramped, they shall be at least seven and one-half feet from the front property line and not more than

ten feet or one level above grade at their highest point; the total length of an elevated drive shall not exceed 40 percent of that portion of the lot facing the adjacent street.

(3) Required yards adjacent to Biscayne Bay in the C-PS4 district may be utilized for open and unenclosed decks, platforms, planters, canopies, canvas type awnings, baywalks or removable furniture such as tables and chairs. Required side yards in the C-PS4 district may have public walkways that are partially covered.

(4) Up to 50 percent of the open space required by these land development regulations may be fulfilled by payment of an in-lieu-of fee into the South Pointe Streetscape Fund. Notwithstanding the above, in no case shall the open space provided at grade be less than the total area resulting from the required setbacks. The in-lieu-of payment as described above shall be made at the rate as provided in appendix A per square foot of open space not provided. Such fee shall be paid in full at the time of application for the building permit. The fee shall be refunded if construction does not commence prior to the expiration of the building permit.

(5) No variances shall be granted from the requirements of this section, except that variances may be sought as to subsection (b)(4) above, only for major cultural institutions within local historic districts, which only achieve no more than 80 percent of the total allowable FAR and can demonstrate that the open space cannot be provided on the roof top.

(Ord. No. 89-2665, §§ 3-2, 20-4(J), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 2007-3549, 3-14-07; Ord. No. 2018-4203, § 1, 7-25-18)

Sec. 142-705. - Alternative parking requirement for multifamily residential development in R-PS districts pursuant to the parking impact fee.

Alternative parking requirements for multifamily residential development in R-PS districts shall be as required in the parking impact fee program as set forth in chapter 130, article V.

(Ord. No. 89-2665, § 20-4(K), eff. 10-1-89)

Sec. 142-706. - Supplemental parking regulations.

(a) *All districts.* All non-oceanfront and non-bayfront residential development shall be encouraged to have parking with access to and from the alley only and such parking shall be rendered not visible from the street by the building's front facade. However, on corner buildings, the side view may be obscured by a wall.

(b) *C-PS3 and C-PS4 districts.* In C-PS3 and C-PS4 districts:

(1) One and one-quarter parking spaces per apartment unit, one parking space per hotel unit, and two and one-half parking spaces per 1,000 square feet of commercial space except as otherwise specifically provided in subsection 142-706(b)(2). Required parking for hotel, hotel

accessory uses and club uses may be satisfied through the provision of valet parking spaces. Twenty percent of required apartment unit parking spaces may be satisfied through the provision of valet parking spaces.

(2) Four parking spaces per 1,000 square feet of commercial space for all of the C-PS3 or C-PS4 properties of which any portion is located south of Second Street and west of Washington Avenue or west of the southern theoretical extension of Washington Avenue.

(c) *RM-PS1 district.* In the RM-PS1 district 1.65 parking spaces per apartment unit, and one parking space per 1,000 square feet of any nonresidential use. Up to 12 percent of the total parking spaces created on the premises may be for valet parking spaces.

(Ord. No. 89-2665, § 20-4(L), eff. 10-1-89; Ord. No. 94-2908, eff. 2-26-94; Ord. No. 96-3048, § 2, 7-17-96)

Sec. 142-707. - Development regulations for specified properties subject to a F.S. ch. 163, development agreement.

The following development regulations shall be applicable to all properties subject to a F.S. ch. 163, development agreement and to all properties of which any portion is located south of Second Street and west of Washington Avenue or west of the southern theoretical extension of Washington Avenue:

(1) The provisions of these land development regulations and the Code of the city shall control with respect to all terms, provisions, matters and issues affected by the F.S. ch. 163, development agreement, or any property affected thereby, except to the extent a term, provision, matter or issue is specifically addressed in the F.S. ch. 163, development agreement (including any design guidelines incorporated therein), in which case the provisions of the F.S. ch. 163, development agreement shall control.

(2) Calculations, determinations and/or measurements of the floor area, floor area ratio, lot area, setbacks or any other land use and/or zoning criteria of these land development regulations shall include and consider any and all lands adjacent or contiguous to the property as specifically provided in the F.S. ch. 163, development agreement.

(3) Calculations, determinations and/or measurements of the floor area, floor area ratio, lot area, setbacks or any other land use and/or zoning criteria of these land development regulations shall be based upon and not exceed that provided for in the F.S. ch. 163, development agreement and shall be based upon the total open space, floor area and/or other land use and/or zoning criteria, even if portions of such parcels are not under common ownership, provided that the total permissible open space, floor area and/or other land use and zoning criteria for such parcels (in the aggregate) are not exceeded, and such parcels, as a whole, shall be treated as a single building site for zoning and land use purposes, as described in the F.S. ch. 163, development agreement, despite such separate ownership.

(Ord. No. 89-2665, § 20-4(M), eff. 10-1-89; Ord. No. 96-3048, § 2, 7-17-96)

Sec. 142-708. - Additional regulations for public-private marina mixed-use redevelopments.

Public-private marina mixed-use redevelopments incorporating city-owned marina property, and including residential dwelling units and significant publicly accessible green open space, which property is designated as "public facility (PF)" under the city's comprehensive plan, may be developed as provided in this section; in the event of a conflict within this division, the criteria below shall control:

(1) Maximum building height: 385 feet. The maximum height for allowable height regulation exceptions for elevator and mechanical equipment shall be 30 feet above the height of the roofline of the main structure. Notwithstanding the foregoing, the design review board, in accordance with the applicable review criteria. may allow up to an additional five feet of height, as measured from the base flood elevation plus maximum freeboard, to the top of the second-floor slab.

(2) The setback requirements shall be as provided in section 142-699, except that the pedestal shall be subject to the following minimum setbacks:

   a. Front: Five feet.

   b. Interior side: Twenty feet.

   c. Rear: Five feet.

(3) All floors of a building containing parking shall incorporate residential or commercial uses along the eastern side fronting Alton Road; all other sides of a building containing parking may incorporate alternative non-use screening such as landscape buffering and physical design elements.

(Ord. No. 2020-4350, § 1, 7-29-20)

Secs. 142-709—142-730. - Reserved.

DIVISION 19. - SPE SPECIAL PUBLIC FACILITIES EDUCATIONAL DISTRICT

Footnotes:

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***Editor's note—** Ord. No. 99-3199, § 5, adopted July 20, 1999, was intended to be included as a new § 142-671; however, to maintain continuity of this Code, inclusion as a new div. 19, §§ 142-731—142-733 was at the editor's discretion.*

Sec. 142-731. - Definitions.

For purposes of this zoning ordinance, the following properties are defined as set forth below and are legally described in the ordinance from which this division is derived:

(1) The "Hebrew Academy Elementary School Parcel" is located at 2400 Pine Tree Drive, Miami Beach, Florida, and comprises approximately 2.3 acres.

(2) The "Fana Holtz High School Parcel" is located at 2425 Pine Tree Drive, Miami Beach, Florida, and comprises approximately 0.3 acres.

(3) The "1.1 Acre Parcel" is located adjacently to the north property line of the Hebrew Academy Elementary School Parcel, and comprises approximately 1.1 acres.

(4) The "Mikveh Parcel" is located at 2530 Pine Tree Drive, Miami Beach, Florida, and comprises approximately 0.35 acres.

(Ord. No. 99-3199, § 5, 7-20-99)

Sec. 142-732. - Purpose and uses.

(a) *District purpose.* The district is designed to accommodate public or private educational facilities.

(b) *Main permitted uses.* Any use that is a school or educational or classroom facility, from grades early childhood through graduate, public or private, whether nursery, pre-school, kindergarten, elementary, middle, high school, college or university, including mikvehs and houses of worship, and any combination of any of the aforementioned uses.

(c) *Conditional uses.* Conditional uses shall only be permitted on the Fana Holtz Parcel as follows: any main permitted uses or conditional uses in an RM-3 or CD-2 district, except as already permitted as a main permitted use in this section. Notwithstanding the foregoing, commercial uses shall not be permitted as conditional uses.

(d) *Accessory uses.* Any use that is customarily associated with any of the main permitted uses or conditional uses within this district including, without limitation, classrooms, administrative offices, auditoriums, cafeterias, gymnasiums, sports and recreational facilities, dormitories, student, faculty or staff housing, parking lots, garages, performing arts and cultural facilities, art and music facilities, related religious facilities and uses.

(e) Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the City Code, are prohibited use. Moreover, all uses not listed as a main permitted or conditional use are also prohibited, unless otherwise specified.

(Ord. No. 99-3199, § 5, 7-20-99; Ord. No. 2018-4166, § 1, 1-17-18)

Sec. 142-733. - Development regulations.

These development regulations shall be applicable to uses in the district:

(1) Maximum FAR is 2.50.

(2) Notwithstanding subsection (1) above, the maximum FAR for the Fana Holtz High School Parcel shall be 3.0 and the maximum FAR for the Mikveh Parcel shall be 1.0.

(3) For each setback area within the Hebrew Academy School Parcel and the 1.1 Acre Parcel which is adjacent to municipal owned land or a public right-of-way as of the effective date of the ordinance from which this division is derived, the front, side and rear yard setback may be zero feet from the applicable property line.

(4) With respect to the Hebrew Academy Elementary School Parcel and the 1.1 Acre Parcel, parking shall be permitted within the public swale adjacent to any public road provided that a minimum ten feet setback shall be provided from the curb or edge of said road pavement. Notwithstanding the foregoing, parking in the swale area is only permitted to the extent allowed pursuant to the settlement agreement dated October 17, 1995, and entered into between the city, the Hebrew Academy, the Citizens for Greenspace and the Daughters of Israel, Inc.

(5) To the extent development regulations (setbacks, height, signs, etc.) for SPE lands are not specified in this section, then the applicable development regulations shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director, which shall be approved by the city commission, except as provided in subsection (8) below.

(6) With respect to the Hebrew Academy Elementary School Parcel and the 1.1 Acre Parcel, the maximum building height shall be 60 feet; provided, however, with respect to those certain portions of the buildings indicated in that certain site plan approved by the city commission of October 17, 1995, (and referenced in subsection (10) below) as "three stories," the maximum building height for those portions of buildings shall be 40 feet.

(7) The parking ratio for the Hebrew Academy Elementary School Parcel, the 1.1 Acre Parcel and the Fana Holtz High School Parcel, shall be one parking space per 3,000 square feet of air-conditioned building space. There shall be no impact fees for parking or landscaping, and SPE properties shall be prohibited from participating in the parking impact fee program set forth in chapter 130, article V of this Code. The parking may be sited below the structures in whole or in part, provided same is in accordance with the development regulations set forth herein.

(8) Notwithstanding anything to the contrary contained in the land development regulations, the existing improvements as of the effective date of the ordinance from which this division is derived, in any district designated as SPE, shall be permitted as to height, setbacks, parking, landscaping and all other development regulations and ratios, and may be rebuilt in

substantially the same building configurations, parking provisions, landscape provisions, setbacks and other applicable development provisions, notwithstanding the provision of chapter 118, article IX of this Code.

(9) In the event that GU designated property adjacent to an SPE designated property is acquired by the owner of the SPE property, then the zoning designation for the GU land may be designated SPE after approval at a public hearing before the city commission with notice pursuant to Florida Statute, and in a manner consistent with the comprehensive plan.

(10) That certain site plan and settlement agreement approved by the city commission on October 17, 1995, among the city, Greater Miami Hebrew Academy, Daughters of Israel, Inc., and the Citizens for Greenspace, Inc., shall be used for purposes of permitting development pursuant to these development regulations with respect to the properties identified in section 142-731.

(Ord. No. 99-3199, § 5, 7-20-99; Ord. No. 2018-4158, § 2, 1-17-18)

DIVISION 20. - TC NORTH BEACH TOWN CENTER DISTRICTS

Sec. 142-734. - Purpose and intent.

(a) The North Beach Town Center districts consist of all land bounded by 72nd Street, Collins Avenue, 69th Street and Indian Creek Waterway; and consists of three districts: A town center core (TC-1) district; a town center mixed-use (TC-2) district; and a town center residential office (TC-3) district.

(b) The overall purposes of the North Beach Town Center districts are to:

(1) Promote development of a compact, pedestrian-oriented town center consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas, and attractive residential living environments with compatible office uses and neighborhood-oriented commercial services;

(2) Promote a diverse mix of residential, educational, and cultural and entertainment activities for workers, visitors and residents;

(3) Encourage pedestrian-oriented development within walking distance of transit opportunities at densities and intensities that will help to support transit usage and town center businesses;

(4) Provide opportunities for live/work lifestyles and increase the availability of affordable office space in the North Beach area.

(5) Promote the health and well-being of residents by encouraging physical activity, waterfront access, alternative transportation, and greater social interaction;

(6) Create a place that represents a unique, attractive and memorable destination for residents and visitors;

(7) Enhance the community's character through the promotion of high-quality urban design.

(c) The specific purpose and intent of the three districts in the North Beach Town Center are as follows:

(1) *TC-1 town center core district.* The TC-1 district is intended to promote high-intensity compact development that will support the town center's role as the hub of community-wide importance for business, office, retail, governmental services, culture and entertainment.

(2) *TC-2 town center mixed-use district.* The TC-2 district is intended to support medium-intensity mixed-use projects with active retail ground floor frontage.

(3) *TC-3 town center residential office district.* The TC-3 district is intended to be a transition between the high-intensity town center core and the surrounding low-intensity residential multifamily districts, by providing for contextually compatible residential and mixed-use development within an established, pedestrian, bicycle and transit oriented residential environment. Office and tourist lodging facilities are intended to provide a variety of employment opportunities to support the local economy and to reduce the need for long distance home to work vehicle trip. Neighborhood oriented retail and service users are permissible in certain limited areas of this district, identified as TC-3(c) on the zoning map, and are intended to provide opportunities for small business development and to enliven the pedestrian environment. TC-3(c) is intended to be a subset of TC-3 and all regulations applicable to TC-3 are equally applicable to TC-3(c) except as expressly provided in subsection 142-736(c)(3).

(Ord. No. 2011-3728, § 2, 5-11-11)

Sec. 142-735. - Definitions.

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

(a) *Alley* means a paved travelway for vehicles within a block that provides access to the rear of buildings, vehicle parking (e.g., garages), deliveries, utility meters, and recycling and garbage bins. The alley is generally a public right-of-way, but in some cases it may be located on private property with a public access easement.

(b) *Street* means all public rights-of-way used for vehicular and pedestrian access, but does not include alleys.

(c) *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.

(Ord. No. 2011-3728, § 2, 5-11-11)

Sec. 142-736. - Main permitted uses, conditional uses, accessory uses, and prohibited uses.

(a) Land uses in the TC-1 town center core district shall be regulated as follows:

(1) The main permitted uses in the TC-1 district are commercial uses; alcoholic beverage establishments pursuant to the regulations set forth in chapter 6; apartments; apartments/hotels; hotels. The ground story frontage along 71st Street and Collins Avenue shall be governed by subsection 142-737(c). The provisions of chapter 6 concerning distance separation for consumption of alcoholic beverages on-premises in restaurants shall not apply to this district.

(2) The conditional uses in the TC-1 district are 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; outdoor entertainment establishment, neighborhood impact establishment, open air establishment, religious institution; video game arcades; public and private institutions; and schools and major cultural dormitory facilities as specified in section 142-1332.

(3) The accessory uses in the TC-1 district are those uses permitted in article IV, division 2 of this chapter; alcoholic beverage establishments and accessory outdoor bar counters pursuant to the regulations set forth in chapter 6; provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, accessory outdoor bar counters located within 100 feet of an apartment unit may not be operated or utilized between 8:00 p.m. and 8:00 a.m.

(4) The prohibited uses in the TC-1 district are pawnshops, and alcoholic beverage establishments located in any open area above the ground floor (any area that is not included in the FAR calculations), except as provided in this division. However, outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues may be permitted in any open area above the ground floor until 8:00 p.m. with no background music (amplified or nonamplified).

(b) Land uses in the TC-2 town center mixed-use district shall be regulated the same as for uses in the TC-1 town center core district.

(c) Land uses in the TC-3 town center residential office district shall be regulated as follows:

(1) The main permitted uses in the TC-3 district are single-family detached dwelling, townhomes, apartments and offices.

(2) The conditional uses in the TC-3 district are apartment hotel, hotel, and suite hotel (pursuant to section 142-1105 of this chapter); adult congregate living facility; day care facility; nursing home; religious institutions; private and public institutions; schools; and commercial or noncommercial parking lots and garages (with accessory commercial uses) in accord with subsection 130-68(9).

a. In areas designated TC-3(c) on the zoning map, the following uses may be permitted as conditional uses in addition to the uses in paragraph (2) above: neighborhood-oriented retail and services uses, limited to 2,500 square feet or less per establishment, located on the ground floor of buildings. Such neighborhood-oriented retail and service uses shall be limited to antique stores; art/craft galleries; artist studios; bakery or specialty food stores; barber shops and beauty salons; coffee shop or juice bar; dry cleaner or laundry with off-site processing (dry cleaning receiving station); newspapers, magazines and books; photo studio; shoe repair; tailor or dressmaker; and food service establishments with 30 seats or less (including outdoor café seating) pursuant to the regulations set forth in chapter 6, with alcohol limited to beer and wine and closing no later than 12 midnight subject to limitations established in the conditional use process. In addition, full service restaurants serving alcoholic beverages pursuant to the regulations set forth in chapter 6, and with 30 seats or more may be permitted only on waterfront properties with a publicly accessible waterfront walkway in the area located south of 71st Street.

(3) The accessory uses in the TC-3 district are those uses customarily associated with the district purpose, as set forth in article IV, division 2 of this chapter, except that apartment hotels, hotels, and suite hotels may have accessory uses based upon the criteria below:

a. Hotels, apartment hotels, and suite hotels in the TC-3 district may include a dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the Florida Building Code.

b. Hotels, apartment hotels, and suite hotels in the TC-3(c) district may include accessory restaurants or alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 when approved as part of the conditional use. Such accessory restaurants or bars that serve alcohol shall be limited to a maximum of 1.25 seats per hotel or apartment unit for the entire site. The patron occupant load, as determined by the planning director or designee, for all accessory restaurants and alcoholic beverage establishments on the entire site shall not exceed 1.5 persons per hotel and/or apartment unit. For a hotel or apartment property of less than 32 units, the restaurant or bar may have a maximum of 40 seats in the aggregate on the site. The number of units shall be those that result after any renovation. Accessory restaurants and bars shall be permitted to sell alcoholic beverages for consumption only on the premises and shall be limited to closing no later than 12 midnight subject to limitations established in the conditional use process.

c. Hotels and suite hotels located in the TC-3 or TC-3(c) districts may have other accessory uses customarily associated with the operation of an apartment building, as referenced in subsection 142-902(2), for the use of registered hotel visitors and their guests only.

(4)

The prohibited uses in the TC-3 district are hostels, accessory dance halls, accessory entertainment establishments, accessory neighborhood impact establishments, accessory outdoor entertainment establishment; accessory open air or outdoor entertainment establishment as set forth in article V, division 6 of this chapter, accessory outdoor bar counter and alcoholic beverage establishments located in any open area above the ground floor (any area that is not included in the FAR calculations). However, outdoor restaurant seating, not exceeding 40 seats, associated with indoor venues may be permitted in any open area above the ground floor until 8:00 p.m. with no background music (amplified or nonamplified).

(5) There shall be no variances to these provisions.

(d) Ordinances elsewhere in these land development regulations that refer to the zoning districts that existed prior to this amendment, i.e., RM-1, CD-2, and CD-3, shall remain applicable to the properties lying within these TC-1, -2 and -3 districts, as if each such reference was amended to correspond to the new TC districts (RM-1 as to TC-3; CD-2 as to TC-2; and CD-3 as to TC-1), unless a provision in the TC districts expressly addresses the matter, in which case the TC regulation shall control.

(Ord. No. 2011-3728, § 2, 5-11-11; Ord. No. 2016-4005, § 1, 3-9-16; Ord. No. 2017-4146, § 2, 10-18-17; Ord. No. 2018-4175, § 1, 3-7-18)

Sec. 142-737. - Development regulations.

(a) The development regulations in the TC-1, TC-2 and TC-3 town center districts are as follows:

District	Maximum Floor Area Ratio (FAR)	Maximum Building Height

TC-1 Town Center Core	For properties bounded by 69th Street on the south, Collins Avenue on the east, 72nd Street on the north and Indian Creek Drive/Dickens Avenue on the west, the maximum FAR shall be 3.5. For all other properties, the following shall apply: For lots equal to or less than 45,000 sq. ft.—2.25 For lots greater than 45,000 sq. ft.—2.75	125 feet. Buildings fronting on 71st Street shall by subject to the additional setbacks as follows: stories 1—4 shall be setback 10 feet and above the forth story the building shall be setback 25 feet.
TC-2 Town Center Mixed-use	For properties bounded by 69th Street on the south, Collins Avenue on the east, 72nd Street on the north and Indian Creek Drive/Dickens Avenue on the west, the maximum FAR shall be 3.5. For all other properties, the following shall be 1.5; except for mixed-use buildings where more than 25 percent of the total area of a building is used for residential or hotel units, the maximum FAR shall be 2.0.	50 feet

TC-3 Town Center Residential Office	For properties bounded by 69th Street on the south, Collins Avenue on the east, 72nd Street on the north and Indian Creek Drive/Dickens Avenue on the west, the maximum FAR shall be 3.5. For all other properties, the following shall be 1.25	45 feet Waterfront lots—50 feet Parking garages as a main use—See subsection 130-68(9). The facade of buildings facing the lot front adjacent to streets shall not exceed 23 feet in height to the top of the roof deck. Any portion of the building above 23 feet shall be set back an additional 1 foot for every 1 foot in height above 23 feet. The rear facade of buildings shall be set back an additional 1 foot for every 1 foot in height above 33 feet.

District	Minimum Lot Area	Minimum Lot Width	Minimum Apartment Unit Size (square feet)	Average Apartment Unit Size (square feet)
TC-1 Town Center Core	Commercial—None	Commercial—None	New construction—550 Workforce housing—400	New construction—550 Workforce housing—400

TC-2 Town Center Mixed-use	Residential—6,250 sq. ft.	Residential—50 feet	New construction—550 Workforce housing—400	New Construction—800 Workforce housing—400
TC-3 Town Center Residential Office			Rehabilitated building—400	Rehabilitated building—No minimum
			Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	Non-elderly and elderly low and moderate income housing—400 Workforce housing—400
			Hotel units 15%: 300—335 85%: 335+	Hotel units—N/A

(b) *Setback requirements:* The minimum setback requirements for the TC-1, TC-2 and TC-3 districts are as follows. This includes all buildings, regardless of use, and subterranean parking structures. The minimum setbacks define the buildable area of the lot.

District	Front	Side Facing a Street	Interior Side	Rear

TC-1 Town Center Core	Frontages along 71st Street shall have a setback of 10 feet for the first 4 stories and a setback of 25 feet above the 4th story; other frontages shall have a setback of 5 feet	5 feet	10 feet when abutting a TC-3 district or a future alley designated on the infill regulating plan; otherwise it shall be 0 feet.	0 feet* abutting an alley or where there is a side lot line abutting 71st Street; otherwise 10 feet. *Properties between Collins Avenue and Harding Avenue must provide access to the interior of the block for service vehicles as determined by the design review process.

TC-2 Town Center Mixed-use	5 feet	5 feet	10 feet when abutting a TC-3 district or a future alley designated on the infill regulating plan; otherwise it shall be 0 feet.	0 feet* abutting an alley or where there is a side lot line abutting 71st Street; otherwise 10 feet. *Properties between Collins Avenue and Harding Avenue must provide access to the interior of the block for service vehicles as determined by the design review process.
TC-3 Town Center Residential Office	15 feet	7.5 feet for lots 50 feet wide or less 10 feet for lots greater than 50 feet in width	7.5 feet for buildings up to 33 feet in height; 10 feet for buildings 33 feet or more in height; 10 feet for lots abutting a TC-1 district	10 feet

;adv=1;(1) *Waterfront setbacks.* Notwithstanding the above, for waterfront properties the minimum setback shall be 30 feet from the bulkhead. However, if public waterfront walkways are provided, along with covenants and provisions to ensure public use and maintenance of these walkways in perpetuity, then the design review board may allow the waterfront setback to be decreased to not less than 15 feet. Design and use of waterfront walkways shall be in conformance with the NBTC design standards referenced in section 142-738.

(2) *Surface parking lots.* In the TC-1 and TC-2 districts, the minimum setback for surface parking lots shall be the same as for buildings plus an additional five feet for landscaping adjacent to all streets. In the TC-3 district the minimum setback for surface parking lots shall be five feet

adjacent to interior side lot lines, zero feet abutting an alley and the same as for building setbacks on all other sides.

(3) *Rooftop features.* In the TC-3 district, stairwell and elevator bulkheads and other rooftop features permissible in section 142-1161 extending above the roofline of a building shall be required to be set back from the main building one foot for every one foot in height above the top of the roof deck of each level, with the exception of parapet walls which shall not exceed 3.5 feet in height.

(c) *Required storefront frontage.* The ground story frontage of a building along 71st Street and Collins Avenue shall house active uses that contribute to a daily vibrant street life, including retail uses, eating and drinking establishments or cultural uses, for a minimum depth of 25 feet from the street facade along a minimum of 75 percent of the building frontage, which shall have glass storefronts. The remaining frontage may be used for lobby and access for upper story uses. Offices and residential uses are prohibited on the ground story street frontage of these streets unless the use is located on a mezzanine or at least 25 feet back from the street facade.

(1) *Retail kiosks.* Notwithstanding sections 70-5, 70-41 and 142-874, open air kiosks for retail sales or food service may be placed in or on the edge of surface parking lots or approved urban plazas in the TC-1 district. Such kiosks shall be permanent structures, designed and located to enhance and enliven the pedestrian environment and must receive design review approval. Self-service kiosks and vending machines are prohibited. No storage shall be allowed outside of the kiosks.

(d) *Open space.* For lots in the TC-1 and TC-2 district, lot area over 20,000 square feet shall have ground level open space which shall comprise a minimum of five percent of the lot area. Such open space shall be located adjoining the front or side street of the site, or within a central courtyard area that is fully accessible to the public from the front or street side of the property; and shall be designed and maintained according to the urban plaza design standards in the NBTC design standards referenced in section 142-738.

(e) *[Reserved.]*

(f) *[Alleys.]* Alleys shall be provided to benefit property owners and the general public by providing parking, service and delivery access to the rear of all lots, thereby improving traffic flow and eliminating driveways that create vehicle/pedestrian conflicts on public sidewalks. Motor vehicle parking, service and delivery access shall be from an alley wherever one exists, or where a new alley or service corridor can be created by dedication or easement. The location of new alleys shall be determined by the design review process with the intent to ensure that all properties within a block will have existing or future service access from the rear. Generally, the alley will be located in the required setback area along the rear or interior side lot line; however, this may be adjusted to optimize vehicular and pedestrian access to the subject property as well as to the surrounding properties. Where an alley does not exist, the property owner shall dedicate

sufficient width (the area within the required setback) to provide the alley abutting his property. Where it is not feasible to construct an alley at the time of redevelopment of any property, as determined by the planning director, the developer shall execute and record a covenant effecting such dedication upon certification by the planning director that the construction of an alley has become feasible. The planning director may accept a perpetual access easement for an alley in lieu of dedication of an alley if he determines such would be appropriate under the circumstances of any particular property. The developer shall maintain the area until the city builds the alley.

(g) *Encroachments.* No encroachments shall be allowed in the required setback areas except as follows; otherwise, encroachments shall be governed by section 142-1142:

(1) In the TC-1 and TC-2 districts, no encroachments shall be allowed in the first 7.5 feet above ground level adjacent to all streets.

(2) In the TC-3 district, no encroachment shall be allowed in the first five feet of setback area measured from the property line adjacent to all streets.

(3) In all districts, no encroachment shall be allowed in the first 18 feet above grade abutting an existing or future alley.

(h) *[Signs.]* Signs shall be regulated by chapter 138 and as permitted by section 138-174 and by the NBTC design standards referenced in section 142-738.

(i) *Streetscape improvements.* In all TC districts, the developer/property owner is required to construct all streetscape improvements substantially in accord with the NBTC design standards referenced in section 142-738 as part of any development or redevelopment project.

(Ord. No. 2011-3728, § 2, 5-11-11; Ord. No. 2016-4028, § 1, 9-14-16; Ord. No. 2017-4124, § 2, 7-26-17; Ord. No. 2017-4148, § 13, 10-18-17; Ord. No. 2017-4149, § 12, 10-18-17; Ord. No. 2018-4190, § 1, 5-16-18)

Sec. 142-738. - Design review standards.

All development shall substantially conform to the "Design Review Standards for the North Beach Town Center TC Zoning Districts", also known as the "NBTC design standards", as adopted and amended periodically by the design review board. The NBTC design standards are available from the planning department or on the web at miamibeachfl.gov/planning, by clicking on "Design Review".

(Ord. No. 2011-3728, § 2, 5-11-11)

Sec. 142-739. - Parking.

(a) *Off-street parking for motorized vehicles.*

(1) *Purpose.* Parking regulations in the North Beach Town Center are intended to: provide centralized public parking garages to serve the town center and minimize the amount of on-site parking required for individual lots, thereby reducing building bulk and maximizing

ground floor space available for retail and restaurant uses; enable people to park once at a convenient location and to access a variety of commercial enterprises in pedestrian friendly environments by encouraging shared parking; reduce diffused, inefficient, single-purpose reserved parking; encourage ground floor retail uses and public facilities; promote walking, bicycling and transit ridership to help reduce the demand for parking within the district; avoid public facilities; promote walking, bicycling and transit ridership to help reduce the demand for parking within the district; avoid adverse parking impacts on neighborhoods adjacent to the town center; maximize on-street parking where possible; increase visibility and accessibility of parking; provide flexibility for redevelopment of small sites; and for the preservation of historic buildings; promote early prototype mixed-use projects using flexible and creative incentives.

(2) *[Governing provisions.]* Required parking in the North Beach Town Center is governed by chapter 130, off-street parking, except as modified herein:

a. Minimum parking requirements for the TC-1 town center core district are set forth in parking district no. 4 in section 130-33, except that apartment buildings shall provide: 1.0 space per unit for units between 550 and 799 square feet; 1.25 spaces per unit for units between 800 and 999 square feet; 1.5 spaces per unit for units between 1,000 and 1,200 square feet; 2.0 spaces per unit for units above 1,200 square feet.

b. Minimum parking requirements for the TC-2 town center mixed-use district are set forth in parking district no. 1 in section 130-32, except that apartment buildings shall provide: 1.0 space per unit for units between 550 and 799 square feet; 1.25 spaces per unit for units between 800 and 999 square feet; 1.5 spaces per unit for units between 1,000 and 1,200 square feet; 2.0 spaces per unit for units above 1,200 square feet.

c. Minimum parking requirements for the TC-3 town center residential office district are set forth in parking district no. 1 in section 130-32, except that apartment buildings shall provide: 1.0 space per unit for units between 550 and 799 square feet; 1.25 spaces per unit for units between 800 and 999 square feet; 1.5 spaces per unit for units between 1,000 and 1,200 square feet; 2.0 spaces per unit for units above 1,200 square feet.

d. Parking requirements may be met either on-site or off-site within a distance of 800 feet from the subject lot, subject to subsection 130-36(b).

e. Mixed-use development is encouraged to utilize the shared parking calculations in section 130-221. Parking for residential uses may be included in the shared parking calculation at a rate of 50 percent for daytime weekdays, 70 percent for daytime weekends, and 100 percent for all other times. Shared parking shall be designated by appropriate signage and markings. The shared parking facility may be located off-site within 800 feet of the uses served, subject to subsection 130-36(b).

f.

Developments that provide a significant public amenity such as an urban plaza (minimum 3,000 square feet) in accord with the NBTC design standards referenced in section 142-738, or floor area for a public library (minimum 6,000 square feet and maximum 15,000 square feet) may be exempted from parking requirements for all uses on the site at a rate of one parking space for every 500 square feet of urban plaza space or one parking space for every 250 square feet of library space.

g. New construction of "live-work" projects shall meet the parking requirements for either residential or commercial uses, whichever is greater, but shall not be required to meet the parking requirement for both uses. For purposes of this section, a "live-work" unit is defined as a unit containing both a residential and commercial component within the same unit.

(b) *Bicycle parking.* Short-term and long-term bicycle parking shall be provided for new construction or substantial rehabilitation over 1,000 square feet according to the minimum standards in the table below.

(1) Short-term bicycle parking (bicycle racks) serves 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 near the main entrance to the use.

(2) Long-term bicycle parking includes 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.

Land Use	Minimum Short-term Bicycle Parking Spaces (whichever is greater)	Minimum Long-term Bicycle Parking Spaces (whichever is greater)
Commercial nonretail	4 per project or 1 per 10,000 square feet	1 per 10% of employees; 2 for 5,000 square feet and under; 3 for 5,001—20,000 square feet; 6 for 20,001—50,000 square feet; 10 for 50,000 square feet and over

Retail	1 per business, 4 per project or 1 per 5,000 square feet	1 per 10% of employees; 2 for 5,000 square feet and under; 3 for 5,001—20,000 square feet; 6 for 20,001—50,000 square feet; 10 for 50,000 square feet and over
Restaurants, bars, nightclubs	1 per 10 seats or occupants	1 per 10% of employees
Hotel	2 per hotel or 1 per 10 rooms	1 per 10% of employees
Multifamily residential	4 per project or 1 per 10 units	1 per unit

(c) *[More than minimum requirement encouraged.]* Developers are encouraged to provide more than the minimum requirement as appropriate for the particular uses in a building. The minimum required vehicular parking may be reduced by: One space for every five long-term bicycle parking spaces, and/or one space for every ten short-term bicycle parking spaces, not to exceed a total of 15 percent of the required vehicle parking spaces.

(d) *[Exemption from vehicle parking requirements.]* Nonresidential uses that provide showers and changing facilities for bicyclists shall be exempted from vehicle parking requirements at a rate of two vehicle parking spaces for each separate shower up to a maximum of eight parking spaces.

(e) *[TC-1 and TC-2 districts.]* In the TC-1 and TC-2 districts, short-term bicycle parking spaces may be provided in the public right-of-way, subject to design review, in situations where suitable space near the entrance to the building or storefront is not available on private property. Bicycle parking in the public right-of-way shall be approved by the public works department and shall not encroach on the pedestrian throughway zone.

(Ord. No. 2011-3728, § 2, 5-11-11)

DIVISION 21. - TOWN CENTER-CENTRAL CORE (TC-C) DISTRICT

Sec. 142-740. - Purpose and intent.

The overall purpose of the town center-central core (TC-C) district is to:

(a) Encourage the redevelopment and revitalization of the North Beach Town Center.

(b) Promote development of a compact, pedestrian-oriented town center consisting of a high-intensity employment center, mixed-use areas, and residential living environments with compatible office uses and neighborhood-oriented commercial services;

(c) Permit uses that will be able to provide for economic development in light of changing economic realities due to technology and e-commerce;

(d) Promote a diverse mix of residential, educational, commercial, and cultural and entertainment activities for workers, visitors and residents;

(e) Encourage pedestrian-oriented development within walking distance of transit opportunities at densities and intensities that will help to support transit usage and town center businesses;

(f) Encourage neighborhood-oriented retail and prevent an excessive concentration of large-scale retail that has the potential to significantly increase regional traffic congestion;

(g) Provide opportunities for live/work lifestyles and increase the availability of affordable office and commercial space in the North Beach area;

(h) Promote the health and well-being of residents by encouraging physical activity, waterfront access, alternative transportation, and greater social interaction;

(i) Create a place that represents a unique, attractive and memorable destination for residents and visitors;

(j) Enhance the community's character through the promotion of high-quality urban design;

(k) Promote high-intensity compact development that will support the town center's role as the hub of community-wide importance for business, office, retail, governmental services, culture and entertainment;

(l) Encourage the development of workforce and affordable housing; and

(m) Improve the resiliency and sustainability of North Beach.

(Ord. No. 2018-4224, § 1, 11-14-18)

Sec. 142-741. - Main permitted uses, accessory uses, conditional uses, prohibited uses, and supplemental use regulations.

Land uses in the TC-C district shall be regulated as follows:

(a) The main permitted, accessory, conditional, and prohibited uses are as follows:

General Use Category	
Residential Uses	
Apartments and townhomes	P
Co-living	P
Live-work	P
Single-family detached dwelling	P
Hotel Uses	
Hotel	P
Micro-hotel	P
Commercial Uses	
Alcoholic beverage establishments	P
Artisanal retail for on-site sales only	P
Grocery store	P
Indoor entertainment establishment	P
Neighborhood fulfillment center	P
Offices	P
Restaurants	P
Retail (including, for example, personal service establishments)	P
Outdoor café	P

Outdoor bar counter	A
Sidewalk café	A
Artisanal retail with off-site sales	C
Day care facility	C
Public and private institutions	C
Religious institution	C
Schools	C
Commercial establishment over 25,000 SF	C
Retail establishment over 25,000 SF	C
Neighborhood impact establishment	C
Outdoor and open air entertainment establishment	C
Self-storage warehouse (in accordance with the requirements set forth in subsection 142-741(b)(9))	P
Pawnshop, tobacco and vape dealers, package liquor stores, check cashing stores, occult science establishments, and tattoo studios	N

P = Main Permitted Use,
C = Conditional Use,
N = Prohibited Use,
A = Accessory only

(b) The following supplemental regulations shall apply to specific uses in the TC-C district:

(1) There shall be no variances regarding the regulations for permitted, prohibited, accessory, exception, special exception, and conditional uses in subsection 147-741(a); and the supplemental regulations of such uses in subsection 147-741(b).

(2) Use limitations.

a. The following limits shall apply for residential and hotel uses:

i. *Hotel rooms.* There shall be a limit of 1,762 hotel units within the TC-C district.

ii. *Apartments.* There shall be a limit of 500 apartment units built within the TC-C district over and above the maximum allowable density and intensity, prior to the adoption of the FAR increase approved on November 7, 2017. This limit shall not authorize exceeding the maximum density authorized within the adopted comprehensive plan.

iii. *Workforce and affordable housing and co-living units.* There shall be a combined limit of 500 workforce housing, affordable housing, or co-living units built within the TC-C district over and above the maximum allowable density prior to the adoption of the FAR increase approved on November 7, 2017. However, a co-living unit that is less than 550 square feet shall count as half of a unit for the purposes of calculating the maximum number of units. This limit shall not authorize exceeding the maximum density authorized within the adopted comprehensive plan.

iv. *Co-living units.* Notwithstanding the foregoing limitations, there shall be a limit of 550 co-living units built within the TC-C district. Additionally, co-living units shall only be permitted for projects that have obtained a building permit process number by October 1, 2023.

b. Units for the uses identified in subsections (b)(2)a.i—iii. Above, shall be applied for and allocated on a first-come, first-served basis concurrent with the earlier of a completed application for land use board approval or completed application for building permit that includes the proposed number of units, and meets all applicable requirements of the land development regulations, as determined by the planning director. Any allocation of units pursuant to this subsection shall be subject to the following additional provisions:

i. In the event that a land use board application is not approved by the applicable board, or in the event that an applicant with an approved land use board order fails to obtain a building permit before the board order expires, all units allocated pursuant to the filing of the completed land use board application shall be released to the pool and shall become available to new applicants.

ii. Upon the issuance of a building permit for units approved pursuant to a land use board order, the allocation of such units shall remain reserved. If the building permit or building permit application expires or is abandoned, any units allocated pursuant to the building permit application shall be released to the pool; and shall

become available to new applicants. Prior to reactivating an expired or abandoned building permit or building permit application, an applicant shall first be required to obtain written confirmation from the planning department that sufficient units remain available.

iii. If the use for which credits are allocated pursuant to a land use board order or building permit changes to a use that does not require an allocation of units, the allocation of units shall be released and shall become available to new applicants.

c. Units for the uses identified i n subsection (b)(2)a.iv. above, shall be applied for and allocated on a first-come, first-served basis concurrent with a completed application for land use board approval that includes the proposed number of units, and meets all requirements of the land development regulations, as determined by the planning director. Any allocation of units pursuant to this subsection shall be subject to the following additional provisions:

   i. In the event that a land use board application is not approved by the applicable board, or in the event that an applicant with an approved land use board order fails to obtain a building permit before the board order expires. all units allocated pursuant to the filing of the completed land use board application shall be released to the pool and shall become available to new applicants.

   ii. Upon the issuance of a building permit for units approved pursuant to a land use board order, the allocation of such units shall remain reserved. In the event that the building permit expires or is abandoned, any units allocated pursuant to the building permit shall be released to the pool, and shall become available to new applicants. Prior to reactivating an expired or abandoned building permit or building permit application, an applicant shall first be required to obtain written confirmation from the planning department that sufficient units remain available.

   iii. If the use for which credits are allocated pursuant to a land use board order changes to a use that does not require an allocation of units. the allocation of units shall be released and shall become available to new applicants.

d. Any such units permitted the boundaries of the TC-C district, after November 7, 2017 shall be counted towards the maximum limit established herein.

e. Notwithstanding the use limitations in subsection a.i.—iii. above, the planning director or designee may permit simultaneous increase and decreases in the above described uses, provided that the impacts of the changes will not exceed originally approved impacts, as measured by total weekday peak hour (of adjacent street traffic, one hour between 4:00 p.m. and 6:00 p.m.) vehicle trips, pursuant to the Institute of Transportation Engineers Trip Generation Manual, as may be amended from time to time.

(3) There shall be a limit of two retail establishments over 25,000 square feet within the TC-C district. Credits for such retail establishments shall be allocated on a first-come, first serve basis as part of an application for land use board approval, building permit, or business tax receipt, whichever comes first. If said approval, permit, or receipt expires and the establishment is not built or ceases operations, the credits shall become available to new applicants. Any such establishment permitted in the area of the TC-C district, after November 7, 2017, shall be counted towards the maximum limit established herein.

(4) There shall be a limit of two neighborhood fulfillment centers within the TC-C district. Credits for such establishments shall be allocated on a first-come, first serve basis as part of an application for land use board approval, building permit, or business tax receipt, whichever comes first. If said approval, permit, or receipt expires and the establishment is not built or ceases operations, the credits shall become available to new applicants. Any such establishment permitted in the area of the TC-C district, after November 7, 2017, shall be counted towards the maximum limit established herein.

(5) For the purposes of the TC-C district, the definition for a neighborhood impact establishments established in section 142-1361 is modified as follows:

A "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 area of 10,000 square feet or greater of areas accessible by patrons; 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 area of 5,000 square feet or greater of areas accessible by patrons.

(6) The primary means of pedestrian ingress and egress for alcoholic beverage establishments, entertainment establishments, neighborhood impact establishments, commercial establishment over 25,000 square feet, retail establishment over 25,000, or artisanal retail uses in the TC-C district shall not be permitted within 200 feet of an RM-1 district boundary. This shall not apply to emergency egress.

(7) The following requirements shall apply to indoor entertainment establishments and outdoor and open air entertainment establishments:

a. Indoor entertainment establishments shall be required to install a double door vestibule at all access points, except for emergency exits.

b. Indoor entertainment shall cease operations no later than 5:00 a.m. and commence entertainment no earlier than 9:00 a.m.

c.

Open air entertainment shall cease operations no later than 11:00 p.m. on Sunday through Thursday, and 12:00 a.m. on Friday and Saturday; operations shall commence no earlier than 9:00 a.m. on weekdays and 10:00 a.m. on weekends; however, the planning board may establish stricter requirements.

d. There shall be a maximum of ten alcoholic beverage establishments that are not also operating as a restaurant or entertainment establishment permitted within this zoning district. Credits for entertainment establishments shall be allocated on a first-come, first serve basis as part of an application for land use board approval, building permit, or business tax receipt, whichever comes first. If said approval, permit, or receipt expires and the entertainment establishment is not built or ceases operations, the credits shall become available to new applicants. Any entertainment establishment permitted in the area of the TC-C district, after November 7, 2017, shall be counted towards the maximum limit established herein.

e. Entertainment establishments shall also be restaurants with full kitchens. Such restaurants shall be open and able to serve food at a minimum between the hours of 10:00 a.m. and 2:00 p.m. on days in which the entertainment establishment will be open and additionally during hours in which entertainment occurs and/or alcohol is sold.

(8) Restaurants with sidewalk café permits or outdoor cafés shall only serve alcoholic beverages at sidewalk cafés and outdoor cafés during hours when food is served in the restaurant, shall cease sidewalk café operations at 2:00 a.m. and commence no earlier than 8:00 a.m.

(9) Self-storage warehouse use shall only be permitted in accordance with the following:

a. Only those properties containing an existing self-storage use as of January 1, 2022, shall be permitted to have self-storage as a use in addition to commercial, office, residential, or any combination thereof.

b. New development on eligible properties described above are only eligible to have a self-storage use if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming that, for a term of 30 years, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.

c. Floor area used for self-storage (exclusive of storefront office use for the self-storage facility) shall not exceed 50 percent of the gross floor area of the building.

d. All self-storage uses (other than storefront office use for the self-storage facility) shall be located above the ground floor and shall be fully concealed from view at all levels along all street and sidewalk sides of the property.

(Ord. No. 2018-4224, § 2, 11-14-18; Ord. No. 2019-4287, § 1, 7-31-19; Ord. No. 2020-4339, § 3, 5-13-20; Ord. No. 2020-4348, § 1, 7-29-20; Ord. No. 2022-4506, § 1, 7-20-22)

[Sec. 142-742. - Reserved.]

Sec. 142-743. - General development regulations.

(a) Maximum floor area ratio (FAR) shall be 3.5.

(b) The maximum building height:

(1) One hundred twenty-five feet (base maximum height);

(2) The maximum height for lots that are 20,000 square feet (SF) or larger may be increased through participation in the public benefits program as outlined in section 142-747 (public benefit maximum height) as follows:

a. For lots that are between 20,000 SF and 45,000 SF the maximum building height is 165 feet.

b. For lots that are greater than 45,000 SF the maximum building height is 200 feet.

c. For lots that are greater than 50,000 SF and located north of 71st Street, the design review board, in accordance with the design review criteria in chapter 118, article VI of these land development regulations, may waive the maximum height of 200 feet, in order to authorize up to an additional 20 feet of height, not to exceed 220 feet, based upon the merit of the design.

(c) Minimum unit sizes.

(1) *Residential unit sizes.* The minimum unit sizes for residential uses shall be as follows:

a. Apartment: 550 square feet ("SF").

b. Workforce housing: 400 SF.

c. Affordable housing: 400 SF.

d. Co-living units: 375 SF with a minimum of 20 percent of the gross floor area of the building consisting of amenity space on the same site. Amenity space includes the following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; kitchens; club rooms; business center; retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses whether operated by the condo or another operator. Bars and restaurants shall count no more than 50 percent of the total co-living amenity space requirements. These amenities may be combined with the amenities for micro-hotels, provided residents and hotel guests have access. No variances are permitted from these provisions.

(2) *Minimum hotel room sizes.* The minimum hotel room size:

a. Hotel: 300 SF.

b. Micro-hotel: 175 SF provided that a minimum of 20 percent of the gross floor area of the building consists of amenity space that is physically connected to and directly accessed from the micro-hotel units without the need to exit the parcel. Amenity space includes the

following types of uses, whether indoor or outdoor, including roof decks: restaurants; bars; cafes; hotel business center; hotel retail; screening rooms; fitness center; spas; gyms; pools; pool decks; and other similar uses customarily associated with a hotel uses whether operated by the hotel or another operator. Bars and restaurants shall count no more than 50 percent of the total amenity space requirements. These amenities may be combined with the amenities for co-living units, provided residents and hotel guests have access. No variances are permitted from these provisions.

(d) The maximum residential density: 150 units per acre.

(1) The maximum residential density of may be increased by up to 80 percent beyond the maximum residential density if the development incorporates certified workforce or affordable housing units. The additional density may only be utilized for workforce or affordable housing units.

(2) Co-living units that are less than 550 square feet shall count as half of a unit for the purposes of calculating the maximum allowable density.

(Ord. No. 2018-4224, § 2, 11-14-18; Ord. No. 2019-4287, § 1, 7-31-19)

Sec. 142-744. - Setbacks and encroachments.

Setbacks and allowable encroachments into setbacks shall be as per table A below. For the purposes of new construction in this zoning district, heights shall be measured from the City of Miami Beach Freeboard of five feet, unless otherwise noted.

Table A

Street Class	Property line abutting	Building Height at which Setback occurs	Minimum Setback from property line	Allowable Habitable Encroachments into setback
Class B	69th Street	Grade to 55 feet	10 feet	5 feet
		55 feet to max height	125 feet	5 feet
Class D	70th Street Alley Line	Grade to max height	10 feet	3 feet

Class A	71st Street	Grade to 55 feet	10 feet	0 feet
		55 feet to max height	25 feet	5 feet
Class A	72nd Street	Grade to max height	20 feet from back of curb line; curb line location shall be at the time of permitting; however, it shall be no less than 5 feet from the property line	5 feet
Class A	Collins Avenue	Grade to 55 feet	10 feet	5 feet
		55 feet to 125 feet	20 feet	5 feet
		125 feet to max height	35 feet	5 feet
Class A	Indian Creek Drive	Grade to max height	10 feet	5 feet
Class B	Abbott Avenue and Dickens Avenue	Grade to max height	10 feet	5 feet
Class C	Byron Avenue, Carlyle Avenue, and Harding Avenue	Grade to max height	10 feet	7 feet

N/A	Interior Side	Grade to 55 feet on lots greater than 110 feet wide, or Grade to 75 feet on lots 110 feet wide or less.	0 feet	0 feet
		55 feet to maximum height on lots greater thank 110 feet wide or 75 feet to maximum height on lots 110 feet wide or less	30 feet	10 feet
N/A	Rear abutting an alley (except 70th Street Alley)	Grade to 55 feet	5 feet	0 feet
		55 feet to max height	20 feet	10 feet
N/A	Rear abutting a parcel	Grade to 55 feet	0 feet	0 feet
		55 feet to max height	30 feet	10 feet

(Ord. No. 2018-4224, § 2, 11-14-18; Ord. No. 2019-4316, § 3, 10-30-19)

Sec. 142-745. - Street frontage, design, and operations requirements.

The development regulations and street frontage requirements for the TC-C district are as follows:

(a) *{Applicability.]* The following regulations shall apply to all frontages:

(1) *Tower regulations.* The tower shall be considered the portion of a building located above 55 feet, excluding allowable height exceptions as defined in section 142-1161. Towers shall comply with the following:

a. The longest portion of a tower located within 50 feet of a public right-of-way shall not exceed 165 feet in length between the two furthest points of the exterior face of the tower parallel to a single frontage.

b. The minimum horizontal separation between multiple towers located on the same site, including balconies, shall be 60 feet.

(2) *Setback design.* The minimum setback shall be designed to function as an extension of the adjacent public sidewalk unless otherwise noted in the regulations of this zoning district.

(3) *Clear pedestrian path.* A minimum ten-foot wide "clear pedestrian path," free from obstructions, including, but not limited to, outdoor cafés, sidewalk cafés, landscaping, signage, utilities, and lighting, shall be maintained along all frontages as follows:

a. The clear pedestrian path may only utilize public sidewalk and setback areas.

b. Pedestrians shall have 24-hour access to the clear pedestrian path.

c. The clear pedestrian paths shall be well lit and consistent with the city's lighting policies.

d. The clear pedestrian paths shall be designed as an extension of the adjacent public sidewalk.

e. The clear pedestrian path shall be delineated by in-ground markers that are flush with the path, differing pavement tones, pavement type, or other method to be approved by the planning director or designee.

f. An easement to the city providing for perpetual public access shall be provided for portions of the clear pedestrian path that fall within the setback area.

(4) *Habitable encroachments.* Habitable encroachments may encroach into required setbacks above a height of 15 feet up to the applicable distance indicated for allowable habitable encroachments in table A. Habitable encroachments include balconies, bay windows, trellises, pergolas, pool decks, roof top decks, and amenity decks. Notwithstanding the foregoing, allowable encroachments shall be permitted within required yards, as set forth in section 142-1132.

(5) *Articulation.* Facades with a length of 240 feet or greater shall be articulated so as to not appear as one continuous facade, subject to design review criteria.

(6) *Windows.* All windows shall be a minimum of double-pane hurricane impact glass.

(7)

Street trees. In addition the requirements of chapter 126, street trees shall require the installation of an advanced structural soil cells system (Silva Cells or approved equal) and other amenities (irrigation, up lighting, porous aggregate tree place finish) in tree pits.

(8) *Commercial, hotel, and access to upper level frontages.* In addition to other requirements for specific frontage types and other requirements in the City Code, frontages for commercial, hotel, and access to upper level frontage shall be developed as follows:

a. The habitable space shall be directly accessible from the clear pedestrian path.

b. Such frontages shall contain a minimum of 70 percent clear glass windows with views into the habitable space.

c. A shade structure that projects for a minimum depth of five feet into the setback beyond the building façade, shall be provided at a height between 15 feet and 25 feet. Said shade structure may consist of an eyebrow or similar structure. Additionally, an allowable habitable encroachment such as balconies or parking deck may take the place of the shade structure. Notwithstanding the foregoing, if the shade structure is not an integral structural component of the building, it may be located at a height between 15 feet measured from grade and 25 feet measured from the required City of Miami Beach Freeboard.

d. No more than 35 percent of the required habitable space along the ground floor of a building frontage shall be for access to upper levels, unless waived by the design review board.

(9) *Residential frontages.* In addition to other requirements for specific frontage types and other requirements in the City Code, residential frontages shall be developed as follows:

a. Ground floor residential units shall have private entrances from the clear pedestrian path.

[b. Reserved.]

c. Where there are ground floor residential units, the building may be recessed from the setback line up to an additional to five feet in order to provide private gardens or porches that are visible and accessible from the street.

d. A shade structure over the private garden or porch may be provided.

e. Private access stairs, ramps, and lifts to the ground floor units may be located within the area of the private garden or porches.

f. Fencing and walls for such private gardens or porches may encroach into the required setback up to the applicable distance indicated for allowable encroachments in table A at grade; however, it shall not result in a clear pedestrian path of less than ten feet. Such fencing and walls shall not be higher than four feet from grade.

(10) *Off-street parking facilities.* In addition to requirements for specific frontage types and other requirements in the City Code, off-street parking facilities shall be built as follows:

a. Parking facilities shall be entirely screened from view from public rights-of-way and clear pedestrian paths. Parking garages shall be architecturally screened or lined with habitable space.

b. Parking garages may only encroach into the required setback between a height 25 feet and 55 feet up to the applicable distance indicated for allowable habitable encroachments in table A.

1. Habitable space for residential, commercial, or hotel uses may be placed within the allowable habitable encroachment in order to screen the parking garage from view of the public right-of-way.

c. Portions of parking decks that encroach into the required setback or that are located in levels directly below habitable space shall have a minimum floor to ceiling height of nine feet.

d. Portions of parking decks that encroach into the required setback or that are located in levels directly below habitable space shall have horizontal floor plates.

e. Rooftop and surface parking shall be screened from view from surrounding towers through the use of solar carports or landscaping.

(11) *Utilities.* In addition to other requirements for specific frontage types and other requirements in the City Code, facilities for public utilities shall be built as follows:

a. For new construction, local electric distribution systems and other lines/wires shall be buried underground. They shall be placed in a manner that avoids conflicts with street tree plantings.

b. Long-distance power transmission lines not otherwise buried shall be placed on poles for above-ground distribution pursuant to the following restrictions:

1. Poles shall be located in the area of allowable encroachments into setbacks; however, they may not obstruct clear pedestrian paths.

2. Poles shall be located no closer than 50 feet from the radius of the intersection of two streets.

3. Poles shall be separated by the longest distance possible that allows the lines to operate safely.

4. Poles shall be architecturally and artistically treated.

(12) *Loading.* Where loading is permitted, it shall be designed as follows, in addition to the requirements for driveways:

a.

Loading shall at a minimum be setback behind the area required to be habitable for each street class designation.

b. Loading for nonresidential uses that are on lots over 45,000 square feet shall provide for loading spaces that do not require vehicles to reverse into or out of the site, unless waived by the design review board.

c. Driveways for parking and loading shall be combined, unless waived by the design review board.

d. Loading areas shall be closed when not in use.

e. Garbage rooms shall be noise-baffled, enclosed, and air-conditioned.

f. Trash containers shall be located in loading areas.

g. Trash containers shall utilized rubber tired wheels.

h. Delivery trucks shall not be allowed to idle in the loading areas

i. Loading for commercial and hotel uses and trash pick-ups with vehicles of more than two axles may only commence between the hours of 6:00 a.m. and 7:00 a.m., 9:00 a.m. and 3:00 p.m., and 6:00 p.m. and 9:00 p.m. on weekdays; and 9:00 a.m. and 9:00 p.m. on weekends, unless waived by the planning board with conditional use approval. Notwithstanding the foregoing, hybrid or electric vehicles may commence loading at 5:00 a.m. instead of 6:00 a.m. on weekdays.

j. Loading for commercial and hotel uses with vehicles of two axles or less may occur between the hours of 6:00 a.m. and 11:00 p.m. on weekdays and 9:00 a.m. and 11:00 p.m. on weekends. Notwithstanding the foregoing, hybrid or electric vehicles may commence loading at 5:00 a.m. instead of 6:00 a.m. on weekdays.

k. Required off-street loading may be provided on another site within the TC-C district or within 1,500 feet of the site, provided it is not located in a residential district.

(13) *Drive-through.* The use of driveways for drive-through commercial purposes shall be prohibited.

(b) *70th Street Frontage.* The property line between southern boundary of Lots 6 and 7 of Blocks 11 through 14 of "Normandy Beach South" according to the plat thereof as recorded in Plat Book 21 at Page 54 and the northern boundary of Lots 1 and 12 of Blocks D, E, and H of "Atlantic Heights Corrected" according to the plat thereof as recorded in Plat Book 9 at Page 54 and of Lots 1 and 6 of Block J of "Atlantic Heights" according to the plat thereof as recorded in Plat Book 9 at Page 14, is hereby defined as the "70th Street Frontage."

(c) *Street class designation.* For the purposes of establishing development regulations for adjacent properties and public rights-of-way, streets and frontages shall be organized into classes as follows:

(1) Class A frontages are the following:

a. 71st Street.

b. 72nd Street.

c. Collins Avenue.

d. Indian Creek Drive.

(2) Class B frontages are the following:

a. Abbott Avenue.

b. Dickens Avenue.

c. 69th Street.

(3) Class C frontages are the following:

a. Carlyle Avenue.

b. Harding Avenue.

c. Byron Avenue.

(4) Class D frontages are the following:

a. 70th Street Frontage.

(d) *Hierarchy of frontages.* For the purposes of conflicts, Class A frontages shall be the highest class frontage; Class B frontages shall be the second highest class frontage; Class C frontages shall be the third highest class frontage; and Class D shall be the fourth highest class frontage. Where requirements for frontages of different classes overlap and conflict, the regulations for the higher class frontage shall control over the regulations for the lower class frontage.

(e) *Class A.* In addition to other requirements in the City Code, Class A frontages shall be developed as follows:

(1) Facades shall have a minimum of height of 35 feet.

(2) Buildings shall have a minimum of three floors located along a minimum of 90 percent of the length of the setback line pursuant to the following regulations:

a. The building may be recessed from the setback line in order to provide active public plazas that have no floor area located above the plaza.

b. Except where required for driveways and utility infrastructure, the ground floor shall contain habitable space with a minimum depth of 50 feet from the building façade.

c. The habitable space on the ground floor shall be for commercial and hotel uses, and to provide access to uses on upper floors of the building.

d. The second and third floors shall contain habitable space for residential, hotel, or commercial uses with a minimum depth of 25 feet from the building facade.

e.

Ground floor and surface parking shall be setback a minimum of 50 feet from the building façade and be concealed from view from the clear pedestrian path.

(3) Driveways and vehicle access to off-street parking and loading shall be prohibited on a Class A frontage, unless it is the only means of egress to the site. Permitted drive-ways on Class A frontages shall be limited by the following:

a. If a driveway is permitted it shall be limited to 22 feet in width and be incorporated into the façade of the building.

b. Driveways shall be spaced no closer than 60 feet apart.

c. Driveways shall consist of mountable curbs that ensure a continuation of the ten-foot clear pedestrian paths.

d. If the only means of egress to the site is from a Class A frontage, automobile parking requirements may be waived by the design review board.

(4) Off-street loading shall be prohibited on a Class A frontage, unless it is the only means of egress to the site. Should the only means of egress to a site be from a Class A frontage, loading requirements may be waived by the design review board.

(5) On-street loading shall be prohibited on Class A frontages.

(6) Ground floor utility infrastructure, including as may be required by Florida Power and Light (FPL) shall be prohibited on a Class A frontage, unless it is the only means of egress to the site. Permitted utility infrastructure shall be developed as follows:

a. Permitted utility infrastructure shall be concealed from the public view and be placed within or behind the line of the façade if access from the street is required.

(7) In addition to the requirements of section 126-6(a)(1), street trees shall have a minimum clear trunk of eight feet, an overall height of 22 feet, and a minimum caliper of six inches at time of planting. Additionally, the following shall apply:

a. Street trees shall be up-lit.

b. If such street trees cannot be planted the applicant/property owner shall contribute double the sum required in section 126-7(2) into the city's tree trust fund.

(f) *Class B.* In addition to other requirements in the City Code, Class B frontages shall be developed as follows:

(1) Facades shall have a minimum of height of 35 feet.

(2) Buildings shall have a minimum of one floor located along a minimum of 90 percent of the length of the setback line pursuant to the following regulations:

a. The building may be recessed from the setback line in order to provide active public plazas that have no floor area located above the plaza.

b.

Except where required for driveways and utility infrastructure, the ground floor shall contain habitable space for residential, hotel, or commercial uses with a minimum depth of 45 feet from the building façade for the minimum required length along the setback line.

(3) Driveways and vehicle access to off-street parking and loading shall be prohibited unless it is the only means of egress to the site or if the only other means of egress is from a Class A street. Permitted drive-ways on Class B frontages shall be limited by the following:

a. The prohibition on driveways may be waived by the design review board on blocks that are over 260 feet in length; however, such driveways shall be limited to 12 feet in width.

b. Driveways shall be limited to 22 feet in width and be incorporated into the facade of the building.

c. Driveways shall be spaced no closer than 60 feet apart on a single parcel.

d. Driveways shall consist of mountable curbs that ensure a continuation of the ten-foot clear pedestrian paths.

(4) Off-street loading shall be prohibited on Class B frontages, unless it is the only means of egress to the site, or if the only other means of egress is from a Class A street.

(5) On-street loading shall be prohibited on Class B frontages.

(6) Ground floor utility infrastructure, including as may be required by Florida Power and Light (FPL) shall be prohibited on a Class B frontage, unless it is the only means of egress to the site or if the only other means of egress is from a Class A street. Permitted utility infrastructure shall be developed as follows:

a. Permitted utility infrastructure shall be concealed from the public view and be placed within or behind the line of the façade if access from the street is required.

(7) In addition to the requirements of section 126-6(a)(1), street trees shall have a minimum clear trunk of six feet, an overall height of 16 feet, and a minimum caliper of four inches at time of planting. Additionally, the following shall apply:

a. Street trees shall be up-lit.

b. If such street trees cannot be planted the applicant/property owner shall contribute 1.5 times the sum required in section 126-7(2) into the city's tree trust fund.

(g) *Class C.* In addition to other requirements in the City Code, Class C frontages shall be developed as follows:

(1) Facades shall have a minimum of height of 35 feet.

(2) Buildings shall have a minimum of one floor located along a minimum of 85 percent of the length of the setback line pursuant to the following regulations:

a.

The building may be recessed from the setback line in order to provide active public plazas that have no floor area located above the plaza.

b. Where there are ground floor residential units, the building may be recessed from the setback line up to five feet in order to provide private gardens or porches that are visible and accessible from the street.

c. Except where required for driveways and utility infrastructure, the ground floor shall contain habitable space for residential, hotel, or commercial uses with a minimum depth of 20 feet from the building façade for the minimum required length along the setback line.

d. Ground floor and surface parking shall be setback a minimum of 20 feet from the building facade and shall be concealed from view from the clear pedestrian path.

(3) Driveways on Class C frontages shall be limited as follows:

a. Driveways shall be limited to 24 feet in width and be incorporated into the facade of the building.

b. Driveways shall be spaced no closer than 30 feet apart, unless waived by the design review board.

c. Driveways shall consist of mountable curbs that ensure a continuation of the ten-foot clear pedestrian paths.

(4) Ground floor utility infrastructure, including as may be required by Florida Power and Light (FPL) shall be concealed from the public view and be placed within or behind the line of the façade if access from the street is required.

(5) Columns to support allowable habitable encroachments are permitted below the encroachment, provided they are no more than two feet wide and spaced a minimum of 20 feet apart. The columns may split the "clear pedestrian path" into two narrower "clear pedestrian paths" with a combined width of ten feet, provided that both paths are in compliance with American with Disabilities Act (ADA) clearance requirements.

(h) *Class D.* In addition to other requirements in the City Code, Class D frontages shall be developed as follows:

(1) The Class D frontage is intended to provide a comfortable pedestrian path that connects Indian Creek Drive to Collins Avenue: therefore, the minimum setback area shall contain clear pedestrian path that provides access from the perpendicular clear pedestrian paths which are intersected.

(2) Façades shall have a minimum of height of 20 feet.

(3) Buildings shall have a minimum of one floor located along a minimum of 25 percent of length of the setback line pursuant to the following regulations:

a. The building may be recessed from the setback line in order to provide active public plazas that have no floor area located above the plaza.

b. The ground floor shall contain habitable space for residential, hotel, or commercial uses with a minimum depth of 20 feet from the building façade for the minimum required length along the setback line.

c. Surface parking shall be setback a minimum of 20 feet from the building facade and shall be concealed from view from the clear pedestrian path.

(4) Driveways shall be prohibited on Class D frontages.

(5) Loading shall be prohibited on Class D frontages.

(6) Ground floor utility infrastructure, including as may be required by Florida Power and Light (FPL) shall be concealed from the public view and be placed within or behind the line of the facade if access from the street is required.

(7) Buildings on either side of the frontage shall be permitted to provide one elevated pedestrian walkway to connect to the building on the opposite side of the frontage pursuant to the following restrictions:

a. The elevated walkway shall be located between a height of 25 feet and 55 feet.

b. Elevated walkways shall be setback a minimum 30 feet from Class A, B, or C setbacks.

c. Elevated walkways may be enclosed.

d. Elevated walkways shall be architecturally treated.

e. Elevated walkways shall be no wider than 20 feet, excluding architectural treatments.

(8) The "clear pedestrian path" may incorporate up to five feet from the setback of the adjacent parcel.

(Ord. No. 2018-4224, § 2, 11-14-18; Ord. No. 2019-4316, § 3, 10-30-19)

Sec. 142-746. - Nonconforming structures within unified development sites.

(a) Buildings within the TC-C district that are nonconforming with the regulations of this division and incorporated into a unified development site as part of a land use board approval shall be made conforming with the development regulations of this division.

(b) Notwithstanding the requirements of subsection (a) above, if said nonconforming building has a tenant with a lease that prevents the structure from being made conforming as part of the land use board approval, then the following shall apply:

(1) A phased development permit, pursuant to section 118-259, shall be applied for as part of the land use board approval process. The phased development approval shall require the nonconforming building to be redeveloped into a conforming building. The phasing time limit shall be the minimum necessary to allow for the completion of the lease.

(2) A certified copy of the lease shall be provided as part of the land use board application.

(c) Notwithstanding the requirements of subsection (b) above, 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:

(1) At least 75 percent of the front and street side façades, exclusive of window openings;

(2) At least 50 percent of all upper level floor plates; and

(3) At least 50 percent of the interior side walls, exclusive of window openings.

(Ord. No. 2018-4224, § 2, 11-14-18)

Sec. 142-747. - Public benefits program.

Participation in the public benefits program shall be required for floor area that is located above 125 feet up to the maximum height. The following options or mix of options are available for participation in the public benefits program:

(a) *Contribution to public benefits fund.* A contribution to the public benefits fund, in the amount identified in appendix A, shall be required for each square foot of floor area located above a building height of 125 feet, up to the public benefit maximum height as described in section 142-743(b)(2). The payment shall be made prior to the development obtaining a building permit.

(b) *On-site workforce or affordable housing.* Provide on-site workforce housing or housing for low and/or moderate income non-elderly and elderly persons pursuant to the requirements of articles V and VI of chapter 58 of the city Code and certified by the community development department. Two square feet of floor area may be built above a building height of 125 feet, up to the public benefit maximum height as described in section 142-743(b)(2), for each square foot of workforce housing or housing for low and/or moderate income non-elderly and elderly persons provided onsite. The following regulations shall apply to such units:

(1) There shall be no separate entrance or access for such units. Residents of such units shall be permitted to access the building from the same entrances as the market rate units, unless units are on the ground floor, in which case they shall have private entrances from the clear pedestrian path.

(2) Units shall comply with the minimum unit size requirements for affordable or workforce housing of this division.

(3) Only the square footage within the unit itself shall count for the square footage above the as of right height.

(c)

Off-site workforce or affordable housing. Provide off-site workforce housing or housing for low and/or moderate income non-elderly and elderly persons pursuant to the requirements of articles V and VI of chapter 58 of the city Code and certified by the community development department within the City of Miami Beach. One and one-half square feet of floor area may be built above a building height of 125 feet, up to the public benefit maximum height as described in subsection 142-743(b)(2), for each square foot of workforce housing or housing for low and/or moderate income non-elderly and elderly persons provided off-site within the City of Miami Beach. The following regulations shall apply to such units:

(1) Units shall comply with the minimum unit size requirements for affordable or workforce housing of this zoning district.

(2) Only the square footage within the unit itself shall count for the square footage above the as of right height.

(3) The housing shall be provided prior to the development obtaining a certificate of occupancy.

(4) If the housing cannot be provided prior to the development obtaining a certificate of occupancy, a contribution into the public benefits trust fund shall be made in the amount identified in appendix A for each one-half square foot of floor area that is above the as of right height.

(d) *LEED platinum certification.* Obtain LEED platinum certification or international living future institute living building challenge certification. Additional height to achieve the public benefit maximum height as described in subsection 142-743(b)(2) shall be provided for this option. To exercise this option, a participant must comply with the requirements of the green building program set forth in chapter 133, article I of this Code, subject to the following provision: the exercise of this option requires that the participant post a sustainability fee payment bond or issue full payment of the sustainability fee in the amount of ten percent of the total construction valuation of the building permit, as opposed to the five percent as required in subsection 133-6(a), and that the following compliance schedule be utilized:

Certification Compliance Schedule	
Level of Certification Achieved	Sustainability Fee Reimbursement to Participant for Meeting Certain Green Building Certification Levels
Failure to obtain certification	Zero percent refund of bond or payment of sustainability fee

LEED certified	30% refund of bond or payment of sustainability fee
LEED silver certified	40% refund of bond or payment of sustainability fee
LEED gold certified or international living future institute petals or net zero energy certified	60% refund of bond or payment of sustainability fee
LEED platinum or international living future institute living building challenge certified	100% refund of bond or payment of sustainability fee

If this option is selected and LEED platinum or international living future institute living building challenge certification cannot be achieved prior to the development obtaining a certificate of occupancy (CO), the applicant may choose to provide a contribution into the public benefits trust fund, in the amount identified in appendix A, for each one-half square foot of floor area that is above a building height of 125 feet in height, instead of complying with the revised certification compliance schedule set forth in this subsection (d). If the applicant elects to provide the contribution into the public benefits fund and the bond has already been posted or the sustainability fee has been paid, the difference between the sustainability fee identified above and the sustainability fee identified in chapter 133, article I shall be refunded.

(e) *Self-sustaining electrical and surplus stormwater retention and reuse.* Provide stormwater retention that is over and above the minimum requirements in order to accommodate offsite stormwater, including the reuse of such stormwater through purple pipes throughout the building, in a manner to be reviewed and approved by public works. Additionally, the entire building shall be fully self-contained in terms of electrical power through the use of solar panels and similar electricity generating devices. Additional height to achieve the public benefit maximum height as described in subsection 142-743 (b)(2) shall be provided for this option.

(f) *Public recreation facilities. Provide active recreation facilities that are available to the general public.* Two square feet of floor area may be built above a building height of 125 feet, up to the public benefit maximum height as described in subsection 142-743(b)(2), for each square foot of recreation facilities provided. The facilities shall serve a recreational need for the

North Beach community, and consultation with the city's parks and recreation department shall be required prior to submitting an application for land use board approval in order to determine the types of facilities that are most in need for the area. The facilities can include, but are not limited to, soccer fields, football fields, basketball courts, tennis courts, gyms, pools, and playgrounds. Such facilities can be located on ground levels, rooftops, above parking garages, or within habitable buildings. An operating agreement shall be submitted to the city and approved by the city manager or designee. The operating agreement shall contain minimum hours of operation, cost of admission to cover maintenance and operating costs, organized league information, signage to ensure the public is aware if the public nature of the facility, security requirements, reservation requirements, and other requirements as applicable. The agreement shall also ensure that residents of the building are not prioritized over the general public.

(g) *Expedited development construction.* A contribution to the public benefits fund shall not be required for each square foot of floor area located above 125 feet, up to the public benefit maximum height as described in subsection 142-743(b)(2), if the following development timeframes are adhered to:

(1) Obtain a full building permit for a development project consisting of new construction in excess of 100,000 square feet within 21 months of the effective date of this division. The 21-month period shall not be eligible for any extension of time and cannot be tolled by extensions or modifications of board orders or state extension of development orders. If a full building permit is not obtained within 21 months, participation in an alternative option shall be required in order to achieve the additional height. Notwithstanding the foregoing, in the event that, with staffs favorable recommendation, the design review board (DRB) approval of the subject development project is continued by the board or appealed by a party other than the applicant, such 21-month period to obtain a full building permit shall be tolled until the conclusion of such action. Additionally, the city commission may toll the 21-month timeframe, at a duly noticed public hearing, by a four-sevenths affirmative vote for undue hardship. Undue hardship, does not include financial hardship, and shall require a showing by application of due diligence in processing the building permit; that the delays are not caused due to the negligence of the applicant, and/or that the extenuating circumstances are a result of a third party agency that has unduly delayed the issuance of the permit for the project.

(2) Obtain a temporary certificate of occupancy (TCO) or certificate of occupancy (CO) within 30 months of approval of the building permit; however, state authorized extensions for states of emergency within Miami-Dade County may be utilized for the purposes of tolling of the TCO or CO time limit with notice and proof of the state of emergency provided to the planning department.

Failure to comply with any of the aforementioned timeframes shall require payment of the balance for the full public benefits fee or participation in an alternative public benefits option prior to obtaining a CO.

(Ord. No. 2018-4224, § 2, 11-14-18; Ord. No. 2019-4277, § 1, 6-5-19)

Sec. 142-748. - North Beach Public Benefits Fund.

(a) The city has established a North Beach Public Benefits Fund. The revenue generated through the public benefits program in section 142-747 shall be deposited in the North Beach Public Benefits Fund. Interest earned under the account shall be used solely for the purposes specified for funds of such account.

(b) Earned fees in the North Beach Public Benefits Fund shall be utilized for the purposes outlined herein:

(1) Sustainability and resiliency grants for properties in North Beach Historic Districts;

(2) Uses identified for the sustainability and resiliency fund, as identified in section 133-8(c) for North Beach;

(3) Improvements to existing parks in North Beach;

(4) Enhancements to public transportation and alternative modes of travel, including rights-of-way and roadways that improve mobility in North Beach;

(5) Acquisition of new parkland and environmental and adaptation areas in North Beach;

(6) Initiatives that improve the quality of life for residents in North Beach.

(c) For the purposes of this section, North Beach shall be defined as the area of the city located north of 63rd Street, excluding the La Gorce neighborhood, La Gorce Island, and Allison Island.

(d) All expenditures from these funds shall require city commission approval and shall be restricted to North Beach. Prior to the approval of any expenditure of funds by the city commission, the city manager or designee shall provide a recommendation.

(Ord. No. 2018-4224, § 2, 11-14-18)

Secs. 142-749, 142-750. - Reserved.

ARTICLE III. - OVERLAY DISTRICTS

DIVISION 1. - GENERALLY

Secs. 142-751—142-770. - Reserved.

DIVISION 2. - DUNE PRESERVATION OVERLAY

Footnotes:
*--- (**12**) ---*
***Cross reference—** Beaches generally, § 82-436 et seq.*

Sec. 142-771. - Location.

The regulations of this division shall apply to all uses and structures located west of the erosion control line, east to the edge of the pool deck, if one is present, or the old city bulkhead line.

(Ord. No. 89-2665, § 15-1, eff. 10-1-89)

Sec. 142-772. - Purpose.

The regulations of this division are designed to accommodate and promote recreational, open space and related uses. Detailed review of all uses and structures is required because this area functions as a transitional zone between the intensely developed uplands and the dune and beach. It accommodates uses and structures which are compatible and supportive of the beachfront park system and the natural beach environment.

(Ord. No. 89-2665, § 15-2, eff. 10-1-89)

Sec. 142-773. - Compliance with regulations.

(a) As specified in chapter 118, article VI, design review regulations, applications for a building permit shall be reviewed and approved by the design review board.

(b) All structures shall comply with all other local, state, and federal regulations governing such uses including but not limited to F.S. ch. 161 and F.A.C. ch. 16B-33. Notwithstanding these requirements, the applicant may receive a city building permit or occupational license prior to receiving approvals pursuant to the above referenced statutes.

(Ord. No. 89-2665, § 15-3, eff. 10-1-89)

Sec. 142-774. - Uses and structures permitted.

Uses and structures permitted under this division shall be designed to accommodate and channel pedestrian movement in such a manner as to protect and enhance vegetation and the beach. No land or structure shall be used, in whole or in part, except for one or more of the following permitted uses:

(1)

Shade structures and chickees shall be open on all sides and, with the exception of supporting columns, and shall have an unobstructed, clear space between the edge of the roof covering and finished floor of not more than eight feet.

(2) Decks and patios constructed of wood materials with or without built-in tables, chairs, lighting, and benches. All structures shall be located a minimum of ten feet west of the erosion control line.

(3) Drainage structures as per the requirements of the public works department and applicable regulations of the county, state, and federal agencies.

(4) Promenade linkage shall be constructed of wood materials and shall conform to the design specifications established in the beachfront park and promenade plan. Sites having less than 300 linear feet of oceanfront frontage shall be limited to one dune crossing and/or promenade linkage. Sites having more than 300 linear feet of oceanfront frontage shall be permitted one crossing or linkage per each additional 100 linear feet of frontage or part thereof. In no instance, however, shall the total aggregate number of crossings and linkages exceed four per site.

(5) Portable beach furniture such as chaise lounges, chairs, and umbrellas. In no instance shall such furniture be stored east of the bulkhead line.

(6) Walkways and ramps constructed of wood materials and which are not more than six feet in width.

(7) Landscaping conforming to the specifications of the beachfront park and promenade plan. In up to one-half of the area required to be open to the sky and landscaped (but not in required side yards), synthetic grass which is fully pervious shall be permitted in high-traffic pedestrian/assembly areas.

(8) No commercial uses shall be permitted except for beachfront cafes, outdoor cafés and concessions that are associated with the rental of beach or water related products. All food shall be prepared off the premises in the upland structures and brought to the outdoor café or beachfront cafe. However, drinks may be prepared in the outdoor café or beachfront cafe. When food is cooked or reheated on the premises or the café is not associated with an upland restaurant it shall be considered a conditional use.

(Ord. No. 89-2665, § 15-4, eff. 10-1-89; Ord. No. 2012-3775, § 1, 9-12-12, eff. 9-22-12)

Sec. 142-775. - Development regulations.

(a) *Minimum open space requirements.* At least 80 percent of the site shall remain open to the sky, landscaped or maintained as sand beach. All areas covered by the uses permitted above, other than portable beach furniture, shall be considered in the lot coverage calculation.

(b)

Size and spacing of chickees, shade structures and outdoor cafes. As the dune overlay regulations are intended to provide a natural beach environment, it is required that individual structures/decks be less than 400 square feet in floor area and that structures be separated by a distance of ten to 25 feet and that this area be landscaped. Nothing in this division shall be considered to allow development exceeding the maximum stated in subsection (a) of this section.

(c) *Minimum lot area.* All applications for a building permit shall provide a landscape and development plan for all of the area within the property lines. For purposes of this division, the site shall constitute all of the area within the lot lines.

(d) *Minimum yards* Minimum yards in the dune preservation district shall be as follows:

(1) Zero feet adjacent to any bulkhead line.

(2) Fifteen feet adjacent to any side property line, municipal park, street end, or right-of-way.

(3) Ten feet from the erosion control line when any structure has a finished floor elevation of three feet or less than the elevation of the top of the dune. For every additional one foot increase in the finished floor elevation of the structure an additional one foot of setback is required, to a maximum of 15 feet.

(e) *Finished floor elevation.* The finished floor elevation shall have a maximum height of 2½ feet above the dune. Notwithstanding the above limit, the planning, design and historic preservation division shall determine the maximum permitted elevation for structures based upon existing site conditions, the proposed construction, the dune and relationship between all structures.

(f) *Maximum building height.* The maximum building height shall be one story or 12 feet, whichever is greater. Notwithstanding the above limit, the planning, design and historic preservation division shall determine the maximum permitted elevation for structures based upon existing site conditions, the proposed construction, the dune and relationship between all structures.

(g) *Maximum density.* The maximum density is zero.

(h) *Parking regulations.* There shall be no parking requirement for uses allowed under this division.

(Ord. No. 89-2665, § 15-5, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90)

Secs. 142-776—142-801. - Reserved.

DIVISION 3. - OCEANFRONT OVERLAY

Footnotes:
*--- (**13**) ---*
***Cross reference—** Beaches generally, § 82-436 et seq.*

Sec. 142-802. - Additional regulations for oceanfront lots.

These regulations apply to buildings and structures located west of the bulkhead line. Oceanfront lots shall have a minimum required rear yard setback of 50 feet at grade and subterranean levels measured from the bulkhead line in which there shall be no construction of any dwelling, hotel, apartment building, commercial building, seawall, parking areas, revetment or other structure incidental to or related to such structure except in accordance with the following provisions:

(1) All requests for a building permit shall be approved under the design review board process pursuant to the procedures as set forth in chapter 118, article VI.

(2) Permitted uses are limited to the following: enclosed structures, not utilized for dwelling purposes, shade structures, outdoor cafes, restaurants, swimming pools, cabanas, hot tubs, showers, whirlpools, toilet facilities, swimming pool equipment, decks, patios, and court games when such games require no fences. Uses under pool deck may include storage and parking if not visible from a street or dune.

(3) There shall be a minimum required 15-foot setback from a side lot line and a minimum required ten-foot setback from the bulkhead line.

(4) The maximum height of any habitable space shall not exceed 30 feet above grade.

(5) The finished floor elevation of decks, patios, platforms, shall have a maximum height of 2½ feet above the top of the dune.

(6) Any permitted enclosed structure shall have a maximum floor area ratio of 0.5 of the setback area.

(7) Lot coverage shall be at least 50 percent of the required rear yard setback, open to the sky and landscaped. All areas covered by permitted uses, other than portable beach furniture, shall be considered in the lot coverage calculation.

(8) A view corridor shall be created by maintaining a minimum of 50 percent of the required rear yard setback open and unencumbered, apart from landscaping and decorative open picket type fences, from the erosion control line to the rear setback line.

(9) Comply with F.S. ch. 161 and any governmental agencies having jurisdiction.

(Ord. No. 89-2665, § 6-27, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90)

Secs. 142-803—142-840. - Reserved.

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DIVISION 4. - CONVENTION HOTEL OVERLAY

Sec. 142-841. - Maximum floor area ratio for convention hotel development city center/historic convention village redevelopment and revitalization area.

(a) *Generally.* Convention hotel development as proposed in the city center/historic convention village redevelopment and revitalization area plan and specifically identified as sites 1-A and 1-B in the convention hotel development opportunity (request for proposals) shall conform to the floor area ratio regulations set forth in this division regardless of the underlying zoning district. However, that portion of convention hotel developments located in the MXE district shall have a maximum floor area ratio of 3.50.

(b) *Floor area ratio requirements.* Floor area ratio requirements are as follows:

	Lot Area Equal to or Less Than 22,499 Square Feet	Lot Area Between 22,500 and 37,499 Square Feet	Lot Area Between 37,500 and 44,999 Square Feet	Lot Area Between 45,000 and 59,999 Square Feet	Lot Area Between 60,000 and 74,999 Square Feet	Lot Area Greater than 75,000 Square Feet
Maximum floor area ratio	1.25	1.85	2.45	3.05	3.65	4.25

(Ord. No. 89-2665, § 6-23, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 98-3107, § 1, 1-21-98)

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DIVISION 5. - WEST AVENUE BAY FRONT OVERLAY

Sec. 142-842. - Location and purpose.

(a) The subject overlay district shall be bounded by the south bulkhead line of the Collins Canal on the north, the south side of 11th Street inclusive of Lot 8, Block 84, on the south, and between the centerline of Alton Court on the east and the Biscayne Bay bulkhead line on the west.

(b)

The purpose in identifying this subject overlay district is to provide district specific land development regulations and land-use incentives to property owners and developers who retain existing structures and/or provide new infill structures that maintain the low-scale, as-built character predominant in the existing low intensity (RM-1) and medium intensity (RM-2) underlying residential zoning district of the subject overlay area.

(c) The intent of the overlay regulations of this division relating to minimum and maximum developable lots within the underlying RM-1 zoning district shall be to bring into conformance existing undersized lot configurations that currently do not meet code and to further regulate new infill development upon aggregated lots to an incremental lot configuration of generally one or two contiguous parcels aggregated along existing side property lines.

(d) The overlay regulations of this division relating to residential offices shall only apply to existing low scale properties, which were designed and constructed to be no more than three stories in height and are located in the subject overlay district.

(Ord. No. 2002-3374, § 1, 6-19-02; Ord. No. 2004-3458, § 1, 10-13-04; Ord. No. 2020-4364, § 1, 10-14-20; Ord. No. 2021-4443, § 1, 9-17-21)

Sec. 142-843. - Compliance with regulations.

(a) The following overlay regulations shall apply to those areas of the subject district which have an underlying zoning designation of (RM-1) residential multifamily low intensity and (RM-2) residential multifamily medium intensity. In particular, the overlay regulations shall allow the additional main permitted uses specified in this division, in the RM-1 and RM-2 of the subject area only if all the required criteria herein have been satisfied.

(b) As specified in chapter 118, article VI, design review regulations, applications for a building permit shall be reviewed and approved in accordance with design review procedures.

(c) Residential offices may only be permitted in structures that have been rehabilitated in general accordance with the U.S. Secretary of the Interior's standards for rehabilitation of historic buildings as determined by the planning director or his designee, or in buildings that have been substantially rehabilitated or where a request for a building permit will result in the building being substantially rehabilitated.

(d) All development regulations and setback requirements in the underlying land-use zoning district shall remain. However, a residential office may only be established where:

(1) Demolition to the original building envelope does not exceed ten percent of the area of the original building lot coverage. At-grade additions that demolish or conceal primary facades (i.e., main entry porticoes and facades facing a street) shall not be permitted.

(2)

The area of rooftop additions to existing multi-family structures does not exceed 50 percent of the area of the original floor immediately below. Such rooftop additions shall be set back a minimum of 15 feet from the facade of the existing building fronting a primary public-right-of-way with an established street wall.

(3) The area of rooftop additions to existing single-family structures does not exceed 50 percent of the area of the original lot coverage of the structure. The maximum height of the altered main structure shall not exceed one-half the original lot width up to a maximum of 33 feet.

(4) On sites where unity of title has combined two or more lots, the original rear setbacks for the main structure shall conform to the underlying zoning regulations. However, building additions may encroach into side setbacks which have become internal to the parcel. In addition to the allowable encroachments as outlined in section 142-1132, loggias (covered walkways), gazebo structures and pools may encroach into original rear and/or side setbacks that have become internal to the assembled lot.

(e) All development regulations and setback requirements in the underlying (RM-1) zoning district shall remain except that the following regulations regarding minimum and maximum developable lot shall apply:

(1) The maximum developable lot area shall be limited to no more than two contiguous lots joined along the side property lines.

(2) The maximum developable lot area shall not be achieved through the assembly of two contiguous lots assembled along the rear property line.

(3) Minimum and maximum lot dimensions shall be as follows:

West Avenue Overlay

Developable Lot Regulations Within the Existing RM-1

Existing Platted Lot Depth	Minimum Developable Lot Width		Maximum Developable Lot Width	Minimum Developable Lot Area	Maximum Developable Lot Area
100 ft. @ Blocks 67-A, 67-B 79-A, 79-B, 79-C	Interior	50 ft.	100 ft.	5,000 sq. ft.	10,000 sq. ft.
			125 ft. @ Blk.67-A		12,500 sq. ft. @ Blk.67-A

	Corner	60 ft.	110 ft.	6,000 sq. ft.	11,000 sq. ft.
			135 ft. @ Blk.67-A		13,500 sq. ft. @ Blk.67-A
105 ft. @ Block 81	Interior	50 ft.	100 ft.	5,250 sq. ft.	15,000 sq. ft.
	Corner	65 ft.	115 ft.	6825 sq. ft.	17,250 sq. ft.
112 ft. @ Block 79-A	Interior	50 ft.	100 ft.	5,600 sq. ft.	11,200 sq. ft.
	Corner	60 ft.	110 ft.	6,720 sq. ft.	12,320 sq. ft.
115 ft. @ Block 81	Corner	45 ft.	150 ft	5,175 sq. ft.	17,250 sq. ft.
150 ft. @ Blocks 45, 66, 66-A, 67-B, 78, 78-A, 81	Interior	50 ft.	100 ft.	7,500 sq. ft.	15,000 sq. ft.
	Corner	50 ft.	100 ft.	7,500 sq. ft.	15,000 sq. ft.
		55 ft. @ Blk. 78	105 ft.	8,250 sq. ft.	15,750 sq. ft. @ Blk. 78
		57 ft. @ Blk. 78-A	107 ft.	8,550 sq. ft.	16,050 sq. ft. @ Blk. 78-A
		60 ft. @ Blk. 67-B	110 ft.	9,000 sq. ft.	16,500 sq. ft. @ Blk. 67-B

		65 ft. @ Blk. 81	115 ft.	9,750 sq. ft.	17,250 sq. ft. @ Blk. 81
160 ft. @ Block 44	Interior	50 ft.	100 ft.	8,000 sq. ft.	16,000 sq. ft.
	Corner				

(Ord. No. 2002-3374, § 1, 6-19-02; Ord. No. 2004-3458, § 1, 10-13-04; Ord. No. 2020-4364, § 1, 10-14-20; Ord. No. 2021-4443, § 1, 9-17-21)

Sec. 142-844. - Residential Office Overlay Area.

The Residential Office Overlay Area is designed to accommodate the adaptive reuse of existing single-family and multi-family residential structures as of (the effective date of this ordinance) to allow as main permitted uses such uses permitted in the RO Residential/Office district. All other main permitted uses, conditional uses and accessory uses shall be the same as those provided for in the underlying RM-1 or RM-2 land-use designation.

(Ord. No. 2002-3374, § 1, 6-19-02)

Sec. 142-845. - Legal nonconforming and other transient uses.

(a) Bed and breakfast inns, suite hotels and hostels shall be prohibited in the subject overlay area.

(b) Existing, legal nonconforming suite hotels and bed and breakfast inns, located within the overlay, shall not be permitted to expand any existing structure, operation, or building footprint, in any manner whatsoever. Additionally, such legal nonconforming uses shall adhere to the following regulations:

(1) Accessory uses, including, but not limited to, dining halls, restaurants, cafes, retail, personal service, alcoholic beverage establishments, dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, and open air entertainment establishments shall be prohibited.

(2) The building identification sign for a bed and breakfast inn shall be the same as allowed for an apartment building in the underlying zoning district in which it is located.

(3) The building(s) shall have central air conditioning or flush-mounted wall units; however, no air conditioning equipment may face a street or the Bay.

(4) The maximum amount of time that any person other than the owner may stay in a bed and breakfast inn during a one-year period shall not exceed six months.

(c) Existing, legal nonconforming bed and breakfast inns shall be subject to the following conditions:

(1) The owner/operator of the bed and breakfast inn shall permanently reside in the structure.

(2) The structure shall have originally been constructed as a single-family residence. The structure may have original auxiliary structures such as a detached garage or servant's residence that may or may not be used as part of the inn.

(3) The structure shall maintain main public rooms (living room/dining room) for use of the guests.

(4) Original auxiliary structures, such as detached garages and servants' residences, may be converted to guestrooms or other appropriate use. New bedrooms constructed shall have a minimum size of 200 square feet and shall have a private bathroom.

(5) There shall be no cooking facilities/equipment in guestrooms. One small refrigerator with maximum capacity of five cubic feet shall be permitted in each guestroom. All cooking equipment, which may exist, shall be removed from the structure with the exception of the single main kitchen of the house.

(6) The bed and breakfast inn may serve meals to registered guests and their visitors only. Permitted meals may be served in common rooms, guestrooms or on outside terraces (see subsection 142-1401(9)). The meal service is not considered an accessory use and is not entitled to an outside sign.

(7) Permitted meals may be served in areas outside of the building under the following conditions:

a. The area shall be landscaped and reviewed under the design review process. Landscape design shall effectively buffer the outdoor area used for meals from adjacent properties and the street.

b. All meals served outdoors shall be prepared for service from inside facilities. Except for the use of a barbecue, all outdoor preparation, cooking as well as outdoor refrigeration and storage of food and beverages shall be prohibited.

(Ord. No. 2021-4443, § 1, 9-17-21)

Editor's note— Ord. No. 2021-4443, adopted September 17, 2021, amended § 142-845 in its entirety to read as herein set out. Former § 142-845 pertained to the bed and breakfast inn overlay area, and derived from Ord. No. 2002-3374, adopted June 19, 2002; Ord. No. 2017-4107, adopted June 7, 2017; and Ord. No. 2020-4364, adopted October 14, 2020.

Sec. 142-846. - Off-street parking regulations.

In general, off-street parking within the required front yard setback is discouraged in residential neighborhoods as outlined by the underlying zoning designation, however, in the subject area parking may be permitted in the front yard setback subject to the following regulations:

Minimum Lot Width	Minimum Building Front Setback	Maximum Driveway Curb Cut Width	Max. No. of Parking Spaces Permitted per Platted Lot	Orientation of Spaces	Fundamental Design Requirements
50 ft.	20 ft.	12 ft.	Two (2) spaces	Parallel to street	Buffer parking from street view with landscaping. No asphalt or concrete hardscaping
		17 ft.	Two (2) spaces	Perpendicular to street	Two (2) 18" tire strips per space, No asphalt
50 ft.	30 ft.	12 ft.	Three (3) spaces	Parallel to street	Buffer parking from street view with landscaping. No asphalt or concrete hardscaping
		17 ft.	Two (2) spaces	Perpendicular to street	Two (2) 18" tire strips per space, No asphalt
60 ft.	20 ft.	12 ft.	Four (4) spaces	Parallel to street	Buffer parking from street view with landscaping. No asphalt or concrete hardscaping

		17 ft.	Two (2) spaces	Perpendicular to street	Two (2) 18" tire strips per space, No asphalt
60 ft.	30 ft.	12 ft.	Six (6) spaces	Parallel to street	Buffer parking from street view with landscaping. No asphalt or concrete hardscaping
		17 ft.	Two (2) spaces	Perpendicular to street	Two (2), 18" tire strips per space, No asphalt

(a) *Corner lots.* The above regulations shall allow off-street parking for only one yard facing a street, generally the secondary or narrow elevation of the building.

(b) *Bay Front culs-de-sac.* The regulations as outlined in the chart above shall not apply to those yards facing 16 th Street and Lincoln Terrace between Bay Road and Biscayne Bay.

(c) Parking impact fee program exemption. Residential offices as outlined in section 142-844 of this division shall be exempt from the off-street parking requirements as outlined in sections 130-130 through 130-132.

(d) *Curb-cuts.* Access driveways shall be setback a minimum of three feet from any side property line. Access driveways for corner properties shall be located such that the edge of the drive is either a minimum of three feet from the end of the curb return or a minimum of 25 feet from the intersection of two non-arterial streets, whichever is greater. All curb and driveway modifications shall require a driveway permit from the Miami Beach Public Works Department prior to construction.

(e) *Hardscape.* All proposed hardscape shall consist of pavers set in sand or a like material of equal quality. Asphalt is prohibited.

(f) *Parking spaces.* All permitted parking spaces shall be in compliance with the minimum standards as outlined herein:

(1) *Wheel stops.* Each permitted parking space shall require a wheel stop placed at least 18 inches from the edge of landscaped areas as protection from vehicular encroachment.

(2) *Markings.* All permitted parking areas shall be bordered in a subtle manner using a different pattern or contrasting color of a like material. Parking spaces shall also be delineated using a different pattern or a contrasting color of a like material of equal quality.

(3)

Wheel strips. All permitted parking areas, which are perpendicular to the street, shall be constructed of no more than two strips per car of a paver material and/or integral color concrete and shall be no more than 18 inches in width and no more than 18 feet in length. Asphalt is prohibited.

(g) *Screening.* In order to buffer automobiles from the street, solid evergreen hedges, masonry walls or a combination of the two must be incorporated into the design as follows:

(1) *Hedges.* Shrubs shall be planted a minimum of 30 inches in height, not less than 24 inches on center, and branches shall touch at the time of planting. Shrubs shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen within a maximum of one year after time of planting.

(2) *Masonry walls.* Masonry walls shall be setback a minimum of two feet from the property line in order to provide a landscaped buffer in front of the wall.

(h) *Required landscape material.* All permitted parking areas shall be in compliance with the minimum standards as outlined herein:

(1) One specimen or accent tree shall be planted on site for every proposed off-street parking space.

(2) Where tire strips are proposed, a durable sod or ground cover shall be planted between the strips.

(3) All significant trees and shrubs removed in order to construct new off-street parking shall be relocated and/or replaced on site with equivalent trees and shrubs.

(4) Street trees shall be planted in accordance with the West Avenue/Bay Road Neighborhood Streetscape Master Plan.

(Ord. No. 2002-3374, § 1, 6-19-02; Ord. No. 2020-4364, § 1, 10-14-20; Ord. No. 2021-4443, § 1, 9-17-21)

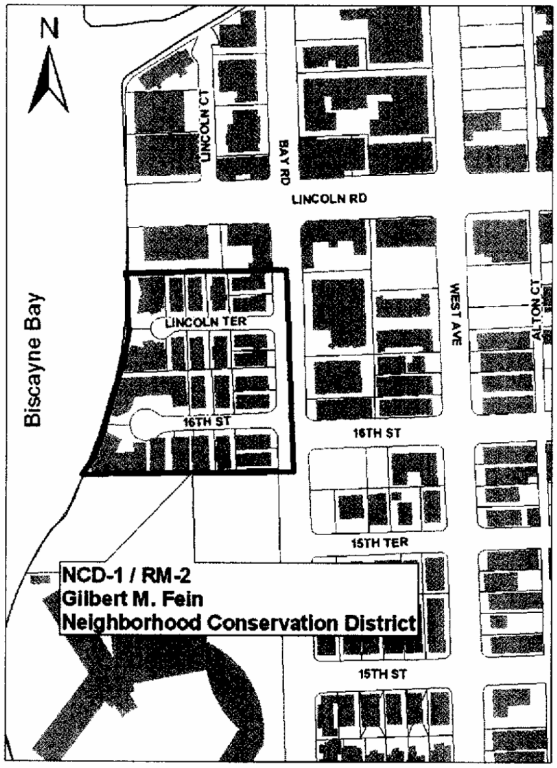
Secs. 142-847—142-849. - Reserved.

DIVISION 6. - GILBERT M. FEIN NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT (NCD-1/RM-2)

Sec. 142-850. - General boundary description.

The Gilbert M. Fein Neighborhood Conservation District shall be bounded by the centerline of Bay Road to the east, the bulkhead line of Biscayne Bay to the west, the northern lot lines of the northern properties fronting Lincoln Terrace to the north, and the southern lot lines of the southern properties fronting 16th

Street to the south.



Gilbert M. Fein Neighborhood Conservation Overlay District

(Ord. No. 2005-3497, § 2, 10-19-05)

Sec. 142-851. - Compliance with regulations.

The regulations contained within the District Ordinance (Part III) of the Gilbert M. Fein Neighborhood Conservation District Plan Report shall apply within this district and where more restrictive, control over the general district regulations of the underlying RM-2 zoning district.

(Ord. No. 2005-3497, § 2, 10-19-05)

Sec. 142-852. - NCD plan report.

The Gilbert M. Fein NCD Plan Report including the Executive Summary (Part I), Designation Report (Part II), District Ordinance (Part III), Streetscape Improvement Plan (Part IV), and (Parts V through VII), shall be available on file at the planning department and online at: http://www.miamibeachfl.gov/WorkArea/DownloadAsset.aspx?id=81047

(Ord. No. 2005-3497, § 2, 10-19-05)

Sec. 142-853. - Detailed district boundaries.

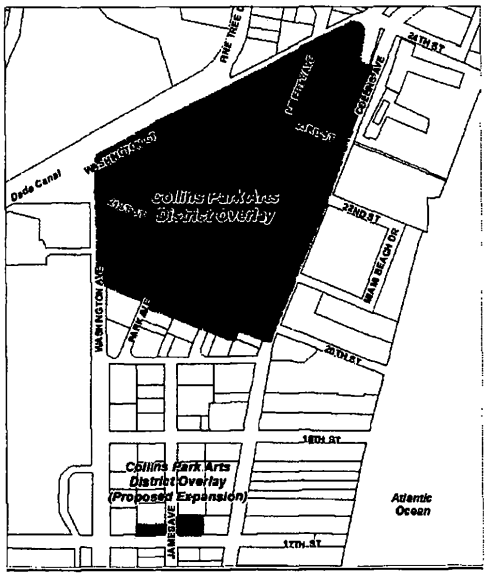
NCD-1/RM-2: The boundaries of the Gilbert M. Fein Neighborhood Conservation District include those properties of Block 43, Alton Beach Bay Front Subdivision, recorded in Plat Book 4, at page 125, public records of Miami-Dade County, Florida, fronting or abutting Bay Road, Lincoln Terrace and 16th Street and commences at the point of intersection of the northern lot line of Lot 1 of the Lincoln Terrace Subdivision, and the bulkhead line of Biscayne Bay as recorded in Plat Book 49, at page 100, public records of Miami-Dade County, Florida. Said point being the point of beginning of the tract(s) of land herein described; thence run easterly, along the northern lot line of Lot 1 and its easterly extension to the point of intersection with the centerline of Bay Road; thence run southerly, along the centerline of Bay Road to the point of intersection with the easterly extension of the south lot line of Lot 15 of the Bay Lincoln Subdivision, recorded in Plat Book 58, at page 86, public records of Miami-Dade County, Florida; thence run westerly, along the south lot line of Lot 15 and its easterly extension to the point of intersection with the bulkhead line of Biscayne Bay; thence run northerly, along the bulkhead line to the point of beginning. Said lands located, lying and being in the City of Miami Beach, Miami-Dade County, Florida.

(Ord. No. 2005-3497, § 2, 10-19-05)

DIVISION 7. - COLLINS PARK ARTS DISTRICT OVERLAY

Sec. 142-854. - Location and purpose.

(a) The overlay regulations of this division shall apply to properties within the following boundaries, which shall be known as the Collins Park Arts District Overlay: The southern lot lines of properties fronting the south side of 20th Street on the south; Washington Avenue on the west; the Dade Canal and Lake Pancoast on the north; properties fronting the west side of Collins Avenue on the east; and lots existing as of January 1, 2022 that front both James Avenue and the north side of 17th Street; as depicted in the map below.



(b) The purpose of this overlay district is to provide land-use incentives to property owners, developers and commercial businesses to encourage arts-related businesses within the district.

(Ord. No. 2007-3577, § 1, 10-17-07; Ord. No. 2016-4061, § 1, 11-9-16; Ord. No. 2022-4490, § 1, 5-25-22)

Sec. 142-855. - Reserved.

Editor's note— Sec. 1 of Ord. No. 2016-4061, adopted Nov. 9, 2016, repealed § 142-855, which pertained to definitions and derived from Ord. No. 2007-3577, adopted Oct. 17, 2007.

Sec. 142-856. - Compliance with regulations.

The following overlay regulations shall apply to the Collins Park Arts District Overlay. All development regulations in the underlying zoning district shall apply, except as follows, and for any regulations in conflict, the following shall control:

(a) Outdoor entertainment establishments may be approved as a conditional use by the planning board in areas with an underlying CD-2 or CD-3 zoning designation. and subject to the following additional regulations:

(1) Outdoor entertainment shall commence no earlier than 10:00 a.m.

(2) Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.

(3) For purposes of this subsection, outdoor entertainment shall not exceed an ambient, background volume level (i.e. a volume that does not interfere with normal conversation), unless otherwise approved by the planning board through the conditional use process.

(b) Outdoor entertainment may be approved as a conditional use by the planning board as an accessory use to a hotel use, in areas of the overlay north of 19th Street with an underlying RM-2 zoning designation, subject to the following regulations:

(1) Sidewalk cafés shall be limited to 30 seats.

(2) Restaurants shall not exceed 3,000 square feet.

(3) Outdoor entertainment shall commence no earlier than 10:00 a.m.

(4) Outdoor entertainment shall cease no later than 10:00 p.m. on Sundays through Thursdays, and midnight on Fridays and Saturdays.

(5) For purposes of this subsection, outdoor entertainment shall not exceed an ambient volume level (i.e. a volume that does not interfere with normal conversation).

(c) Outdoor entertainment shall not be located above the ground floor.

(d) Indoor entertainment may eb approved as a conditional use by the planning board as an accessory use to a restaurant or hotel, in areas of the overlay with an underlying RM-2 zoning designation.

(e) Museums, art galleries and related cultural uses shall be permitted as an accessory use to an apartment, apartment-hotel, or hotel in areas of the overlay with an underlying RM-2 zoning designation.

(f) Notwithstanding the requirements of subsection (a) above, neighborhood impact establishment occupancy thresholds, as defined in section 142-1361, shall not be exceeded unless approved by the planning board.

(Ord. No. 2007-3577, § 1, 10-17-07; Ord. No. 2016-4061, § 1, 11-9-16; Ord. No. 2022-4490, § 1, 5-25-22)

Sec. 142-857. - Reserved.

Editor's note— Sec. 1 of Ord. No. 2016-4061, adopted Nov. 9, 2016, repealed § 142-857, which pertained to mandatory criteria, and derived from Ord. No. 2007-3577, adopted Oct. 17, 2007.

DIVISION 8. - 40TH STREET OVERLAY

Sec. 142-858. - Location and purpose.

The overlay regulations of this division shall apply to the properties, as they are configured as of January 1, 2010, with lot lines adjacent to the south right-of-way line of 40th Street between Chase Avenue to the west and Pine Tree Drive to the east.

The purpose of this overlay district is to provide pedestrian-friendly religious institutional uses through the conditional use permit process at the properties to serve the surrounding residential uses. Expansion of the district shall only be permitted by amendment to these regulations.

(Ord. No. 2011-3714, § 2, 1-19-11)

Sec. 142-859. - Compliance with regulations.

The following overlay regulations shall apply within the 40th Street Overlay District. All development regulations in the underlying zoning district shall apply, except as follows:

(a) Religious institutions, in existing rehabilitated structures or new construction, shall be conditional uses, subject to the regulations in chapter 118, administration and review procedures, article IV, conditional use procedure.

(b) All new construction or additions to existing structures shall be compatible with the scale of the surrounding residential neighborhood and shall be designed to maintain a residential character.

(c) Permits for new construction, alterations or additions to existing structures shall be subject to design review by the planning director or designee.

(Ord. No. 2011-3714, § 2, 1-19-11)

Sec. 142-860. - Off-street parking regulations.

For religious institutions in the 40th Street Overlay District, the following off-street parking regulations shall apply:

(1) For adaptive reuse of existing buildings, including expansions or additions thereto less than 50 percent of the size of the existing structure, there shall be no parking requirement provided that there is one or more public parking lot(s) and/or garage(s) within 500 feet of the subject property. Existing required parking spaces on site shall remain or be replaced on-site.

(2) For new construction, and expansions or additions of more than 50 percent of the size of an existing structure, the parking requirement shall be the same as for a single-family detached dwelling pursuant to chapter 130 of the City Code, entitled off-street parking, article II, districts; requirements, provided that there is one or more public parking lot(s) and/or garage(s) within 500 feet of the subject property.

(Ord. No. 2011-3714, § 2, 1-19-11)

Secs. 142-861, 142-862. - Reserved.

DIVISION 9. - ALTON ROAD - HISTORIC DISTRICT BUFFER OVERLAY

Sec. 142-863. - Location and purpose.

(a) The regulations of this division shall apply to properties within the following boundaries, which shall be known as the Alton Road - Historic District Buffer Overlay.

(1) Area 1 shall be those properties fronting on the east side of Alton Road from 6th Street to 11th Street.

(2) Area 2 shall be those properties fronting on the east side of Alton Road from 14th Street to 15th Street.

(3) Area 3 shall be those properties fronting on the east side of Alton Road from 17th Street to the Collins Canal.

(b) The purpose of this overlay district is to minimize the impacts of development along Alton Road on residential properties located in the Flamingo Park Historic District and the Palm View Historic District. Specifically the overlay district is intended to apply to properties zoned CD-2 Commercial Medium Intensity that are adjacent to lower intensity RS-4 and RM-1 residential buildings in designated local historic districts. The overlay district regulations are intended to achieve a more compatible relationship of scale and massing between the Alton Road corridor and the adjoining

residential neighborhoods, to promote mixed-use development that makes efficient use of parking, to minimize the concentration of impacts from intense retail and restaurant development and to encourage smaller neighborhood-oriented uses.

(Ord. No. 2014-3871, § 1, 5-21-14)

Sec. 142-864. - Development regulations.

The following overlay regulations shall apply within the Alton Road - Historic District Buffer Overlay District. All development regulations applicable to and/or in the underlying zoning district shall apply, except as follows:

(a) *Maximum building height.* The maximum building height in this district shall be 50 feet, except that building height shall be limited to 28 feet within 40 feet from the rear property line for lots abutting an alley (Lenox Court) and within 60 feet from the RM-1 district for blocks with no alley, between 8th Street and 11th Street. There shall be no variances for building height.

(b) *Minimum setbacks.*

(1) Front: Five feet.

(2) Side facing a street: Five feet.

(3) Interior side: Zero feet.

(4) Rear: For lots with a rear property line abutting an RM-1 or an RS-4 district the rear yard setback shall be a minimum of 25 feet; for lots with a rear property line abutting an alley (Lenox Court) the rear setback shall be a minimum of five feet; otherwise the rear setback shall be a minimum of seven and one-half feet.

(5) There shall be no variances for building setbacks, except for triangular lots.

(c) *Building separation.*

(1) The east and west facades of any building constructed on more than 50 linear feet of frontage along Alton Road shall be divided into segments with building massing and architectural treatments intended to be reflective of the 50 feet wide lot development pattern that is predominant in the historic district.

(2) Any building greater than 43 feet in height with a footprint that occupies more than 150 linear feet of frontage along Alton Road shall have a separation between all portions of the building above a height of 28 feet, so that there is a minimum 15 feet wide view corridor running from east to west at least every 150 linear feet along the Alton Road corridor.

(d)

[Contributing buildings.] The following regulations shall apply to lots containing contributing buildings in the Flamingo Park Historic District within the Alton Road - Historic District Buffer Overlay.

(1) Only those portions of a contributing building that were not part of the original structure on the site, or that have not acquired any type of architectural significance, as determined by staff or the historic preservation board, may be issued a Certificate of Appropriateness for demolition.

(2) For contributing buildings or properties, no building or substantially enclosed structure shall be permitted within an existing historic courtyard. For purposes of this subsection, an historic courtyard shall be defined as a grade level space, open to the sky, which is enclosed on at least two sides by an existing building or structure on the same property and is an established architectural or historic component of the site or building design by virtue of significant features and/or finishes, including, but not limited to, paving patterns, fountains, terraces, walkways or landscaping.

(e) *Land use.* Main permitted uses, conditional uses and accessory uses shall be permissible as set forth in the CD-2 district regulations, with the following exceptions:

(1) Restaurants, bars, entertainment establishments and similar uses shall not be permitted at any level above the ground floor, except that a loft or mezzanine containing these uses may be permitted within the interior of a ground floor commercial space. This subsection shall not apply to such existing and proposed uses in buildings classified as "contributing", and existing in the Flamingo Park Historic District as of the effective date of this division.

(2) Retail uses at any level above the ground or first floor shall not exceed 2,500 square feet per tenant. This subsection shall not apply to buildings classified as "contributing", and existing in the Flamingo Park Historic District as of the effective date of this division.

(3) Any individual retail, restaurant, bar, entertainment establishment or similar establishment in excess of 10,000 square feet, inclusive of outdoor seating areas, shall require conditional use approval. This subsection shall not apply to properties containing buildings classified as "contributing" and existing in the Flamingo Park Historic District as of the effective date of this division, provided such property has not been combined or aggregated with adjacent properties. Notwithstanding the foregoing, the regulations in Chapter 142, Article V, Division 6, Entertainment Establishments, shall continue to apply to uses in this overlay district.

(4) No alcoholic beverage establishment. entertainment establishment or restaurant may be licensed as a main permitted or accessory use in any open area above the ground floor (any area that is not included in the FAR calculations) or at ground level in any open area within 125 feet of a residential district, except that residents of a multifamily (apartment or condominium) building or hotel guests may use these areas, which may include a pool

or other recreational amenities, for their individual, personal use with appropriate buffering as determined by the Planning Department or applicable land use board with jurisdiction. This subsection shall not apply to properties containing buildings classified as "contributing" and existing in the Flamingo Park Historic District as of the effective date of this division, provided such property, has not been combined or aggregated with adjacent properties; and conditional use approval is obtained to operate between the hours of 8:00 p.m. and 8:00 a.m.

(Ord. No. 2014-3871, § 1, 5-21-14)

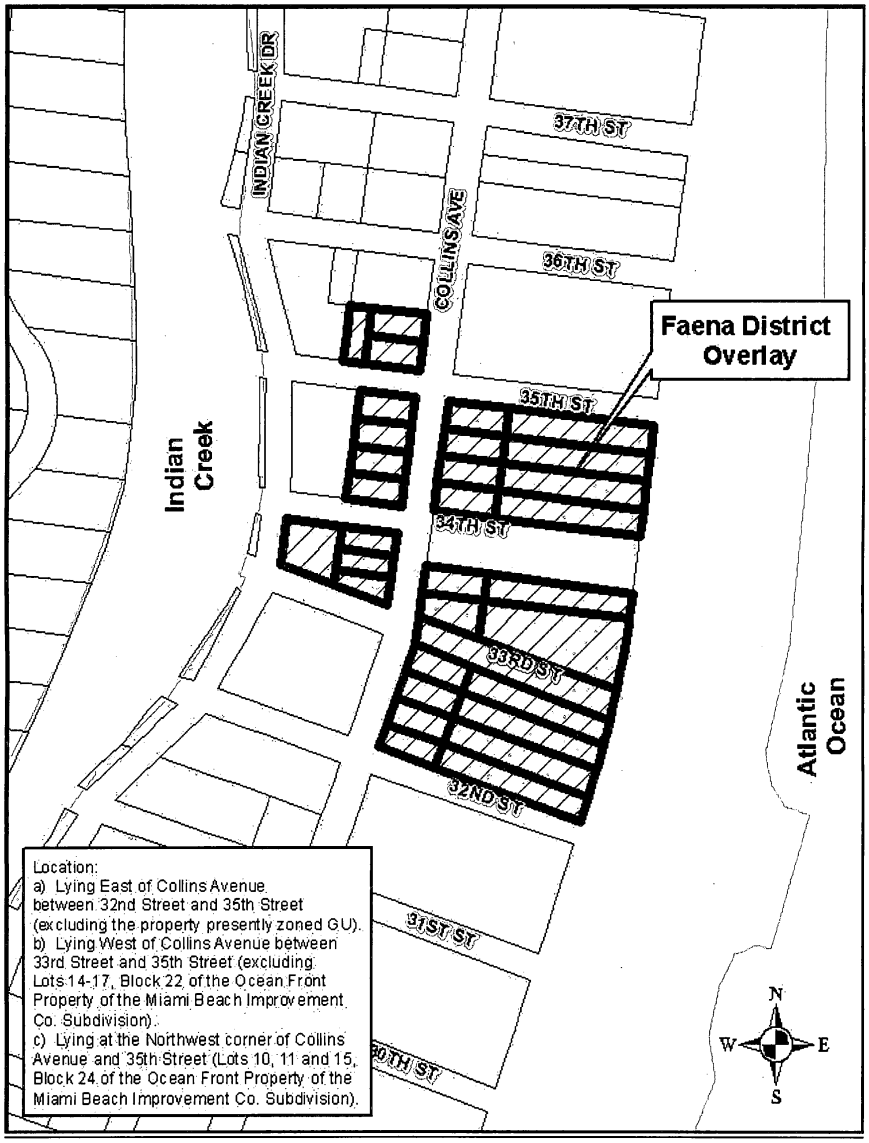
Secs. 142-865, 142-866. - Reserved.

DIVISION 10. - FAENA DISTRICT OVERLAY

> *Footnotes:*
> *--- (**14**) ---*
> ***Editor's note—** Ord. No. 2014-3913, adopted Dec. 17, 2014, enacted provisions to be designated as Division 9, §§ 142-871—142-873. Inasmuch as there already exist provisions designated as §§ 142-871—142-173, and in order to maintain the categorical standards of the Code, said new provisions have been redisignated as Division 10, §§ 142-867—142-869. Original ordinance designations have been maintained in the history notes following each section.*

Sec. 142-867. - Location and purpose.

The overlay regulations of this division shall apply to the properties identified in the Overlay Map below:



The purpose of this overlay district is to allow limited flexibility of uses, limited increases in heights, and limited flexibility in setbacks because of the common ownership and operation of the properties within the overlay district and the value of preserving historic buildings within the overlay district.

(Ord. No. 2014-3913, § 1(142-871), 12-17-14; Ord. No. 2020-4366, § 1, 10-14-20; Ord. No. 2021-4407, § 1, 4-21-21)

Sec. 142-868. - Definitions.

For this division, the following definitions shall apply:

(1) *Place of assembly* shall mean an establishment that may have fixed seating, that is not used for retail sales and service, restaurant, office or hotel, and may include a "hall for hire" use whether for a private event or a public event.

Hall for hire shall mean an establishment which rents space and may provide tables, chairs, catering, decor, or sound systems in order to hold or host a private event.

(2) A place of assembly may provide dancing and serve alcoholic beverages and food associated with an event, but shall not operate or be licensed as a "stand alone" alcoholic beverage establishment, entertainment establishment, bar, dance hall, or restaurant. A single entity may not lease the place of assembly for more than 20 days, per calendar year.

(3) Works of art means the application of skill and taste to the production of tangible objects, according to aesthetic principles, including, but not limited to, paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs and drawings, or combinations thereof.

(Ord. No. 2014-3913, § 1(142-872), 12-17-14; Ord. No. 2017-4120, § 1, 7-26-17)

Sec. 142-869. - Compliance with regulations.

The following overlay regulations shall apply to the Faena District Overlay. All development regulations in the underlying district regulations shall apply, except as follows:

(a) One place of assembly may be permitted as a main permitted use, within the areas that have an underlying zoning designation of RM-2, in accordance with the following minimum requirements:

i. There shall be no outdoor live or outdoor amplified music.

ii. Except as may be required for fire or Florida Building Code/Fire Safety Code purposes, no speakers of any kind shall be affixed to, installed, or otherwise located on the exterior of the place of assembly.

iii. The interior sound system shall be installed in such a manner as to contain sound levels completely within the facility at all times. The equipment and installation plan for the sound system, including the location of all speakers and sound level controls, shall be submitted for review and approval by the planning department pursuant to the conditional use review guidelines of section 118-192. Ninety days after obtaining the certificate of occupancy, the sound system(s) in the facility shall be tested by a qualified acoustic professional, and a report shall be submitted to the planning department for review and approval.

iv. A vestibule, consisting of at least two sets of doors, shall be installed at every exterior access point into the place of assembly.

v. Normal operating hours are from 7:30 a.m. to 12:00 a.m., Sundays through Wednesdays; and 7:30 a.m. to 2:00 a.m., Thursdays through Saturdays, unless otherwise approved by the planning board, in accordance with chapter 118, article IV of the City Code. After normal operating hours, the place of assembly shall remain closed and no patrons or other persons, other than those employed by the establishment, shall remain therein.

vi.

The place of assembly shall have security staff posted outside of the place of assembly building, on the private property, at least one hour prior to the start time, during, and one hour after the ending time, of any event in excess of 250 persons, which occur prior to 9:00 p.m.; and for all events which occur on or after 9:00 p.m., regardless of the number of persons in attendance;

vii. After 9:00 p.m., no patrons shall be allowed to queue on any public rights-of-way, or anywhere on the exterior premises of a place of assembly, with the exception of exterior premises fronting Collins Avenue. Security staff shall monitor the crowds to ensure that they do not interfere with the free-flow of pedestrians on the public sidewalk.

viii. Security staff shall monitor patron circulation and occupancy levels during; and one hour after, the hours of operation for events in excess of 250 persons, which occur prior to 9:00 p.m.; and for all events which occur on or after 9:00 p.m., regardless of the number of persons in attendance.

ix. Prior to the issuance of a certificate of occupancy, the owner/operator shall submit an operational plan and narrative for the place of assembly, subject to the review and approval of the planning department pursuant to the conditional use review guidelines of section 118-192. Such plan shall include, but not be limited to: full details of the operation, deliveries, sanitation, security and crowd control.

x. Street flyers and handbills shall not be permitted including, but not limited to, those from third-party promotions.

xi. Deliveries shall only be permitted between 8:00 a.m. and 5:00 p.m. on weekdays (Monday through Friday), and 9:00 a.m. and 5:00 p.m. on weekends (Saturday and Sunday), unless otherwise approved by the planning board, in accordance with chapter 118, article IV of the City Code.

xii. Trash pick-up shall only be permitted between 8:00 a.m. and 5:00 p.m. on weekdays (Monday through Friday) and 9:00 a.m. and 5:00 p.m. on weekends (Saturday and Sunday), unless otherwise approved by the planning board, in accordance with chapter 118, article IV of the City Code. Trash pick-up shall take place on a daily basis while the place of assembly is in operation. All trash containers shall utilize rubber wheels, as well as a path consisting of a surface finish that reduces noise, and all trash dumpsters shall be closed at all times except when in use.

xiii. The owner/operator shall be responsible for maintaining the areas adjacent to the facility including, but not limited to, the sidewalk, and public rights-of-way. At a minimum, these areas shall be kept free of trash, debris and odor, and shall be swept and hosed down at the end of each business day.

xiv.

All valet parking ramps, vehicles for hire, including, but not limited to, taxis, drop-off and pick-up shall occur within the confines of the private property. Valet parking ramps, vehicles for hire, including, but not limited to, taxis, drop-off and pick-up shall be prohibited on city streets, sidewalks and public rights-of-way, unless otherwise approved by, respectively, the planning and parking departments, with notice to adjacent and across the street property owners, in accordance with the review standards of chapter 118, article IV of the City Code. A contract with a valet operator shall be submitted to the parking department for review and approval prior to the city's issuance of a certificate of occupancy.

xv. If the owner or operator of the place of assembly is issued six or more valid code enforcement violations within a 12-month consecutive period, or fails to comply with the requirements of these regulations, the place of assembly shall fall under the purview of the planning board and may be reviewed, modified, or terminated for noncompliance after planning board review, in accordance with section 118-194, of the City's Code. The 12-month consecutive period would start upon the date of the issuance of the first valid violation and would renew every 12 months thereafter. A citation that is dismissed, withdrawn or successfully appealed to the special magistrate shall not be considered valid.

xvi. The planning director shall conduct periodic six-month reviews of operations of the place of assembly use, commencing at the issuance of the certificate of occupancy. Should the planning director find a material or substantial violation of these regulations or impact to the community not in compliance with the above regulations, the place of assembly shall be reviewed by the planning board, in accordance with the review standards of section 118-194 of the City Code.

xvii. The required parking for a place of assembly is one space per 80 square feet of floor area available for seating.

(b) Within the areas that have an underlying zoning designation of RM-2, the main permitted use within an existing "Contributing" structure or replication of a "contributing" structure are:

i. Retail.

ii. Office.

iii. Restaurants with an aggregate interior square footage not to exceed 1,750 square footage.

(c) Within the areas that have an underlying zoning designation of RM-2, restaurants exceeding an aggregate interior square footage of 1,750 square feet, and located within an existing "contributing" structure or replication of a "contributing" structure, shall require conditional use approval, in accordance with chapter 118, article IV of the City Code.

(d)

Within the areas that have an underlying zoning designation of RM-2, offices are a permitted accessory use to a place of assembly and a parking garage, whether a main use parking garage (commercial or non-commercial) or an accessory parking garage.

(e) Within the areas that have an underlying zoning designation of RM-2, there shall not be any open air entertainment establishments or outdoor entertainment establishments.

(f) Installation of a work of art, whether temporary or permanent, may be placed within required yard of a property located within the Faena District overlay subject to the following:

i. It shall not be placed in or overhang above the public right-of-way unless a revocable permit is obtained pursuant to chapter 82, article III, division 2.

ii. It shall not encroach into the safe sight triangles as depicted in the city public works manual. The 15-foot sides of the safe sight triangle shall be measured from the edges of the pavement of the two intersecting roadways.

iii. It shall not diminish the clear width of a sidewalk to less than five feet.

iv. It shall not diminish landscaping to a level that would make the landscaping nonconforming.

v. It shall be subject to review and approval of a certificate of appropriateness by the historic preservation board.

(g) Within areas that have an underlying zoning designation of RM-3, lots which are oceanfront lots with a lot area greater than 70,000 square feet that also contain a contributing historic structure shall have a maximum height of 221 feet.

i. Any building with a height exceeding 203 feet shall have a front setback of 75 feet as measured to the closest face of a balcony.

(h) Within areas that have an underlying zoning designation of RM-3, lots which are oceanfront lots with a lot area greater than 70,000 square feet that also contain a contributing historic structure:

i. The required pedestal and tower side street setback for alterations to and extensions of a contributing historic structure shall be equal to the existing setback of the contributing historic structure.

ii. The required pedestal side street setback for attached or detached additions to a contributing historic structure that are located on the ground is zero feet.

iii. The subterranean, pedestal, and tower interior side setbacks shall be zero feet for properties abutting a GU zoned parcel, and which also provide a view corridor between an existing contributing building and the construction of a detached ground level addition, subject to the review and approval of the historic preservation board, in accordance with the certificate of appropriateness review criteria.

iv. There are no required sum of the side yard setbacks for pedestal or tower side setbacks.

v. The required subterranean rear setback is 46 feet from the bulkhead line.

vi. The required subterranean front setback is 15 feet.

vii. The required front setback for at-grade parking and driveways is eight feet, six inches.

viii. The maximum permitted width of a porte-cochere for a contributing building may exceed the requirements of allowable encroachments as outlined in city code section 142-1132, not to exceed the width of an original porte-cochere. The maximum permitted height of such porte-cochere shall be 19 feet.

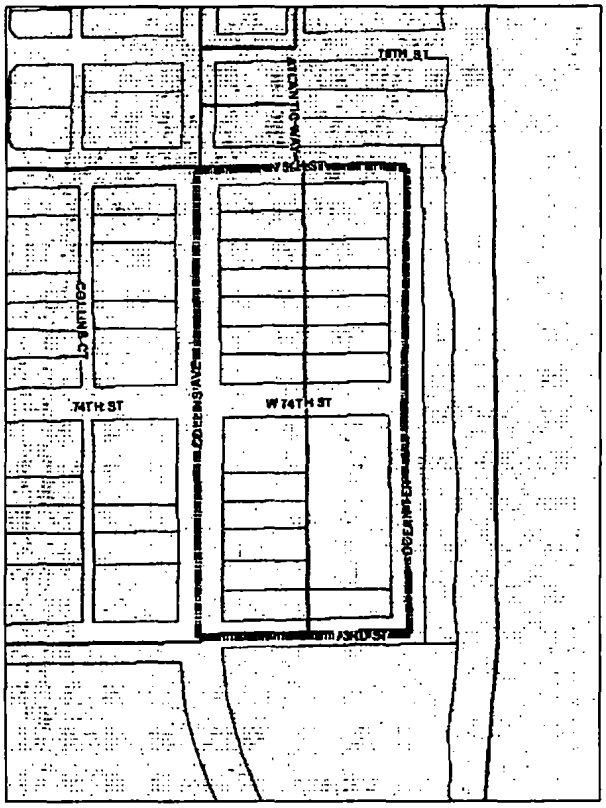
ix. The term "grade, average existing" which means the average grade elevation calculated by averaging spot elevations of the existing topography taken at ten-foot intervals along the property lines, shall be substituted for the term "grade" for purposes of fence and wall heights and setbacks. However, a fence or wall which faces Collins Avenue shall be measured from grade (the city sidewalk elevation at the centerline of the front of the property).

(Ord. No. 2014-3913, § 1(142-873), 12-17-14; Ord. No. 2017-4120, § 1, 7-26-17; Ord. No. 2020-4366, § 1, 10-14-20; Ord. No. 2021-4407, § 1, 4-21-21; Ord. No. 2021-4431, 7-28-21)

DIVISION 11. - OCEAN TERRACE OVERLAY

Sec. 142-870. - Location and purpose.

The overlay regulations of this division shall apply to the properties identified in the map below:



(b) The purpose of this overlay district is to:

(1) Stimulate neighborhood revitalization and encourage new development and renovation of important historic buildings within the Ocean Terrace/Collins Avenue corridor.

(2) Encourage private property owners to assemble and redevelop properties comprehensively rather than in a piecemeal fashion.

(3) Improve the pedestrian environment of the neighborhood.

(4) Maintain the scale, massing and character of the existing building typology adjacent to the public sidewalks.

(Ord. No. 2016-4021, § 1, 6-8-16)

Sec. 142-870.1. - Compliance with regulations.

The following overlay regulations shall apply to the Ocean Terrace Overlay. All development regulations in the underlying regulations shall apply, except as follows:

(a) *Setbacks.*

(1) When a lot or combination of lots abuts two (2) or more streets, the required yards shall be classified as follows:

a. *Front.* The areas abutting Collins Avenue and Ocean Terrace.

b. *Side, Street.* The areas abutting either 73rd, 74th or 75th Streets.

c.

Side, Interior. The areas abutting an adjacent property. For a lot or combination of lots that have two front setbacks as defined in this section, the remaining yards not facing a street shall be classified as a side interior.

(2) *Pedestal.* Pedestal shall means that portion of a building or structure which is equal to or less than 40 feet in height. The Historic Preservation Board may allow for an increase in the pedestal height not to exceed 45 feet in height in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

a. *Front:*

1. For buildings situated on properties with an underlying designation of CD-2, zero feet for the first 25 feet of building height, or the height of the existing building, whichever is greater. Five feet for those portions of new buildings within the remaining pedestal height.
2. For buildings situated on properties with an underlying designation of MXE, five feet for the first 20 feet of building height, or the height of the existing building, whichever is greater, 20 feet for those portions of new buildings within the remaining pedestal height.

b. *Side street.* For properties fronting 75th Street, zero feet, regardless of the underlying zoning designation. For properties fronting 73rd or 74th Street, regardless of the underlying zoning designation, zero (0) feet for the first 20 feet of building height, or the height of the existing building, whichever is greater and 20 feet for those portions of new buildings within the remaining pedestal height.

c. *Side interior.*

1. For buildings situated on properties with an underlying designation of CD-2, zero feet.
2. For buildings situated on properties with an underlying designation of MXE, 7.5 feet.

(3) *Tower.* Tower means that portion of a building or structure which exceeds 40 feet in height. Notwithstanding the foregoing, should the Historic Preservation Board allow for an increase in the pedestal height not to exceed 45 feet in height, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations, the tower height shall be measured from the pedestal height approved by the Historic Preservation Board.

a. *Front.*

1. For buildings situated on properties with an underlying designation of CD-2, 30 feet.
2.

For buildings situated on properties with an underlying designation of MXE, 55 feet.

b. *Side street.* Twenty-five feet for the first 125 feet of building height, 50 feet for those portions of new buildings within the remaining tower height, regardless of the underlying zoning designation.

c. *Side interior.* Twenty feet regardless of the underlying zoning designation.

(4) *Subterranean.* Zero feet for all yards regardless of the underlying zoning designation.

(5) *[Exceptions.]* The historic preservation board may allow for a decrease in the above noted minimum setback requirements, but no less than the minimum setback requirements in the underlying zoning district regulations, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

(b) *Allowable encroachments and projections, consistent with section 142-1132(o), within required yards.*

(1) Exterior unenclosed private balconies and pool decks.

a. For buildings situated on properties with an underlying designation of CD-2, allowable encroachment is 7.5 feet into any required yard.

b. For buildings situated on properties with an underlying designation of MXE:

1. Allowable front yard encroachments are:

i. Twelve feet for the pedestal, and

ii. Ten feet for the tower.

2. Allowable side interior yard encroachment is six (6) feet.

(2) Ground level porches, platforms and terraces (up to 30 inches above the elevation of the lot) are allowed to project into a required yard for a distance not to exceed 50 percent of the required yard up to a maximum projection of five (5) feet.

(c) *Height.*

(1) For main use residential buildings: Lot area less than 20,000 square feet—The maximum height is based on the underlying zoning regulations; lot area equal to or greater than 20,000 square feet and having frontage on both Collins Avenue and Ocean Terrace—235 feet.

(2) For main use hotel buildings: Lot area less than 20,000 square feet—The maximum height is based on the underlying zoning regulations; lot area equal to or greater than 20,000 square feet and having frontage on both Collins Avenue and Ocean Terrace—125 feet.

(3) All other buildings the maximum height is as provided in the underlying zoning regulations.

(d)

Floor plate. The maximum floor plate size for the tower portion of a building is 10,000 square feet, including balconies, per floor. The historic preservation board may allow for an increase in the overall floor plate, up to a maximum of 15,000 square feet, including balconies, per floor, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

(e) *Building separation.* All new construction shall comply with the following, as applicable:

(1) For any portion of new construction greater than 60 feet in height, the minimum horizontal separation between the tower portion of two buildings, including balconies, is 60 feet.

(2) Two buildings used as a hotel may be connected in the tower portion of the buildings by a one-story, enclosed pedestrian bridge, for circulation purposes only, if approved by the historic preservation board in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

(3) The separation requirement between two existing contributing structures, or between an existing contributing structure and a new building, may be waived by the historic preservation board in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

(f) *Permitted uses.*

(1) The main permitted uses in the Ocean Terrace Overlay District are:

a. Apartments;

b. Apartment/hotels;

c. Hotels;

d. Commercial;

e. Uses that serve alcoholic beverages as listed in chapter 6 (alcoholic beverages) or as specified elsewhere in the land development regulations.

(2) The conditional uses in the Ocean Terrace Overlay District are:

a. Public and private cultural institutions open to the public;

b. Banquet facilities, defined as an establishment that provides catering and entertainment to private parties on the premises and are not otherwise accessory to another main use;

c. Outdoor entertainment establishments;

d. Neighborhood impact establishments;

e. Open air entertainment establishments;

f. Main use parking garages;

g. Public and private institutions;

h. Food store selling alcoholic beverages.

(g) *Prohibited uses.*

(1) Package alcohol store.

(h) *Additional development regulations.* Buildings with frontage on Collins Avenue shall have either retail or restaurant uses (which may include neighborhood impact establishment uses) on the front 50 feet of depth of the ground floor with an entrance that opens onto Collins Avenue. Buildings with frontage on Ocean Terrace shall have active uses on the ground floor with an entrance that opens onto Ocean Terrace.

(Ord. No. 2016-4021, § 1, 6-8-16; Ord. No. 2017-4098, § 1, 5-17-17; Ord. No. 2018-4158, § 2, 1-17-18)

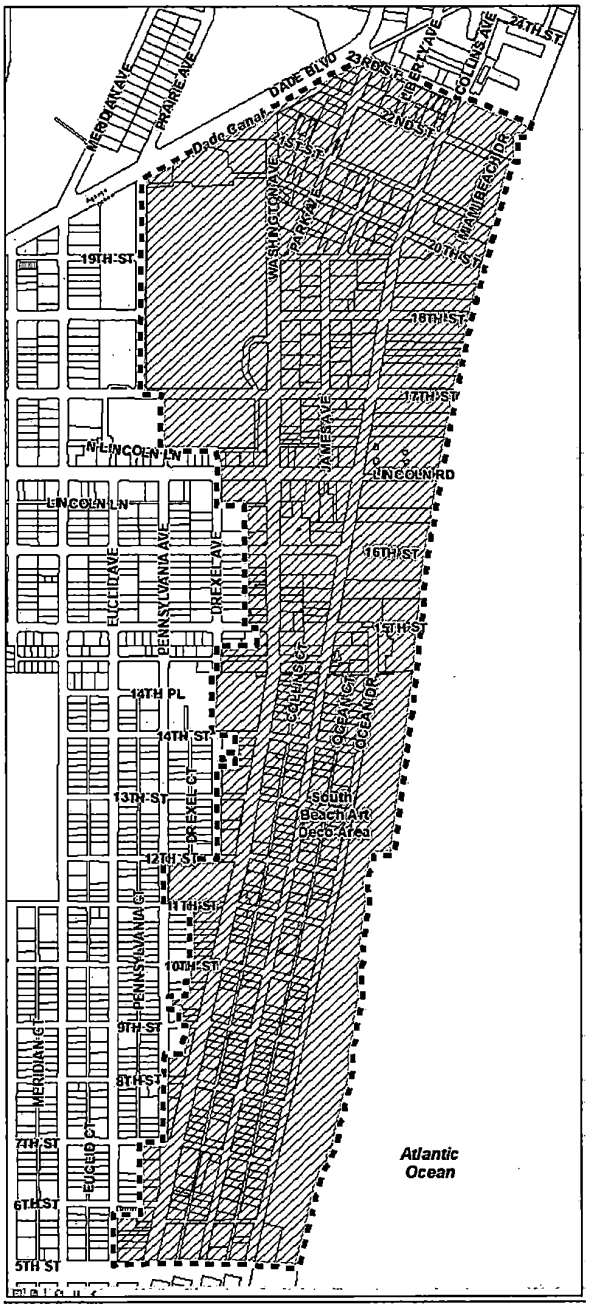
Secs. 142-870.2—142-870.9. - Reserved.

DIVISION 12. - ART DECO

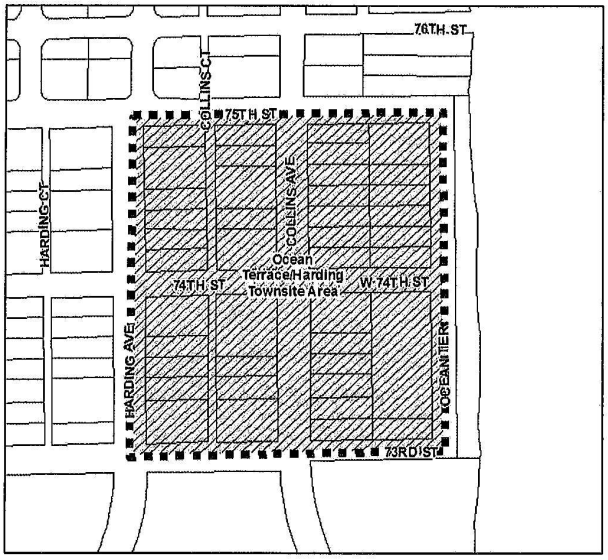
MIMO COMMERCIAL CHARACTER OVERLAY DISTRICT

Sec. 142-870.10. - Location and purpose.

(a) There is hereby created the Art Deco/Mimo Commercial Character Overlay District (the "overlay district"). The overlay district consists of the properties in the South Beach Art Deco Area identified in the map below in this subsection (a) and the properties identified in the Ocean Terrace/Harding Townsite Area described in subsection (b) below. The South Beach Art Deco Area is generally located east of the western lot lines of properties fronting the west side of Washington Avenue, between 5th Street on the south and 23rd Street on the north, and located west of the ocean:



(b) The Ocean Terrace/Harding Townsite Area is identified in the map below and is generally located between Harding Avenue to the west and Ocean Terrace to the east, between 73rd and 75th Streets:



(c) The purpose of this overlay district is to limit the proliferation of uses which may diminish the character of historic commercial areas within the city. This overlay district is designed based on and intended to achieve the following facts and intents:

(1) Properties fronting Ocean Drive and Collins Avenue that have a zoning designation of MXE mixed use entertainment are located in the Ocean Drive/Collins Avenue historic district, as well as the Miami Beach Architectural National Register Historic District;

(2) Properties fronting Washington Avenue that have a zoning designation of CD-2 commercial medium intensity district, are located in the Flamingo Park historic district and the Miami Beach Architectural National Register Historic District;

(3) Ocean Drive, Collins Avenue, and Washington Avenue are some of the premier streets in Miami Beach and provide residents and visitors with a unique cultural, retail, and dining experience and are vital to Miami Beach's economy, especially the tourism industry;

(4) Properties fronting Ocean Terrace and Collins Avenue between 73rd and 75th Streets are within the Harding Townsite historic district and the North Shore National Register historic district;

(5) Properties fronting Harding Avenue between 73rd and 75th Streets are within North Shore National Register historic district: and

(6) The City of Miami Beach has undertaken a master planning process for the North Beach area that includes the Harding Townsite historic district and North Shore National Register district, in order to encourage the revitalization of the area by improving cultural, retail, and dining experiences for residents and visitors to the area;

(7) Formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance, where recognition is dependent upon the repetition of the same characteristics of one store in multiple locations;

(8) Formula commercial establishments and formula restaurants are increasing in number along Ocean Drive and within other historic districts;

(9) The sameness of formula commercial establishments, while providing clear branding for retailers, conflicts with the city's Vision Statement which includes creating "A Unique Urban and Historic Environment";

(10) Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many formula commercial establishments detract from the distinctive character and aesthetics of the historic districts;

(11) The increase of formula commercial establishments hampers the unique cultural, retail, and dining experience in commercial and mixed-use areas of the city's historic districts;

(12) Specifically, the proliferation of formula commercial establishments may unduly limit or eliminate business establishment opportunities for non-traditional or unique businesses, thereby decreasing the diversity of cultural, retail, and dining services available to residents and visitors;

(13) The homogenizing effect of formula commercial establishments based on their reliance on standardized branding, increases if the size of the establishment, the number of locations or size or use of branded elements is greater;

(14) The increased level of homogeneity detracts from the uniqueness of the historic districts, which thrive on a high level of interest maintained by a mix of cultural, retail, and dining experiences that are not found elsewhere in the country;

(15) Sidewalk cafés are central to the economy of Ocean Drive and enhance the pedestrian experience and historic and cosmopolitan character of the street;

(16) It is not the intent of the city to limit interstate commerce, but rather to maintain the historic character of neighborhoods and promote their unique cultural, retail, and dining experiences that are vital to the city's economy;

(17) It is the intent of the city that if an establishment that has multiple locations and standardized features or a recognizable appearance seeks to locate within certain areas affected by this division that such establishment provide a distinct array of merchandise, facade, decor, color scheme, uniform apparel, signs, logos, trademarks, and service marks;

(18) Convenience stores, pharmacy stores and formula eating establishments have similar impacts to the unique character of this important area of the city as formula stores;

(19) Check cashing stores, pawnshops, souvenir arid t-shirt shops, tattoo studios, fortune tellers (occult science establishments), massage therapy center, and package liquor stores are uses which negatively affect surrounding areas; and

(20)

It is the intent of the city to limit the number of establishments which may negatively affect surrounding areas.

(Ord. No. 2017-4137, § 2, 9-25-17; Ord. No. 2022-4489, § 1, 5-4-22)

Sec. 142-870.11. - Compliance with regulations.

The following regulations shall apply to the overlay district. There shall be no variances allowed from these regulations. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

(a) The following limitations shall apply to the commercial uses listed below:

(1) Check cashing stores shall comply with the following regulations:

a. Such establishments shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.

b. In areas of the overlay district not included in subsection a. above, there shall be no more than two such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(2) Convenience stores shall comply with the following regulations:

a. Such establishments shall be prohibited on lots fronting Ocean Drive.

b. In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one such establishment.

c. In areas of the Overlay District not included in subsection a. and b. above, there shall be no more than five such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(3) Formula commercial establishments shall comply with the following regulations:

a. Such establishments shall be prohibited on lots fronting Ocean Drive and Ocean Terrace.

b. This subsection shall not apply to any establishments in the South Beach Art Deco Area other than establishments fronting Ocean Drive nor to any establishment in the Ocean Terrace/Harding Townsite Area, other than Ocean Terrace.

(4) Formula restaurants shall comply with the following regulations:

a. Such establishments shall be prohibited on lots fronting Ocean Drive and Ocean Terrace.

b. This subsection shall not apply to any establishments in the South Beach Art Deco Area other than establishments fronting Ocean Drive nor to any establishment in the Ocean Terrace/Harding Townsite Area, other than Ocean Terrace.

(5)

Massage therapy centers shall not operate between 9:00 pm and 7:00 am in the overlay district.

(6) Marijuana dispensaries shall be prohibited in the overlay district.

(7) Occult science establishments shall be prohibited in the overlay district.

(8) Package stores shall comply with the following regulations:

a. Such establishments shall be prohibited on lots in the South Beach Art Deco Area with an underlying MXE zoning designation and in the Ocean Terrace/Harding Townsite Area.

b. In areas of the overlay district not included in subsection a. above, there shall be no more than three such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(9) Pawnshops shall be prohibited in the overlay district.

(10) Pharmacy stores shall comply with the following regulations:

a. Such uses shall be prohibited on lots fronting Ocean Drive.

b. In the Ocean Terrace/Harding Townsite Area, there shall be a limit of one such establishment.

c. In areas of the overlay district not included in subsection a. and b. above, there shall be no more than five such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(11) Souvenir and t-shirt shops shall comply with the following regulations:

a. Such establishments shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.

b. In areas of the overlay district not included in subsection a. above, there shall be no more than five such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(12) Tattoo studios shall comply with the following regulations:

a. Such uses shall be prohibited on lots fronting Ocean Drive and in the Ocean Terrace/Harding Townsite Area.

b. In areas of the overlay district not included in subsection a. above, there shall be no more than three such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment.

(13) Grocery stores shall comply with the following regulations:

a. Such establishments shall be prohibited on lots fronting Ocean Drive.

b. In areas of the overlay district not included in subsection a. above, there shall be no more than five such establishments. Such establishments shall be located no closer than 2,500 feet from any other such establishment, with the exception of such uses in

the Ocean Terrace/Harding Townsite Area.

(14) Tobacco/vape dealers shall be prohibited in the overlay district.

(b) Review procedures.

(1) Commercial establishments in the overlay district that are not identified in subsection 142-870.11(a) shall comply with the following regulations:

a. A signed affidavit indicating that they are not an establishment that is regulated by subsection 142-870.11(a) shall be provided to the city as part of the application for obtaining a business tax receipt and building permit, as applicable.

b. If the establishment is found not to be in compliance with the applicable requirements of the signed affidavit, the business tax receipt will be revoked and the establishment shall immediately cease operation.

(2) Commercial establishments in the overlay district that are identified in subsection 142-870.11(a) shall comply with the following regulations:

a. If applicable, the applicant shall provide a signed and sealed survey dated not older than six months, indicating the number, location, name, business tax receipt numbers, and separation of the applicable type of establishments within the overlay district. Distance separation shall be measured as a straight line between the principal means of entrance of each establishment and the proposed establishment.

b. Establishments existing as of the date of the enactment of this ordinance shall count towards the maximum number of such establishments permitted within subsection 142-870.11(a).

c. A signed affidavit indicating compliance with the regulations of subsection 142-870.11(a) for the applicable type of establishment shall be provided prior to obtaining a business tax receipt.

d. If the establishment is found not to be in compliance with the applicable requirements of the signed affidavit, the business tax receipt will be revoked and the establishment shall immediately cease operation.

e. If a particular establishment meets more than one definition (i.e., formula commercial establishment and pharmacy store), it must meet the requirements for each use, and if there is a conflict, the more stringent code requirement shall control.

(Ord. No. 2017-4137, § 2, 9-25-17; Ord. 2019-4269, § 4, 6-5-19; Ord. No. 2019-4280, § 3, 6-5-19; Ord. No. 2022-4489, § 1, 5-4-22)

Sec. 142-870.12. - Applicability.

Notwithstanding any provision of these regulations to the contrary, the overlay ordinance shall not apply to real property that satisfies all of the foregoing criteria:

(1) The property fronts Ocean Drive:

(2) The property has a received an order from the historic preservation board for a substantial rehabilitation, issued between January 1, 2017 and September 13, 2017, provided a full building permit is issued pursuant to such order within the allowable timeframes set forth in chapter 118 of the land development regulations of the city Code.

(3) Any property described above will become legal nonconforming and, consistent with the city's land development regulations that address nonconformities, shall be permitted to continue as a legal nonconforming use in accordance with the applicable provisions of chapter 118 of the land development regulations of the city Code.

(4) In the event the above-noted order of the historic preservation board should expire prior to the issuance of a building permit, any property described above shall conform with all the provisions under chapters 114 and 142 of this Code.

(Ord. No. 2017-4137, § 2, 9-25-17)

DIVISION 13. - NORTH BEACH NATIONAL REGISTER CONSERVATION DISTRICT OVERLAY

Footnotes:

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***Editor's note—** Sec. 2 of Ord. No. 2018-4187, adopted Apr. 11, 2018, enacted new provisions to be designated as div. 12, §§ 142-880—142-885. In order to avoid duplication of division numbers and in keeping with the categorical standards of the Code, said new provisions have been redesignated as div. 13, §§ 142-870.13—142-870.18. Original section numbers have been maintained in the history notes following each section.*

Sec. 142-870.13. - Location and purpose.

(a) The overlay regulations of this division shall apply to all new and existing properties located in the RM-1 Residential Multifamily Low Intensity zoning district, which are located within the boundaries of either the North Shore National Register Historic District or the Normandy Isles National Register Historic District.

(b) In the event of a conflict with the regulations of the underlying RM-1 zoning district, the provisions herein shall control.

(c) The purpose of this overlay district is to:

(1) Provide land-use regulations that encourage the retention and preservation of existing "contributing" buildings within the National Register Districts.

(2) To promote walking, bicycling and public transit modes of transportation.

(3)

To ensure that the scale and massing of new development is consistent with the established context of the existing residential neighborhoods and maintains the low-scale, as-built character of the surrounding neighborhoods.

(Ord. No. 2018-4187, § 2(142-880), 4-11-16)

Sec. 142-870.14. - Compliance with regulations.

(a) Applications for a building permit shall be reviewed and approved in accordance with all applicable development procedures specified in chapter 118.

(b) Existing structures shall be rehabilitated in general accordance with the Post-War Modern/MiMo Design Guidelines as adopted by the design review board and historic preservation board.

(c) The demolition of buildings within the North Beach National Register Overlay shall comply with the following:

(1) The demolition of a "contributing" building shall not be permitted for purposes of creating a vacant lot or a surface parking lot.

(2) No demolition permit for a "contributing" building not located within a local historic district or site, shall be issued prior to the review and approval for the new construction or site improvements by the design review board and until all of the following criteria are satisfied:

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) The aforementioned demolition requirements shall not supersede the regulations and requirements set forth in chapter 118, article X. In the event of a conflict, the regulations in chapter 118, article X shall control.

(Ord. No. 2018-4187, § 2(142-881), 4-11-18)

Sec. 142-870.15. - Development regulations and area requirements.

The following overlay regulations shall apply to the North Beach National Register Overlay. All development regulations in the underlying RM-1 regulations shall apply, except as follows:

(a) There shall be no limitation for properties zoned RM-1 within the North Beach National Register Overlay district. The lot area, lot width, and lot aggregation requirements for properties zoned RM-1 within the North Beach National Register Overlay district are as follows:

Minimum Developable Lot Area (Square Feet)	Minimum Developable Lot Width (Feet)	Maximum Developable Lot Width (Feet)	Maximum Developable Aggregation (Platted Lots)

5,000 SF	50 feet	200 feet. Developments where all residential units consist of workforce or affordable housing shall have no maximum lot width restriction.	Subject to Sec. 142-883, two lot maximum aggregation; up to three lots may be aggregated, if permitted by the historic preservation or design review board, as applicable, and if all "contributing" buildings on the aggregated site are substantially retained and restored in accordance with Sec. 142-883; five lot maximum lot aggregation may be permitted if all residential units consist of workforce or affordable housing for a period of no less than 50 years. Educational and religious institutions, existing as of April 21, 2018, and located on lots consisting of more than two

			platted lots may be retained, provided all existing buildings on the lot are retained. There shall be no variances from these maximum lot aggregation restrictions, except for existing lots where all structures are proposed to be retained, and provided no additional lots are added.

(b) The unit size requirements for the North Beach National Register Overlay district are as follows:

Minimum Unit Size (Square Feet}	Average Unit Size (Square Feet}
New construction—400	New construction—500
	Workforce or affordable housing—400
"Contributing" buildings which are substantially retained and restored—300	"Contributing" buildings which are substantially retained and restored—400
Additions to "contributing" buildings which are substantially retained and restored—300	Additions to "contributing" buildings which are substantially retained and restored—400

(c)

The height requirements for RM-1 properties within the North Beach National Register Overlay district are as follows:

(1) The maximum building height for new construction shall be 32 feet for the first 25 feet of building depth, as measured from the minimum required front setback and a maximum of 45 feet for the remainder of the building depth. the design review or historic preservation board, as applicable, may allow for up to the first 32 feet in height to be located within the first 20 feet of building depth, as measured from the minimum required front setback.

For properties that contain at least one "contributing" building, and provided that at least 50 percent of all existing "contributing" buildings on site, as measured from the front elevation, are substantially retained and restored a maximum of 55 feet may be permitted by the design review board or historic preservation board, as applicable. The design review board may waive the aforementioned requirement for the 50 percent retention of existing "contributing" buildings, provided at least 25 percent of all existing "contributing" buildings on site, as measured from the front elevation, are substantially retained and restored. For properties located within local historic districts, the historic preservation board, at its sole discretion, shall determine the retention requirements for all "contributing" buildings.

(2) In the event that the existing building exceeds 32 feet in height that existing height shall control.

(3) Rooftop additions to existing "contributing" buildings, not located within a local historic district, may be reviewed and approved at the administrative level, in accordance with the following:

a. The roof-top addition shall not exceed one story, with a maximum floor-to-ceiling height of ten feet.

b. There shall be no demolition of original significant architectural features, as determined by the planning director or designee.

c. The roof-top addition shall be setback a minimum of 20 feet from the front facade.

d. A minimum of 75 percent of the front and street side building elevations shall be retained.

(4) Elevator and stairwell bulkheads extending above the main roofline of a building shall be required to meet the line-of-sight requirements set forth in section 142-1161 herein and such line-of-sight requirement, unless waived by either the historic preservation board or design review board, as may be applicable.

(5)

Shade structures, including awnings, trellises and canopies may be permitted as an allowable height exception, provided they do not exceed ten feet in height above the associated roof deck, and shall be subject to the review and approval of the historic preservation board or design review board, as applicable.

(d) Exterior building and lot standards.

(1) *Ground floor requirements.* When parking or amenity areas are provided at the ground floor level below the first habitable level, the following requirements shall apply:

a. A minimum height of 12 feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable, may waive this height requirement by up to two feet, in accordance with the design review of certificate of appropriateness criteria, as applicable.

b. All ceiling and sidewall conduits shall be internalized or designed in such a manner as to be part of the architectural language of the building in accordance with the design review or certificate of appropriateness criteria, as applicable.

c. Active outdoor spaces that promote walkability, social integration, and safety shall be provided at the ground level, in accordance with the design review or certificate of appropriateness criteria, as applicable.

(2) There shall be no minimum or maximum yard elevation requirements, or maximum lot coverage requirements within the North Beach National Register Overlay.

(e) The setback requirements for all buildings located in the RM-1 district within the North Beach National Register Overlay district are as follows:

	Front	Interior Side	Street Side	Rear

North Shore	10 feet	Non-waterfront: Lot width of 60 feet or less: five feet. Lot width of 61 feet or greater: 7.5 feet, or eight percent of lot width, whichever is greater. Waterfront: 7.5 feet, or eight percent of lot width, whichever is greater. Additionally, regardless of lot width, at least one interior side shall be 10 feet or 10 percent of lot width, whichever is greater.	Five feet	Non-waterfront lots: Five feet Waterfront lots: 10 percent of lot depth
Biscayne Beach	10 feet	Non-waterfront: Lot width of 60 feet or less: Five feet. Lot width of 61 feet or greater: 7.5 feet, or eight percent of lot width, whichever is greater. Waterfront: 7.5 feet, or eight percent of lot width, whichever is greater. Additionally, regardless of lot width, at least one interior side shall be 10 feet or 10 percent of lot width, whichever is greater.	Five feet	10 percent of lot depth

Normandy Isle and Normandy Shores	20 feet Waterfront: 25 feet	Non-waterfront: Lot width of 60 feet or less: Five feet. Lot width of 61 feet or greater: 7.5 feet, or eight percent of lot width, whichever is greater. Waterfront: 7.5 feet, or eight percent of lot width, whichever is greater. Additionally, regardless of lot width, at least one interior side shall be 10 feet or 10 percent of lot width, whichever is greater.	Five feet	Five feet Waterfront: 10 percent of lot depth, maximum 20 feet

(1) Setbacks for at-grade parking and subterranean levels, if permitted, shall be the same as set forth in section 142-156.

(2) Notwithstanding the above, for rooftop additions located on "contributing" buildings, such additions may follow any existing nonconforming interior side or rear setbacks. Provided at least 33 percent of an existing "contributing" building, as measured from the front elevation, is substantially retained and restored, any new ground level addition, whether attached or detached, may also follow any existing nonconforming interior side or rear setbacks. For properties located within local historic districts, the historic preservation board, at its sole discretion, shall determine the retention requirements for all "contributing" buildings.

(Ord. No. 2018-4187, § 2(142-882), 4-11-18)

Sec. 142-870.16. - Lot aggregation guidelines.

Where a development is proposed on two or more lots, if approved for an aggregation of greater than two lots by the design review board or historic preservation board, as applicable, new construction shall comply with the following:

(a)

For properties located outside of local historic districts, at least 33 percent of all existing "contributing" buildings, as measured from the front elevation, shall be substantially retained and restored. The design review board may waive this building retention requirement, provided at least 25 percent of each existing "contributing" buildings on site, as measured from the front elevation, is substantially retained and restored.

(b) For properties located within local historic districts, the historic preservation board, at its sole discretion, shall determine the retention requirements for all "contributing" buildings within the aggregated site.

(c) New construction shall acknowledge the original platting of the assembled parcels through separation of buildings and appropriate architectural treatment within the building's facade.

(d) For development sites consisting of two platted lots or less, the width of any new building shall not exceed 85 feet.

(e) For development sites consisting of three platted lots, the first 50 feet of building depth shall require a minimum separation of ten feet for every 85 feet of building width within a single site. The design review or historic preservation board, as applicable, may waive these building width and separation requirements.

(f) For waterfront developments greater than two lots in width, a view corridor through the parcel, open to the sky, shall be required. The location and dimensions of such view corridor shall be subject to the design review or historic preservation board, as applicable.

(g) A courtyard or semi-public outdoor area, comprised of at least 500 square feet, shall be required. Private terraces at the ground level may be included within this 500 square feet, provided individual units can be accessed directly from the exterior of the terrace.

The aforementioned requirements listed in section 142-870.16(b) shall not be applicable to any development where all residential units consist of workforce or affordable housing,

(Ord. No. 2018-4187, § 2(142-883), 4-11-18)

Sec. 142-870.17. - Design and resiliency standards.

(a) All levels of an existing structure located below base flood elevation plus one foot (BFE + one foot) may be repurposed with non-habitable uses.

(b) Subterranean levels shall only be permitted in the event that the space is purposed and designed as part of a stormwater management plan, including, but not limited to, stormwater collection and cisterns for reuse of captured water.

(c) All dwelling units in new construction shall be designed to incorporate exposure to natural light from at least two elevations of the building volume.

(d)

New construction shall be designed to incorporate naturally landscaped areas at the ground level, in addition to the minimum setback requirements, which is equal to or greater than five percent of the total lot area.

(e) For new construction using common vertical circulation and access corridors, a non-emergency, convenience stair, accessing, at a minimum, the first three residential floors, shall be required. Such stair shall be designed in an open manner, and shall connect directly to the exterior of the building, or to the entrance lobby.

(f) For raised yards requiring a retaining wall, the exterior of such wall, on all sides, shall be designed and finished in a manner that result in a high quality appearance when seen from adjoining properties.

(g) Landscaping within view corridors, with the exception of canopy trees, shall be maintained at a height not to exceed three feet from sidewalk elevation.

(h) In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations.

(Ord. No. 2018-4187, § 2(142-884), 4-11-18)

Sec. 142-870.18. - Additional parking standards.

(a) All parking shall be located no higher than the ground floor level. Ramps or parking above the first floor shall be prohibited. However, mechanical lifts may be proposed at the first level, provided all lifts are fully screened from view and not visible from adjacent properties, the public right-of-way or any waterfront.

(b) All exterior parking and driveway surface areas shall be composed of semi-pervious or pervious material such as concrete or grass pavers, set in sand.

(c) Required wheel stops shall be low profile and shall not exceed five feet in width.

(d) All parking areas shall meet minimum front and rear yard setback requirements for buildings.

(e) A maximum of a single, one-way driveway curb cut per platted lot within a development site shall be permitted, and the maximum width of a driveway curb cuts shall not exceed ten feet. Additionally, if approved by the design review board or historic preservation board, as applicable, two separate one-way curb cuts may be permitted on a thru-lot, when such lot is accessible from two different roadways, or a corner lot.

(f) On waterfront lots, parking areas shall only be secured by substantially open, picket fencing within required front yards and rear waterfront yards.

(Ord. No. 2018-4187, § 2(142-885), 4-11-18)

Sec. 142-870.19. - Reserved.

DIVISION 14. - NORTH BEACH PRIVATE AND PUBLIC SCHOOL OVERLAY DISTRICT

Sec. 142-870.20. - Location and purpose.

(a) The overlay regulations in this division shall apply to all new and existing schools located in that portion of the RM-1 residential multifamily low intensity zoning district which is bounded on the north by the south side of 78th Street; on the east by the west side of Carlyle Avenue; on the west by the east side of Tatum Waterway; and on the south by the north side of 75th Street.

(b) In the event of a conflict between the overlay regulations in this division and the regulations for the underlying RM-1 zoning district and/or North Beach National Register Conservation District Overlay, these overlay regulations shall control.

(c) The purpose of this overlay district is to:

(1) Provide land-use regulations that encourage the retention and preservation of existing public and private schools within the overlay;

(2) Promote enhancements to educational facilities for children that improve academic offerings, campus security, vehicle circulation. parking, and student access; and

(3) Ensure that the scale and massing of new development is consistent with the established context of the existing residential neighborhoods, and maintain the low-scale, as-built character of the surrounding neighborhoods.

(Ord. No. 2020-4347, § 1, 7-29-20)

Sec. 142-870.21. - Development regulations and area requirements.

The following overlay regulations shall apply to the North Beach Private and Public School District Overlay:

(a) The lot area, lot width,. and lot aggregation requirements for properties zoned RM-1 within the North Beach Private and Public School District Overlay district are as follows:

Minimum Developable Lot Area (Square Feet)	Minimum Developable Lot Width (Feet)	Maximum Developable Lot Width (Feet)	Maximum Developable Aggregation (Platted Lots)

5,000 SF	50 feet	Developments for schools have no maximum lot width restriction	Schools: Up to nine lots may be aggregated.

(b} The height requirements for RM-1 properties within the North Beach Private and Public School Overlay District are as follows:

(1) The maximum building height for new construction shall be 32 feet for the first ten feet of building depth. as measured from the minimum required front setback, and a maximum of 60 feet for the remainder of the building depth when the building includes a gymnasium: otherwise. the maximum building height shall be 45 feet.

(2) In the event that the existing building exceeds 32 feet in height that existing height shall control.

(3) Elevator and stairwell bulkheads extending above the main roofline of a building shall be required to meet the line-of-sight requirements set forth in section 142-1161. unless waived by either the historic preservation board or design review board. as may be applicable.

(c) Exterior building and lot standards.

(1) There shall be no minimum or maximum yard elevation requirements or maximum lot coverage requirements within the North Beach Private and Public School District Overlay.

(d) The setback requirements for all buildings located in the RM-1 district within the North Beach Private and Public School Overlay District are as follows:

Front	Interior Side	Street Side	Rear
10 feet	Non-waterfront: Lot width of 60 feet or less: Five feet. Lot width of 61 feet or greater; Seven and one-half feet, or eight percent of lot width, whichever is greater	Five feet	Non-waterfront lots; Five feet

(e) No additional setback requirements shall be imposed for landscaping.

(f) For development of school sites consisting of nine platted lots or fewer, there shall be no specific restriction on the width of any new building.

(g)

For development of school sites consisting of nine platted lots or fewer, there shall be no minimum distance separation between buildings on a single site.

(h) For development of school sites, a courtyard or semi-public outdoor area shall not be required.

(i) Notwithstanding the provisions in section 142-1132, within the required front yard, rear yard, or side yards facing a street or interior, fences, walls, and gates shall not exceed eight feet in height, as measured consistent with the definition of "adjusted future grade" in section 114-1.

(Ord. No. 2020-4347, § 1, 7-29-20)

Sec. 142-870.22. - Additional parking standards.

(a) Notwithstanding the provisions of section 130-32, there shall be no minimum parking requirement associated with the redevelopment of an existing school.

(b) All exterior parking and driveway surface areas shall be composed of semi-pervious or pervious material such as concrete or grass pavers, set in sand.

(c) Required wheel stops shall have a low profile, and shall not exceed five feet in width.

(d) All parking lots for schools shall meet the following minimum setback requirements, notwithstanding any other requirement in the land development regulations:

Front: Five feet;

Rear: Five feet;

Side interior: Five feet; and

Side facing a street: Five feet.

(e) For schools, a maximum of five one-way driveway curb cuts per platted lot within a development site shall be permitted. The maximum width of each driveway curb cut shall not exceed 15 feet.

(f) Notwithstanding the provisions of section 130-101, no new loading spaces shall be required in connection with the expansion of an existing school (including the construction of a new building or structure, or an increase to the floor area of the school).

(g) Notwithstanding the requirements of section 126-11, as applicable to landscaped areas in permanent parking lots, when reconfiguring existing parking for a school, the minimum landscape requirements shall be subject to the review and approval of the design review board.

(Ord. No. 2020-4347, § 1, 7-29-20)

DIVISION 15. - SUNSET HARBOUR MIXED-USE NEIGHBORHOOD OVERLAY DISTRICT

Footnotes:

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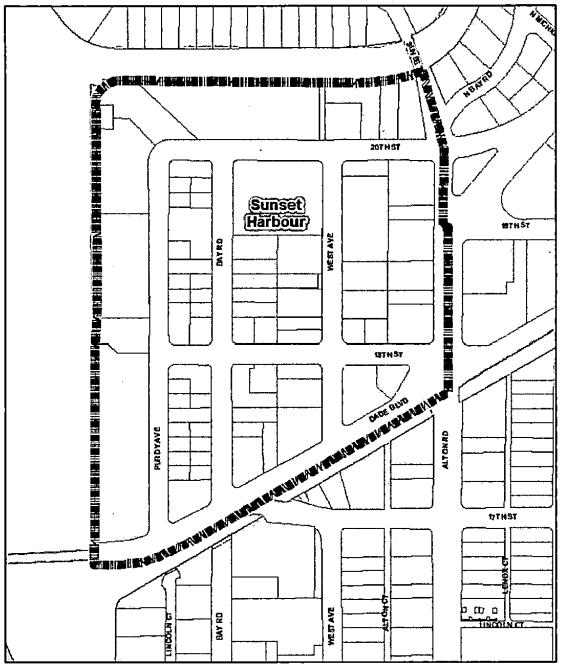
***Editor's note—** Ord. No. 2020-4378, adopted November 18, 2020, enacted new provisions to be designated as div. 14, §§ 142-870.19, 142-870.20. Inasmuch and there already exists a div. 14, § 142.870.19, said provisions have been added as div. 15, §§ 142-870.23, 142-870.24. Original ordinance designations have been maintained in the history notes following each section.*

Sec. 142-870.23. - Location and purpose.

(a) There is hereby created the Sunset Harbour Mixed-Use Neighborhood Overlay District (the "overlay district"). The overlay district consists of the properties in the Sunset Harbour Area, which is generally bounded by Purdy Avenue to the west, 20th Street and the waterway to the north, Alton Road to the east, and Dade Boulevard to the south, as further identified in the map below:



(b) The Sunset Harbour Mixed-Use Neighborhood Overlay District shall have two areas, as follows:

(1) *Perimeter commercial corridors.* The perimeter commercial corridors include the properties fronting Dade Boulevard between Bay Road on the west and Alton Road on the east; and the properties fronting Alton Road between Dade Boulevard on the south and 20th Street on the north.

(2) *Neighborhood center.* The neighborhood center includes all properties that are not within the perimeter commercial corridors, as described above.

(c) The purpose of this overlay district is to limit the proliferation of uses which may diminish the character of a unique mixed-use residential neighborhood within the city. This overlay district is designed based on and intended to achieve the following facts and intents:

(1)

Sunset Harbour has evolved from what started as a primarily industrial and commercial neighborhood, into the present vibrant mixed-use residential neighborhood that provides area residents with a unique retail and dining experience;

(2) Formula commercial establishments and formula restaurants are establishments with multiple locations and standardized features or a recognizable appearance, where recognition is dependent upon the repetition of the same characteristics of one store or restaurant in multiple locations;

(3) Formula commercial establishments and formula restaurants are increasing in number in mixed-use and commercial districts within the city;

(4) The sameness of formula commercial establishments, while providing clear branding for retailers, counters the city's vision statement which includes creating "A Unique Urban and Historic Environment";

(5) Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many formula commercial establishments detract from the distinctive character and aesthetics of unique mixed-use residential neighborhoods like the Sunset Harbour Neighborhood; and

(6) Specifically, the proliferation of formula commercial establishments may unduly limit or eliminate business establishment opportunities for independent or unique businesses, thereby decreasing the diversity of retail activity and dining options available to local residents; and

(7) The increased level of homogeneity detracts from the uniqueness of residential and mixed-use neighborhoods, which thrive on a high level of interest maintained by a mix of retail and dining experiences that are not found elsewhere in the city, state, country, or world;

(8) It is the intent of the city that if an establishment that has multiple locations and standardized features or a recognizable appearance seeks to locate within certain areas affected by this ordinance that such establishment provide a distinct array of merchandise, façade, décor, color scheme, uniform apparel, signs, logos, trademarks, and service marks.

(Ord. No. 2020-4378, § 1(142-870.19), 11-18-20)

Sec. 142-870.24. - Compliance with regulations.

The following regulations shall apply to the overlay district. There shall be no variances allowed from these regulations. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

(a) *Definitions.* Notwithstanding the provisions of section 114-1, the following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section:

(1)

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.

(2) *Formula commercial establishment* means a commercial use, excluding office, restaurant, grocery store, fitness/health facility smaller than 5,000 square feet, and hotel, that has 100 or more retail sales establishments in operation or with approved development orders in the United States of America. 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 four 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.

(3) *Formula restaurant* means a restaurant with 200 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 four or more of the following features: a standardized (formula) array of merchandise; a standardized facade; 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 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 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.

(b) *[Limitations.]* The following limitations shall apply to the commercial uses listed below:

(1) Formula commercial establishments and formula restaurants shall be prohibited in the neighborhood center area of the overlay district.

(c) *Review procedures.*

(1) Commercial establishments in the overlay district that are not identified in subsection 142-870.24(b) shall comply with the following regulations:

a. A signed and notarized affidavit indicating that the establishment is not an establishment that is regulated by subsection 142-870.24(b) shall be provided to the city as part of the application for obtaining a business tax receipt, certificate of use, and/or building permit, as applicable.

b. If the establishment is found not to be in compliance with the applicable requirements of the signed affidavit, the business tax receipt will be revoked, and the establishment shall immediately cease operation.

(Ord. No. 2020-4378, § 1(142-870.20), 11-18-20)

ARTICLE IV. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 142-871. - Encroachment; reduction of lot area.

The minimum yards, parking space, open spaces, including lot area per family required by these regulations for each and every building existing at the time of the passage of these regulations or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, except as hereinafter provided, nor shall any lot area be reduced below the requirements of these regulations.

(Ord. No. 89-2665, § 5-2, eff. 10-1-89)

Sec. 142-872. - Accessory buildings, prior construction and use.

Except as provided in section 142-905, no accessory building shall be constructed upon a lot until the construction of the main permitted use building has been actually completed unless construction of the main and accessory buildings is concurrent. No accessory building shall be used unless the main use building on the lot is also being used.

(Ord. No. 89-2665, § 5-3, eff. 10-1-89)

Sec. 142-873. - Derelict motor vehicles.

No derelict motor vehicles shall be permitted on any parcel of land except as provided in sections 142-481 through 142-485. A motor vehicle shall be considered derelict when it is in a wrecked, inoperative or partially dismantled condition, or when it does not have a current registration and license plate as required by F.S. ch. 320.

(Ord. No. 89-2665, § 5-6, eff. 10-1-89)

Cross reference— Traffic and vehicles, ch. 106.

Sec. 142-874. - Required enclosures.

(a) *Store enclosures.* In all use districts designated in these land development regulations, the sale, or exposure for sale or rent, of any personal property, including merchandise, groceries or perishable foods, such as vegetables and fruits, is prohibited, unless such sale, or exposure for sale, is made from a substantially enclosed, permanent building; provided, however, that nothing herein contained shall be deemed applicable to rooftop areas not visible from the right-of-way, filling stations, automobile service stations or repair shops; uses having revocable permits or beach concessions operated or granted by the city, newsracks or newspaper stands, or displays at sidewalk cafés as permitted in subsection 82-384, wherever such uses are otherwise permissible. Vehicles for rent or lease utilized in connection with the operation of an automobile rental agency as defined in section 102-356, and not located within a substantially enclosed permanent building, shall require conditional use approval from the planning board, provided that the exposure of the vehicles is on the same site at which the automobile rental agency is located, and that such exposed vehicles are screened from view as seen from any right-of-way or adjoining property when viewed from five feet six inches above grade, with appropriate landscaping not to exceed three feet in height from grade.

Notwithstanding the foregoing, during a state of emergency declared by the city, the requirement that personal property be sold or rented from a substantially enclosed, permanent building may be waived by the city manager subject to the following conditions:

(1)

The city manager may, upon a finding that significant building damage has occurred, identify specific areas of the city where personal property may be sold or rented outdoors.

(2) Items permitted to be sold or rented shall be limited to home improvement products including, but not limited to, hardware, construction supplies, electrical and plumbing fixtures, lumber, tools, and lawn and garden supplies.

(3) Businesses eligible for a waiver pursuant to this section shall be limited to businesses that engaged in the sale or rental of home improvement products immediately prior to the declaration of a state of emergency.

(4) All outdoor sales and rentals shall occur on the same property as the primary business.

(5) All accessible pedestrian circulation shall be maintained.

(6) Vehicular circulation shall not be interrupted.

(7) The number of accessible parking spaces shall not be reduced.

(8) The waiver shall expire upon the termination of the state of emergency.

(b) *Mechanical equipment.* All mechanical equipment located above the roof deck shall be enclosed or screened from public view.

(Ord. No. 89-2665, § 5-7, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 2002-3387, § 2, 12-11-02; Ord. No. 2006-3528, § 1, 9-6-06; Ord. No. 2015-3955, § 2, 7-31-15; Ord. No. 2021-4396, § 4, 1-13-21)

Sec. 142-875. - Roof replacements and new roofs.

(a) Review and approval of all new roof construction and all replacement roof construction shall be in accordance with the following criteria:

(1) In single-family residential districts, the style, design, and material of the roof installed on the main structure shall be compatible with all accessory structures.

(2) The color of the roof shall be neutral and shall not overwhelm or cause the roof to stand out in a significant manner.

(3) The design, details, dimensions, surface texture, and color of the roof shall be consistent with the architectural design, style, and composition of the structure.

(4) The design, details, dimensions, surface texture, and color of the roof shall be consistent with the established scale, context, and character of the surrounding area.

(b) In addition to the regulations in subsection (a), above, the following regulations shall apply to new roof construction, including additions to existing structures:

(1) Roofs should consist of a sustainable roofing system, subject to the review and approval of the planning department; or

(2)

If a sustainable roofing system is not utilized, then the property owner/applicant shall be required to pay a "sustainable roof fee," in the amount set forth in appendix A to the city Code, which fee shall be calculated based on the square footage of the enclosed floor area immediately one floor below the roof. Funds generated by the "sustainable roof fee" shall be deposited into the sustainability and resiliency fund established in chapter 133, article I. The following types of roofs which do not meet the requirements of a sustainable roofing system shall be permitted, subject to the review and approval of the planning department:

A. Pitched roofs which do not meet the requirements of a sustainable roofing system, and which may consist of flat tiles, barrel tiles, or glass roofs.

B. Flat or non-pitched roofs which do not meet the requirements of a sustainable roofing system.

C. Notwithstanding the foregoing, if a development is required to comply with the sustainability requirements in chapter 133, article I, payment of the "sustainable roof fee" shall not be applicable.

D. Notwithstanding the foregoing, if a building or structure is designed in the Mediterranean revival or mission style of architecture, payment of the "sustainable roof fee" shall not be applicable.

(3) Structures located within a locally designated historic district or site shall additionally comply with the following regulations:

A. The use of glass or sustainable roofing systems shall require the review and approval of the historic preservation board, pursuant to chapter 118, article X of these land development regulations.

B. If new construction is eligible for administrative review pursuant to chapter 118, article X of the land development regulations, the planning director may approve a metal, glass, or sustainable roofing system if the planning director determines that the scale, massing, and design of the proposed new structure can accommodate a metal, glass, or sustainable roofing system, and that such roofing system will not negatively impact the established architectural context of the immediate area.

(4) Asphalt shingles shall be prohibited.

(5) No variances from the provisions of this subsection (b) shall be granted.

(c) In addition to the regulations in subsection (a), above, the following regulations shall apply to the repair or replacement of an existing roof:

(1) The repair or replacement of an existing roof for a property located outside of a locally designated historic district or site may consist of sustainable roofing systems, flat tiles, barrel tiles, glass roofs, or flat or non-pitched roofs, subject to the review and approval of the planning department.

(2) In addition to the requirements in subsection (c)(1), and as applicable to architecturally significant single-family homes constructed prior to 1942 and individually designated historic single-family residences that are not located within a local historic district, the planning director may approve a metal, glass, or sustainable roofing system if the planning director determines that the scale, massing, and design of the subject home can accommodate a metal, glass, or sustainable roofing system, and that such roofing system will not negatively impact the established architectural context of the immediate area.

(3) Notwithstanding the above, for those structures constructed and substantially maintained in the Mediterranean revival or mission style of architecture, the use of roof material other than concrete, clay, or ceramic tile shall be subject to the review and approval of the design review board or historic preservation board, as applicable. For purposes of this subsection, Mediterranean revival or mission architecture shall be defined as those structures built between 1915 through 1942 and characterized by, but not limited to, stucco walls, low pitch terra cotta or historic Cuban tile roofs, arches, scrolled or tile capped parapet walls and articulated door surrounds, or Spanish baroque decorative motifs and classical elements.

(4) For repair or replacement of existing roofs within any locally designated historic district, site or structure, the following regulations shall apply:

A. The repair or replacement of existing roofs shall comply with the criteria set forth in chapter 118, article X of this Code.

B. For contributing buildings or historic sites, the use of glass or sustainable roofing systems shall require the review and approval of the historic preservation board.

C. For non-contributing buildings, the planning director may approve a metal, glass, or sustainable roofing system if the planning director determines that the scale, massing, and design of the proposed new structure can accommodate a metal, glass, or sustainable roofing system, and that such roofing system will not negatively impact the established architectural context of the immediate area.

(5) Asphalt shingles shall be prohibited.

(6) Notwithstanding the provisions in subsection (c)(5) above, in the event that a material other than those permitted for a pitched roof in any district was legally constructed, such roof may be replaced with the same material.

(7) Notwithstanding the provisions in subsection (c)(5) above, in the event that the building official determines that limitations exist regarding the load capacity of an existing roof, a roofing material other than those authorized in this section may be approved by the planning director for any type of structure.

(8) No variances from the provisions of this subsection (c) shall be granted.

(Ord. No. 89-2665, § 5-11, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 2001-3298, § 1, 3-14-01; Ord. No. 2007-3547, § 1, 2-14-07; Ord. No. 2011-3717, § 1, 2-9-11; Ord. No. 2011-3741, § 1, 12-19-11; Ord. No. 2017-4083, § 6, 4-26-17; Ord. No. 2017-4102, § 2, 6-7-17; Ord. No. 2019-4252, § 6, 3-13-19)

Sec. 142-876. - Vacant and abandoned properties and construction sites.

(a) *Vacant and abandoned properties in all districts.* The following minimum fence requirements shall apply to all vacant lots, lots containing a structure that is subject to a permit that has been abandoned or that has expired (for more than 30 days) and which structure is unfit for human habitation, and lots containing buildings unfit for human habitation.

(1) *Applicability.* With the exception of single-family districts, fencing shall be required for all vacant and abandoned lots, as identified more specifically in subsection (a).

(2) *Height.* There shall be no minimum height requirement for fences in single-family districts; however, the maximum height in single-family districts shall not exceed seven feet. In all other zoning districts, a seven-foot high fence shall be constructed along all property lines, except those facing a waterway, in which case the height shall be five feet. If a property contains a building that is set back less than five feet from a property line, or there is an existing CBS wall that is at least five feet in height, the planning director, or designee, may waive the minimum fence requirements along those property lines, provided that the property is secure from trespassing. In the event that an abutting property has an existing fence along an interior side and/or rear property line, and such fence provides adequate securing of the property, the planning director, or designee, may waive the requirement for a fence along such property lines. Within single-family, townhome, and all other residential districts, the fence shall be set back four feet from front and side street property lines.

(3) *Materials.* Along the front, street side and any waterway portions of the property line, including all required front yards, side street yards, and rear yards facing a street or waterway, an aluminum picket fence (or equivalent standard) with permanent-quality construction shall be required. Along interior property lines, as well as rear property lines not facing a waterway or street, black or green vinyl coated chain-link fencing, of permanent-quality construction, may be permitted, provided such fencing is not located within a required front yard, street side yard, or rear yard facing a waterfront.

(4) *Construction requirements.* All fences required herein shall be of permanent-quality construction, including concrete foundations.

(5) *Access.* Wherever there is a driveway approach to enter a lot, vehicular access onto the lot shall be required for maintenance purposes, with a locked gate.

(b) *Construction fences in all districts.* As applicable to all properties with active building permits that have been deemed unfit for human habitation, construction fences shall be required to be

installed along all property lines:

(1) *Height.* In single-family districts, construction fences shall be installed at a minimum height of six feet and maximum height of ten feet, as measured from the adjacent grade. In all other districts, construction fences shall be a minimum height of six feet and maximum height of 12 feet, as measured from adjacent grade.

(2) *Materials.* In all districts, construction fences located along a front, side facing a street, or waterfront property line, shall consist of an opaque screening, which may include plywood or aluminum panels, or the equivalent solid construction on a wood or metal frame. Alternatively, a chain link fence may be permitted, provided that it contains a horizontal top, opaque screening, and a rolling gate for access. The exterior face of such fencing shall at a minimum consist of a continuous color finish in single-family districts. In all districts, except single-family districts, an artistic mural, which is integral to the fence construction, shall be required, subject to design review approval or a certificate of appropriateness, as applicable.

(3) *Construction requirements.* All fences required to be installed pursuant to this section shall be of permanent-quality construction, including concrete foundations.

(4) *Access.* A rolling or rigid folding gate shall be placed at an opening in the fence wherever there is a vehicular access point for construction vehicles to enter the site. The width of the gate shall not be greater than what is required to allow access to construction vehicles; however, the height may be increased as necessary to provide a rigid frame that completely surrounds the vehicular access point. The gate shall not be of a swinging type.

(Ord. No. 2019-4307, § 2, 10-16-19)

Sec. 142-877. - Reserved.

Editor's note— Ord. No. 2003-3404, §§ 1, 2, adopted April 9, 2003, repealed §§ 142-876 and 142-877 in their entirety, which pertained to the prohibition of keeping livestock and the maximum number of animals on premises, respectively, and derived from the Code of 1964, §§ 4-7 and 4-8, amended and transferred to chapter 10.

Secs. 142-878—142-900. - Reserved.

DIVISION 2. - ACCESSORY USES

Sec. 142-901. - General provisions.

Accessory uses shall comply with the following general provisions:

(1)

Accessory uses shall be located on the same lot as the main permitted use, except for required parking which may be located within 1,200 feet of the property. The distance separation shall be measured by following a straight line from the lot on which the main permitted use is located to the lot where the parking lot or garage is located.

(2) Accessory uses shall be incidental to and customarily associated with the main permitted use. In making the determination, the planning and zoning director may require the applicant to provide evidence that such use meets this criteria. The planning and zoning director may also make use of and require the applicant to provide planning reports and studies and other investigations to support the applicant's request.

(3) Off-street parking and loading spaces shall be considered as accessory uses in all districts.

(4) A use other than those listed in this division may be considered as an accessory use if it is customarily associated with one of the main permitted uses and if the planning and zoning director finds that the use complies with the below mandatory criteria:

a. The use complies with subsections (1) and (2) of this section.

b. The use is consistent with the purpose of the zoning district in which it is located.

c. That the necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values.

d. That the public health, safety, morals and general welfare of the community will not be adversely affected.

e. It is consistent with the comprehensive plan and neighborhood plan if one exists.

(5) An occupational license or building permit, whichever is being requested, shall only be approved for an accessory use if the building complies with all of the following mandatory requirements.

a. All structures shall conform to the South Florida Building Code, the property maintenance standards and the fire prevention and life safety code.

b. The existing building and the proposed improvements shall be built in a manner that is substantially consistent with the design recommendations in a neighborhood plan for the area if one exists, and if the building is a historic structure, then the U.S. Secretary of the Interior Standards for Rehabilitation of Historic Buildings as amended shall be used.

c. The minimum and average floor area requirements for the units as set forth in article II, division 13 of this chapter shall be met.

(6) Appeal of the planning and zoning director's decision pertaining to any finding shall be to the board of adjustment as provided in chapter 118, article IX, and shall be considered as an appeal of an administrative decision.

(Ord. No. 89-2665, § 6-21(A), eff. 10-1-89)

Sec. 142-902. - Permitted accessory uses.

The following are permitted accessory uses:

(1) a. Hotels not located in the RM-1 or RM-2 district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building.

b. Hotels located in the RM-2 district are permitted to have any accessory use that is customarily associated with the operation of a hotel or apartment building, except for dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments, unless otherwise provided in the RM-2 district regulations set forth in article II, division 3, subdivision IV of this chapter.

c. Where permitted, hotels located in the RM-1 district may have accessory uses based upon the below criteria:

1. A dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the South Florida Building Code.

2. Other accessory uses customarily associated with the operation of an apartment building, as referenced in subsection 142-902(2), for the use of registered hotel visitors and their guests only.

d. Hotels located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.

(2) Apartment buildings may have accessory uses based upon the below criteria:

a. Mechanical support equipment and administrative offices and uses that maintain the operation of the building.

b. Washers and dryers shall be located inside a structure or not visible from a right-of-way.

c. A dining room which is operated solely for the residents in the building shall be located inside the building and shall not be visible from the street with no exterior signs, entrances or exits except for" those required by the South Florida Building Code. However, a dining room shall not be allowed in the RM-1 district except for those dining rooms associated with adult congregate living facilities.

d. Public telephones and vending machines shall only be permitted to be located inside buildings; however, one public telephone may also be permitted outside, as long as it is not located in a required front yard, required side yard facing a street, or on a facade facing a street; the exact location and manner of placement of all public telephones shall be subject to design review approval. One automatic teller machine shall be permitted on

the exterior walls of buildings, when associated with an accessory commercial use allowed under subsection 142-902(2)e., except in historic districts. The exact location and manner of placement for automatic teller machines shall be subject to design review approval.

e. Buildings in the RM-3 and R-PS4 districts may have:
    1. Commercial, office, eating or drinking uses with access from the main lobby or from the street if they are either located on the ground floor, subterranean level or on the highest floor of a building.
    2. A retail store and/or a café with less than 30 seats (either or both of which could be open to residents and their guests) may occupy space on the amenity level of an apartment building located within an RM-3 district.
    3. Office space, when originally constructed on the second level of an existing building may be retained or re-introducted. When located on the ground floor, office space shall be at least 50 feet from the front property line.

f. Solarium, sauna, exercise studio, health club or massage service for use by residents or open to the public by an individual licensed by the state or other appropriate agencies.

g. Any accessory commercial use as permitted herein shall be located on the lobby or first floor if there are no apartment units on such levels. This provision shall not apply to home based business offices as provided for in section 142-1411.

h. Family day care centers as defined in subsection 142-905(b)(1).

i. One property management office for the purpose of managing residential units within the building as well as residential units located in other buildings under common beneficial ownership, as long as the total number of units does not exceed a maximum of 100 units.

j. Buildings in the RM-2 district in the area bounded by Indian Creek Drive, Collins Avenue, 41st Street and 44th Street that face the RM-3 district may have restaurant, coffee house, sundry shops, or food market uses located in ground floor space not to exceed 70 percent of the ground floor. These uses may have direct access to the street. Dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, or open air entertainment establishments are not permitted. Outdoor music (including background music) is prohibited. Any outdoor uses on Indian Creek Drive shall be limited to no later than 11:00 p.m. Parking requirements for accessory commercial uses in newly constructed buildings must be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking. There shall be no variances from these provisions.

k. Apartment buildings located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.

(3) An apartment hotel located on an oceanfront or bayfront lot shall be permitted to have any accessory use that is commonly associated with a hotel if the use meets the below criteria and those listed in section 142-901:

a. Seventy-five percent of the total units shall be hotel rooms or the building shall contain at least 100 hotel rooms.

b. The registration desk shall be staffed 24 hours per day.

c. Open key and mail compartments for the hotel units.

d. Central telephone switchboard directly connected to the hotel units.

e. The hotel units shall have independent electrical and water meters from the apartment units.

f. The applicant shall provide the city with a listing of the hotel units prior to the issuance of an occupational license.

(4) Office, retail and commercial uses shall be permitted to have the following accessory uses:

a. Storage of supplies or merchandise normally carried in stock in connection with a permitted use.

b. Accessory off-street parking and loading spaces, subject to applicable district regulations.

c. Public telephones and vending machines shall only be permitted to be located inside buildings; however, one public telephone may also be permitted outside, as long as it is not located on a facade facing a street; the exact location and manner of placement shall be subject to design review approval. Service stations may also have public telephones outside, but no more than two and at a single location in full view of the station attendant; the exact location and manner of placement shall be subject to design review approval. Automatic teller machines shall be permitted on the exterior walls of buildings. The exact location, number and manner of placement for automatic teller machines shall be subject to design review approval.

d. Buildings with office, retail and commercial uses are permitted to contain religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.

(5) Industrial accessory uses shall be limited to the following:

a. Storage of goods used in, or produced by, permitted industrial uses or related activities.

b. Accessory off-street parking and loading spaces.

(6) Solar panels are a permitted accessory use in all districts. Notwithstanding the foregoing, the installation of solar panels shall comply with setback regulations and all other criteria within the land development regulations.

(Ord. No. 89-2665, § 6-21(B), eff. 10-1-89; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 98-3109, § 2(6-21B.2.g.), 5-20-98; Ord. No. 2000-3239, § 1, 4-12-00; Ord. No. 2000-3246, § 1, 5-24-00; Ord. No. 2003-3431, § 1, 11-25-03; Ord. No. 2004-3434, § 1, 1-14-04; Ord. No. 2014-3869, § 1, 5-21-14; Ord. No. 2014-3890, § 1, 9-10-14; Ord. No. 2017-4126, § 1, 7-26-17; Ord. No. 2109-4252, § 7, 3-13-19; Ord. No. 2020-4344, § 2, 7-29-20)

Editor's note— Ord. No. 2003-3434, § 1, adopted January 14, 2004, enacted provisions intended for use as subsection (2)i. Inasmuch as there are already provisions so designated, and at the discretion of editor, said provisions have been redesignated as subsection (2)j.

Sec. 142-903. - Regulation of accessory uses in specialized zoning districts.

(a) All accessory uses shall comply with the general provisions of this section.

(b) Permitted accessory uses.

(1) Hospital district (HD): See article II, division 10 of this chapter.

(2) Marine recreational (MR), civic and convention center (CCC), government use (GU) and waterway districts 1 and 2 (WD-1, 2): Any use that is customarily associated with a main permitted use and consistent with the criteria listed in section 142-901.

(Ord. No. 89-2665, § 6-21(C), eff. 10-1-89)

Sec. 142-904. - Reserved.

Editor's note— Sec. 2 of Ord. No. 2021-4421, adopted May 12, 2021, deleted § 142-904, which pertained to additional mixed-use entertainment district regulations, and derived from Ord. No. 89-2665, effective October 1, 1989; Ord. No. 96-3052, adopted September 11, 1996; Ord. No. 2006-3528, adopted September 6, 2006; and Ord. No. 2017-4079, adopted March 1, 2017.

Sec. 142-905. - Permitted accessory uses in single-family districts.

(a) *Generally.* Permitted accessory uses in single-family districts are those uses which are customarily associated with single-family houses such as, but not limited to, decks, swimming pools, spas, ornamental features, tennis courts. However, in no instance shall landing or storage areas for a helicopter, or other aircraft, be permitted as an accessory use. The planning and zoning director may allow other accessory uses if the director finds after consultation with the chairman of the planning board that they will not adversely affect neighboring properties, based upon the criteria listed in section 142-901. Appeal of the director's decision is to the board of adjustment pursuant to chapter 118, article VIII.

(b) *Permitted accessory uses.* The following are permitted accessory uses in single-family districts:

(1) Day care facilities for the care of children are permitted if the following mandatory criteria are met:

a. A family day care facility shall be allowed to provide care for one of the following groups of children:
    1. A family day care home may care for a maximum of five preschool children from more than one unrelated family and a maximum of five elementary school siblings of the preschool children in care after school hours. The maximum number of five preschool children includes preschool children in the home and preschool children received for day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten under this subsection.
    2. When the home is licensed and provisions are made for substitute care, a family day care home may care for a maximum of five preschool children from more than one unrelated family, a maximum of three elementary school siblings of the preschool children in care after school hours, and a maximum of two elementary school children unrelated to the preschool children in care after school hours. The maximum number of five preschool children includes preschool children in the home and preschool children received for day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten under this subsection.
    3. When the home is licensed and provisions are made for substitute care, a family day care home may care for a maximum number of seven elementary school children from more than one unrelated family in care after school hours. Preschool children shall not be in care in the home. The total number of elementary school children in the home may not exceed seven under this subsection.
b. Signs on the property advertising the day care facility are prohibited.
c. The family day care facility complies with all applicable requirements and regulations of the state department of children and family services and the city's police, fire and building services departments. All of the South Florida Building Code, city property maintenance standards and fire prevention and safety code violations shall be corrected prior to the issuance of a city occupational license.
d. Play area shall only be located in the rear yard and equipment shall be limited to three pieces of equipment.
e. Day care is prohibited on Sundays.
f. The building shall maintain the external appearance of a single-family home.
g. Site plan shall be approved by the planning and zoning director. The plan shall include landscaping and a permitted wall or fencing enclosing the rear yard.
h. Family day care facilities shall not be located within 400 feet of another such facility; except that this restriction shall not apply to state-licensed family day care homes as defined in F.S. § 402.302(5).

(2) The planning director may approve a second set of cooking facilities if the residence contains at least 3,600 square feet of floor area and the arrangement of such facilities or conditions at the property shall not result in the creation of an apartment unit. No more than one electric meter shall be placed on the property and that portion of the residence having the second set of cooking facilities shall not be rented. Any appeal of the director's decision shall be to the board of adjustment. The restrictions set forth in this subsection (b)(2) shall not apply to an accessory dwelling unit (ADU).

(3) An accessory dwelling unit (ADU) is permitted pursuant to the following requirements:

a. *Maximum number.* No more than one ADU shall be permitted per single-family lot.

b. *Maximum area.* The area of an ADU shall be included in the overall unit size calculation for the site. In no instance shall the total size of the ADU exceed ten percent of the size of the main home on the subject site, or 1,500 square feet, whichever is less.

c. *Minimum area.* An ADU shall be a minimum of 200 square feet. However, this minimum standard shall not authorize an ADU to exceed the maximum area identified in subsection (b)(3)b., above. If the minimum area requirement of 200 feet exceeds the maximum area requirement pursuant to subsection (b)(3)b., an ADU shall be prohibited on the site.

d. *Existing accessory structures.* For existing accessory structures, built prior to January 1, 2019, the aforementioned maximum and minimum areas shall not be applicable to an ADU, unless the unit is expanded in size.

e. *Location.* An ADU may be attached to the primary residence with a separate entrance that is not visible from public rights-of-way, subject to the any limitations on the primary structure as set forth in the land development regulations. Additionally, the entire site shall maintain the external appearance of a single-family home. Alternatively, an ADU may be located in an accessory building, subject to the requirements and limitations for accessory buildings in single-family districts identified in subsection 142-1132(a)(2).

f. *Kitchens.* An ADU may contain a full kitchen facility.

g. *Utilities.* A separate electric meter may be provided for an ADU.

h. *Lease.* Any lease of an ADU shall be subject to the following requirements:

1. Unless otherwise provided herein, the use of an ADU shall be limited to the use of the family occupying the primary dwelling, temporary guests, or servants of the occupants of the primary dwelling, and shall not be rented or leased.

2. The lease of an ADU to a family unrelated to the family occupying the primary dwelling unit shall only be permitted within an ADU that was issued a certificate of occupancy on or before October 26, 2019, and shall only be permitted on properties that are owner-occupied and located between Dade Boulevard on the south and Pine Tree Drive Circle on the north. Each year, evidence of a property's homestead exemption

shall be provided to the planning director, subject to the director's approval, in order to confirm the property's eligibility for the rental of an ADU. If a property ceases to be owner-occupied, the renewal of a lease for an ADU shall be prohibited, and residents of the ADU shall vacate the premises upon termination of the lease. It shall be the responsibility of the applicant to notify the city of any change to the status of the property's homestead exemption.

3. The lease of an ADU to a family (as defined in section 114-1) unrelated to the family occupying the primary dwelling unit for a period less than six months and one day, including extensions for lesser periods of leases permitted under this subsection (b)(3)b. to original leaseholders, shall be prohibited.
4. Property owners seeking to allow for the lease of an ADU unit to a family unrelated to the family occupying the primary dwelling unit must obtain all applicable fire and building permits, and a certificate of use, as applicable, permitting the lease of the ADU, subject to the requirements listed above. The application shall provide proof of compliance with the requirements of this subsection (b)(3). Additionally, the applicant shall provide an affidavit agreeing to and affirming the applicant's understanding of the requirements in this subsection (b)(3).
5. A violation of these requirements shall be subject to the enforcement and enhanced penalty provisions for leases of single-family homes set forth in subsection 142-905(b)(5).
6. Tracking. The planning director shall maintain a database of all approved ADUs in the city, including statistics relating to the number of certificates of use issued, and any violations issued pursuant to this subsection (b)(3).

(4) Home based business office, as provided in section 142-1411.

(5) Leases of single-family homes to a family (as defined in section 114-1) for not less than six months and one day, including extensions for lesser periods of leases permitted under this subsection to original leaseholders.

The advertisement, as defined in section 142-109(b), of single-family homes for a period of less than six months and one day shall not be permitted for single-family districts, and shall be a violation of this subsection 142-905(b)(5).

a. *Enforcement.*

1. Violations of subsection 142-905(b)(5) shall be subject to fines as provided in F.S. ch. 162. [1]

Fines for repeat violations by the same offender shall increase regardless of locations. The director of the code compliance department must remit a letter to the Miami-Dade Property Appraiser and the Miami-Dade Tax Collector, with a copy of the special

magistrate order adjudicating the violation, that notifies these governmental agencies that the single-family residential property was used for transient rental or occupancy at the single-family residential premises.

2. In addition to or in lieu of the foregoing, the city may seek an injunction by a court of competent jurisdiction to enforce compliance with or to prohibit the violation of this section.
3. Any code compliance officer may issue notices for violations of this subsection 142-905(b)(5). Violations shall be issued to the owner, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this subsection 142-905(b)(5). In the event the record owner of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the owner at its mailing address in the property appraiser's records.
4. The advertising or advertisement for the transient rental or occupancy, short-term rental for period(s) of less than six months and one day of the residential property for the purpose of allowing such transient rental or occupancy, short-term rental or rental for period(s) of less than six months and one day at the residential premises is direct evidence that there is a violation of subsection 142-905(b)(5), which is admissible in any proceeding to enforce subsection 142-905(b)(5). The advertising or advertising evidence raises a rebuttable presumption that the residential property named in the notice of violation or any other report or as identified in the advertising or advertisement is direct evidence that the residential property was used in violation of subsection 142-905(b)(5).

b. *Enhanced penalties.* The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in subsection 142-905(b)(5)a, above, for violations of subsection 142-905(b)(5):

1. Enhanced penalties for violation of subsection 142-905(b)(5):
   A. The transient rental or occupancy must be immediately terminated, upon confirmation that a violation has occurred, by the Miami Beach Police Department and the Code Compliance Department.
   B. A certified copy of an order imposing the civil fines and penalties must be recorded in the public records, and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment

except for enforcement purposes. The certified copy of an order must be immediately recorded in the public records, and the city may foreclose or otherwise execute upon the lien.

(Ord. No. 89-2665, § 6-21(E), eff. 10-1-89; Ord. No. 94-2966, eff. 12-31-94; Ord. No. 98-3109, § 2(6-21E.4.), 5-20-98; Ord. No. 2009-3629, § 1, 2-25-09; Ord. No. 2014-3854, § 2, 4-23-14; Ord. No. 2016-4001, § 1, 3-9-16; Ord. No. 2019-4305, § 2, 10-16-19; Ord. No. 2020-4360, § 1, 10-14-20; Ord. No. 2021-4431, 7-28-21)

[1] "...Such fines shall not exceed $1,000.00 per day per violation for a first violation, $5,000.00 per day per violation for a repeat violation, and up to $15,000.00 per violation if the ... special magistrate finds the violation to be irreparable or irreversible in nature. In addition to such fines, a ... special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs ...". F.S. § 162.09(2)(d); see also City of Miami Beach Code sections 30-74(d) and 114-8.

State Law reference— Family day care, F.S. §§ 166.0445, 402.302.

Secs. 142-906—142-1100. - Reserved.

DIVISION 3. - SUPPLEMENTARY USE REGULATIONS

Footnotes:
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***Cross reference—** Businesses, ch. 18.*

Sec. 142-1101. - Commercial and wholesaling use.

(a) When a commercial use is involved in wholesaling and the property is in a commercial district, the commercial use shall include a display or show room open to the public and 50 percent of the frontage shall be storefront windows that face a street.

(b) Commercial and wholesaling uses may assemble prefabricated parts but not manufacture any parts or materials.

(Ord. No. 89-2665, § 6-22(A), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90)

Sec. 142-1102. - Motor vehicle storage.

Except as also provided in section 142-1103, storage of motor vehicles shall be permitted only in the I-1 light industrial district, no such stored motor vehicle shall be utilized as a dwelling and such stored motor vehicles shall be fully screened from view as seen from any right-of-way or adjoining property when viewed from five feet six inches above grade, with an opaque wood fence, masonry wall or other opaque screening device not less than six feet in height.

(Ord. No. 89-2665, § 6-22(B), eff. 10-1-89; Ord. No. 97-3083, § 5, 6-28-97)

Cross reference— Traffic and vehicles, ch. 106.

Sec. 142-1103. - Storage and/or parking of commercial and construction vehicles.

(a) *Location regulations.*

(1) In the I-1 light industrial district and in all commercial districts, commercial vehicles may be stored and/or parked on the same site at which the associated commerce, trade or business is located.

(2) Commercial vehicles stored and/or parked on a site other than the site at which the associated commerce, trade, or business is located shall only be permitted in the I-1 light industrial district, and pursuant to a conditional use permit in the CD-1, CD-2 and CD-3 districts. Notwithstanding the foregoing, a single commercial vehicle that is an automobile, van, pickup truck or similar vehicle with exterior business identification may be parked at the operator's residence, within any zoning district, provided the vehicle is parked in a garage or on a paved, permanent surface in a side or rear yard and is not visible from any right-of-way or adjoining property; however, any automobile, van, pickup truck or similar vehicle without exterior business identification may be parked in accordance with the underlying zoning district regulations and without further restriction.

(3) Construction vehicles shall only be stored and/or parked in the I-1 light industrial district or at a construction site upon which a building permit has been obtained and remains active and valid.

(b) *Site design requirements.*

(1) Any storage and/or parking of commercial and construction vehicles, other than those parked at a construction site, must be fully screened from view as seen from any right-of-way or adjoining property, when viewed from five feet six inches above grade, with an opaque wood fence, masonry wall or other opaque screening device not less than six feet in height.

(2) Parking spaces, backup areas and drives shall be appropriately dimensioned for the type of vehicles being parked or stored.

(3) Any lot, except for those in the I-1 light industrial district, which shall be used for the storage and/or parking of commercial vehicles shall be required to satisfy the landscaping requirements of subsection 134-6(2).

(4) The storage and/or parking of commercial vehicles pursuant to this section shall be subject to the design review procedures, requirements and criteria as set forth in chapter 118, article VI.

(c) *Criteria for lots subject to conditional use approval.* In addition to the site design requirements in subsection (b) of this section, lots reviewed pursuant to the conditional use process shall also comply with the following criteria:

(1)

A schedule of hours of vehicle storage and of hours of operation for any business occupying the same lot where commercial or construction vehicles are stored and/or parked shall be submitted for review and approval by the planning board.

(2) If the storage and/or parking of commercial vehicles is proposed to be within 100 feet of a property line of a lot upon which there is a residential use, the planning board shall analyze the impact of such storage and/or parking on the residential use. The analysis shall include, but not be limited to, visual impacts, noise, odors, effect of egress and ingress and any other relevant factor that may have an impact on the residential use.

(3) An application to permit the storage and/or parking of commercial vehicles pursuant to this subsection shall be subject to the conditional use procedures and criteria set forth in chapter 118, article IV.

(Ord. No. 97-3083, § 5, 6-28-97; Ord. No. 97-3100, § 2, 10-21-97)

Sec. 142-1104. - Video game machines in commercial districts.

In all commercial districts video game machines are permitted as accessory to commercial uses. Video game machines shall be limited to an area not to exceed four percent of the area of the main commercial use.

(Ord. No. 89-2665, § 6-22(C), eff. 10-1-89)

Cross reference— Amusement machines, attractions, rides, § 18-31 et seq.

Sec. 142-1105. - Suites hotel, apartment hotel, hostel, and hotel.

(a) Suite hotel units and suite hotels, as defined in section 114-1 of the land development regulations, shall conform with the following regulations:

(1) When a hotel unit contains cooking facilities it shall be considered as a suite hotel unit. Suite hotel units may have full cooking facilities, provided the unit is at least 550 square feet in size.

(2) Notwithstanding the foregoing, suite hotels located within a local historic district, local historic site, or national register district may have full cooking facilities in units with a minimum of 400 square feet.

(3) A minimum of ten percent of the total gross area shall be maintained as common area, however this requirement shall not apply to historic district suites hotels. This provision shall not be waived or affected through the variance procedure.

(4) The building shall contain a registration desk and a lobby. Any transient guest or occupant for a suite hotel unit must register at the registration desk. Those transient guest(s) or occupant(s) are prohibited from accessing the suite hotel unit without registration.

(5)

The building shall have central air conditioning or flush-mounted wall units; however no air conditioning equipment may face a street, bay or ocean.

(6) Should the facility convert from a suites hotel to a multifamily residential building, the minimum average unit size and all other zoning requirements for the underlying district shall be met.

(7) No suite hotel unit may be occupied by more than eight persons. Notwithstanding the foregoing, a suite hotel owner or operator may at its discretion further restrict the maximum occupancy of a suite hotel unit from the maximum occupancy set forth in this section 142-1105.

(8) Suite hotels shall be prohibited in all zoning districts and overlay districts that do not list suite hotels as a permitted or conditional use.

(b) Hostels, as defined in section 114-1 of the land development regulations, shall conform with the following regulations:

(1) Hostels shall comply with the minimum unit size requirements for hotels in the underlying zoning district, unless otherwise provided.

(2) Hostels shall be permitted in the RM-2 and RM-3 zoning districts, provided the occupancy of a hostel shall not exceed the following limits per individual unit:

a. For units less than 335 square feet, occupancy shall be limited to four persons.

b. For units between 335 and 485 square feet, occupancy shall be limited to six persons.

c. For units larger than 485 square feet, occupancy shall be limited to eight persons.

d. No hostel unit may be occupied by more than eight persons.

e. Notwithstanding the foregoing, a hostel owner or operator may at its discretion further restrict the maximum occupancy of a hostel unit from the maximum occupancy set forth in this section 142-1105.

(3) Hostels shall be prohibited in all zoning districts and overlay districts that do not list hostels as a permitted or conditional use.

(c) Hotels and hotel units, as defined in section 114-1, shall conform with the following regulations:

(1) Hotel units shall comply with the minimum unit size requirements in the underlying zoning district.

(2) Cooking facilities in hotel units shall be limited to one microwave oven, one sink and one five-cubic-foot refrigerator.

(3) Hotels located in the C-PS2, R-PS3, R-PS4, RM-1, RM-2 and RM-3 zoning districts, as well as the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street. Alton Road, and Dade Boulevard, shall not exceed the following occupancy limits per individual unit:

a. For units less than 335 square feet, occupancy shall be limited to four persons.

b. For units between 335 and 485 square feet, occupancy shall be limited to six persons.

c. For units larger than 485 square feet, occupancy shall be limited to eight persons.

d. No hotel unit may be occupied by more than eight persons.

e. Notwithstanding the foregoing, a hotel owner or operator may at its discretion further restrict the maximum occupancy of a hotel unit from the maximum occupancy set forth in this section 142-1105.

(4) Hotels shall be prohibited in all zoning districts and overlay districts that do not list hotel as a permitted or conditional use.

(5) The building shall contain a registration desk and a lobby for any transient quest or occupant for a suite hotel unit or hotel unit. All transient guest(s) or occupant(s) of a suite hotel unit or hotel unit must register at the registration desk and are prohibited from accessing the suite hotel unit or hotel unit without registration.

(d) Apartment hotels, as defined in section 114-1, shall conform with the following regulations:

(1) All units shall comply with the minimum unit size requirements in the underlying zoning district. In the R-PS2 district, the minimum unit size for hotel units shall be 335 square feet.

(2) Cooking facilities in hotel units shall be limited to one microwave oven, one sink, and one five-cubic-foot refrigerator.

(3) Hotel and suite hotel units located in the C-PS2, R-PS2, R-PS3, R-PS4, RM-2, and RM-3 zoning districts, as well as the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road, and Dade Boulevard, shall not exceed the following occupancy limits per individual unit:

a. For units less than 335 square feet, occupancy shall be limited to four persons.

b. For units between 335 and 485 square feet, occupancy shall be limited to six persons.

c. For units larger than 485 square feet, occupancy shall be limited to eight persons.

d. No hotel or suite hotel unit may be occupied by more than eight persons.

e. Notwithstanding the foregoing, an apartment hotel owner or operator may at its discretion further restrict the maximum occupancy of a hotel unit or suite hotel unit from the maximum occupancy set forth in this section 142-1105.

(4) Apartment hotels shall be prohibited in all zoning districts and overlay districts that do not list apartment hotel as a permitted or conditional use.

(5) The building shall contain a registration desk and a lobby for any transient guest or occupant for a suite hotel unit, hotel unit, or the short-term rental of an apartment unit. All transient guest(s) or occupant(s) of a suite hotel unit, hotel unit, or the short-term rental of an apartment unit must register at the registration desk and are prohibited from accessing the suite hotel unit, hotel unit or the apartment unit without registration.

(Ord. No. 89-2665, § 6-22(D), eff. 10-1-89; Ord. No. 99-3176, § 2, 3-3-99; Ord. No. 2015-3971, § 1, eff. 10-14-15; Ord. No. 2017-4146, § 2, 10-18-17)

Sec. 142-1106. - Temporary sales buildings.

Temporary sales buildings are permitted with the following conditions:

(1) A building permit shall be issued; however, prior to the issuance of a building permit, the temporary sales building shall be approved by the design review board.

(2) Permitted if the building is considered as a permanent structure and consistent with the South Florida Building Code, the city property maintenance standards and fire prevention and safety code.

(3) The building official shall require a bond to be posted in an amount that, if necessary, shall be used by the city to ensure the building's removal.

(4) It shall be removed prior to the issuance of the final certificate of occupancy or certificate of completion; however, in no instance shall an occupational license be granted until it is removed from the property.

(5) It shall be continuously occupied at least five days a week and five hours each day.

(6) It shall be removed if a building permit for the complete construction of the main building is not issued within one year from the date the building permit for the sales building was issued. The sales building shall also be removed by the date on which the building permit expires. If the development involves more than one building, it shall be considered as a phased development. The temporary sales building may be permitted to remain on the property in between the construction period of the main buildings of the various phases. However, it shall be removed in one year if the building permit for the next phase is not issued. The one-year period shall be measured from the date of the certificate of occupancy of the previous phase.

(Ord. No. 89-2665, § 6-22(E), eff. 10-1-89)

Sec. 142-1107. - Parking lots or garages on certain lots.

Parking lots or garages when a main permitted use shall not be permitted on lots fronting on Ocean Drive or Espanola Way.

(Ord. No. 89-2665, § 6-22(F), eff. 10-1-89)

Cross reference— Parking lots generally, § 18-306 et seq.; traffic and vehicles, ch. 106.

Sec. 142-1108. - Sidewalk cafes.

Sidewalk cafes, located in the right-of-way where permitted, shall be associated with an adjacent restaurant and comply with section 82-366 et seq. and a site plan showing the location of the proposed use shall be submitted prior to the issuance of a revocable permit as provided in section 82-366 et seq.

(Ord. No. 89-2665, § 6-22(G), eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90)

Cross reference— Sidewalk cafés generally, § 82-366 et seq.

Sec. 142-1109. - Accessory outdoor bar counters.

Accessory outdoor bar counters shall be prohibited as a main permitted use and shall only be permitted as an accessory use to an outdoor motion picture theater fronting on Alton Road as provided in section 142-310, an outdoor cafe with a minimum of 30 chairs, or as an accessory use to a hotel pool deck. Accessory counters shall not be visible from any point along the property line adjacent to a public right-of-way.

(Ord. No. 96-3050, § 1, 7-17-96; Ord. No. 2020-4358, § 3, 9-16-20)

Sec. 142-1110. - Mobile storage containers.

(a) A mobile storage container is a shipping container typically used to store and ship personal goods and/or other materials, which is picked up and delivered by truck.

(b) In single-family residential zoning districts, mobile storage containers are permitted in driveways of single-family houses up to seven business days.

(c) The mobile storage container shall have the date of placement and date of required removal placed visibly on the exterior of the container by the container provider. The homeowner, either directly, or through container provider must provide notification of placement of any storage container, including dates of placement and proposed removal, to the Miami Beach Planning Department.

(d) Only the name of the storage container company and its telephone number may appear on the face of the container; no other advertisement shall be permitted.

(e) Mobile storage containers shall be placed on private property only. No storage container may be placed on any portion of the public right-of-way.

(f) In the case of the declaration of a hurricane watch for the Miami Beach area, the mobile storage container shall be immediately removed.

(Ord. No. 2006-3508, § 1, 3-8-06)

Sec. 142-1111. - Short-term rental of apartment units or townhomes.

(a) *Limitations and prohibitions.*

(1) Unless a specific exemption applies below, the rental of apartment or townhome residential properties in districts zoned RM-1, RM-PRD, RM-PRD-2, RPS-1 and RPS-2, CD-1, RO, RO-3 or TH for periods of less than six months and one day is not a permitted use in such districts.

(2) Any advertising or advertisement that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of this section.

"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 months and one 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.

(3) None of the districts identified below shall be utilized as a hotel.

(b) *Previously existing short-term rentals in specified districts.* For a period of six months after June 19, 2010, owners of certain properties located in the following districts shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units for these properties under the requirements and provisions set forth below.

(1) *Eligibility:* Properties within the RM-1 and TH zoning districts in the Flamingo Park and Espanola Way Historic Districts. Those properties that can demonstrate a current and consistent history of short-term renting, and that such short-term rentals are the primary source of income derived from that unit or building, as defined by the requirements listed below:

(A) For apartment buildings of four or more units, or for four or more apartment units in one or more buildings under the same City of Miami Beach Resort Tax ("resort tax") account. In order to demonstrate current, consistent and predominant short-term renting, the property must comply with all of the following:

(i) Have been registered with the city for the payment of resort tax and made resort tax payments as of March 10, 2010; and

(ii) Have had resort tax taxable room revenue equal to at least 50 percent of total room revenue over the last two-year period covered by such payments; and

(iii) Have been registered, with the State of Florida as a transient apartment or resort condominium pursuant to F.S. ch. 509, as of March 10, 2010.

For properties containing more than one apartment building, eligibility may apply to an individual building satisfying subsections (b)(1)(A)(i)—(iii) above.

(B) For apartment and townhouse buildings of three or less units, or for three or less apartment units in one or more buildings under the same state license. In order to demonstrate current, consistent and predominant short-term renting, the property must:

(i) Have been registered with the State of Florida as a resort dwelling or resort condominium pursuant to F.S. ch. 509, as of March 10, 2010.

(2) *Time periods for the districts identified in subsection (b)(1) to apply for short-term rental approvals.*

(A) Owners demonstrating compliance with subsection (b)(1) above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(f), within a time period of six months from June 19, 2010, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.

(B) Within three months of June 19, 2010, eligible owners shall apply to obtain all necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.

(C) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code shall be demonstrated by October 1, 2011, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent these officials from undertaking enforcement action prior to such date.

(D) Applications under this section may be accepted until 60 days after April 11, 2012, upon determination to the planning director that a government licensing error prevented timely filing of the application.

(3) *Eligibility within the Collins Waterfront Local Historic District.* Owners of property located in the Collins Waterfront Local Historic District shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units under the requirements and provisions set forth below:

(A) Only those properties located south of West 24th Terrace shall be eligible for short-term rentals.

(B) Only buildings classified as "contributing" in the city's historic properties database shall be eligible for short-term rentals. The building and property shall be fully renovated and restored in accordance with the Secretary of the Interior Guidelines and Standards, as well as the certificate of appropriateness criteria in chapter 118, article X of these Land Development Regulations.

(C) The property must have registered with the State of Florida as a transient or condominium pursuant to Chapter 509, Florida Statutes, as of the effective date of this ordinance.

(D) The property must have registered with the city for the payment of resort tax and made resort tax payments as of as of the effective date of this ordinance.

(E) Residential apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhouses. A property owner of an apartment building, townhome or condominium must provide written notification to those long-term tenants (prospective or current tenants with leases of six months and one day or longer), providing affirmative notice that short-term rentals are expressly permitted throughout the building or at the premises.

(F) Any property seeking to have short-term rental will need to demonstrate that there is on-site management, 24 hours per day, seven days a week.

(G) The short-term rental use requires at least a seven-night reservation.

(4) *Time period to apply for short-term rental approvals for those properties located in the Collins Waterfront Architectural District.*

(A) Owners demonstrating compliance with subsection (b)(3), above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(e) within the time period of April 1, 2017 through September 30, 2017, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.

(B) Within the application time period of this ordinance, eligible owners shall have obtained all the necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.

(C) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code, shall be demonstrated by the effective date of this ordinance, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent the building or fire departments from undertaking enforcement action prior to such date.

(5) In the event a building approved for short-term rentals in accordance with subsections (b)(3) and (4), above, is demolished or destroyed, for any reason, the future use of any new or future building on that property shall not be permitted to engage in short-term rentals, nor apply for short-term rental approval.

(c) *Regulations.* For those properties eligible for short-term rental use as per (b) shall be permitted, provided that the following mandatory requirements are followed:

(1) *Approvals required: applications.* Owners, lessees, or any person with interest in the property seeking to engage in short-term rental, must obtain a certificate of use permitting short-term rental under this section. The application for approval to engage in short-term rentals shall be

on a form provided for that purpose, and contain the contact information for the person identified in subsection (3) below, identify the minimum lease term for which short-term rental approval is being requested, and such other items of required information as the planning director may determine. The application shall be accompanied by the letter or documents described in subsection (9) below, if applicable.

The application for a certificate of use permitting short-term rentals shall be accompanied by an application fee of $600.00.

(2) *Time period.* All short-term rentals under this section must be pursuant to a binding written agreement, license or lease. Each such document shall contain, at a minimum: the beginning and ending dates of the lease term; and each lessee's contact information, as applicable. No unit may be rented more frequently than once every seven days.

(3) *Contact person.* All rentals must be supervised by the owner, manager, or a local and licensed real estate broker or agent or other authorized agent licensed by the city, who must be available for contact on a 24-hour basis, seven days a week, and who must live on site or have a principal office or principal residence located within the districts identified in subsection (b). Each agreement, license, or lease, of scanned copy thereof, must be kept available throughout its lease term and for a period of one year thereafter, so that each such document and the information therein, is available to enforcement personnel. The name and phone number of a 24-hour contact shall be permanently posted on the exterior of the premises or structure or other accessible location, in a manner subject to the review and approval of the city manager or designee.

(4) *Entire unit.* Only entire apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhomes.

(5) *Rules and procedures.* The city manager or designee may adopt administrative rules and procedures, including, but not limited to, application and permit fees, to assist in the uniform enforcement of this section.

(6) *Signs.* No signs advertising the property for short-term rental are permitted on the exterior of the property or in the abutting right-of-way, or visible from the abutting public right-of-way.

(7) *Effect of violations on licensure.* Approvals shall be issued for a one-year period, but shall not be issued or renewed, if violations on three or more separate days at the unit, or at another unit in any building owned by the same owner or managed by the same person or entity, of this section, issued to the short-term rental licensee were adjudicated either by failure to appeal from a notice of violation or a special magistrate's determination of a violation, within the 12 months preceding the date of filing of the application.

(8)

Resort taxes. Owners are subject to resort taxes for rentals under this section, as required by city law.

(9) *Association rules.* Where a condominium or other property owners' association has been created that includes the rental property, a letter from the association dated not more than 60 days before the filing of the application, stating the minimum rental period and the maximum number of rentals per year, as set forth under the association's governing documents, and confirming that short-term rentals as proposed by the owner's application under subsection (c)(1) above, are not prohibited by the association's governing documents, shall be submitted to the city as part of the application.

(10) *Variances.* No variances may be granted from the requirements of this section.

(d) *Eligibility within North Beach.* Properties that have buildings classified as "contributing" in the North Shore National Register Historic District and are zoned RM-1 may be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units. Eligibility set forth herein, is limited to those properties fronting Harding Avenue, including buildings and properties located east of Harding Avenue and west of the alley, from the city line on the north, to 73rd Street on the south, and may be eligible for short-term rentals, provided, the following conditions, requirements, and provisions are satisfied:

(1) Short-term rentals, for those buildings classified as "contributing" in the North Shore National Register Historic District, must be fully renovated and restored in accordance with the Secretary of the Interior Guidelines and Standards, as well as the certificate of appropriateness criteria in chapter 118, article X of these land development regulations, prior to the issuance of a business tax receipt permitting short-term rentals at the property.

(2) Apartment buildings, townhomes or condominiums under the same City of Miami Beach Resort Tax ("resort tax") account must demonstrate current and consistent short-term renting, and the property must comply with all of the following:

(A) Have registered with the city for the payment of resort tax, or made resort tax payments; and

(B) Have registered with the State of Florida as a transient apartment or resort condominium pursuant to F.S. ch. 509.

(3) Property owners demonstrating compliance with subsection (d) above, must apply for a certificate of use permitting short-term rental, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.

(4) Eligible property owners must apply to obtain all necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.

(5)

Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code must be demonstrated proper to the issuance of the certificate of use, or rights to engage in short-term rental under this subsection shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent these officials from undertaking enforcement action prior to such date.

(6) The short-term rental use requires at least a seven-night reservation.

(7) In the event a building approved for short-term rentals in accordance with this subsection, is demolished or destroyed, for any reason, the future use of any new or future building on that property shall not be permitted to engage in short-term rentals, nor apply for short-term rental approval.

(8) Regulations. For those properties eligible for short-term rental use as per (d) may be permitted to engage in short-term rentals, provided that the following mandatory requirements are followed:

(A) Approvals required: applications. Property owners seeking to engage in short-term rental, must obtain a certificate of use permitting short-term rental under this section. The application for approval to engage in short-term rentals shall be on a form provided for that purpose, and contain the contact information for the person identified below, identify the minimum lease term for which short-term rental approval is being requested, and such other items of required information, as the planning director may determine. The application shall be accompanied by the letter or documents described below, if applicable.

(B) The application for a certificate of use permitting short-term rentals shall be accompanied by an application fee of $1,000.00.

(C) Time period. All short-term rentals under this section must be pursuant to a binding written agreement, license or lease. Each such document shall contain, at a minimum: the beginning and ending dates of the lease term; and each lessee's contact information, as applicable. No unit may be rented more frequently than once every seven days.

(D) Contact person. All rentals must be supervised by the owner, manager, or a local and licensed real estate broker or agent or other authorized agent licensed by the city, who must be available for contact on a 24-hour basis, seven days a week, and who must live on site or have a principal office or principal residence located within 500 feet of the property that is engaged in short-term rental pursuant to subsection (d). Each agreement, license, or lease, of scanned copy thereof, must be kept available throughout its lease term and for a period of one year thereafter, so that each such document and the information therein is available to enforcement personnel. The name and phone number of a 24-hour

contact shall be permanently posted on the exterior of the premises or structure or other accessible location, in a manner subject to the review and approval of the city manager or designee.

(E) Entire unit. Apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhomes.

(F) A property owner of an apartment building, townhome or condominium must provide written notification to those long-term tenants (prospective or current tenants with leases of six months and one day or longer), providing affirmative notice that short-term rentals are expressly permitted throughout the building or at the premises.

(G) Rules and procedures. The city manager or designee may adopt administrative rules and procedures, including, but not limited to, application and permit fees, to assist in the uniform enforcement of this section.

(H) Signs. No signs advertising the property for short-term rental are permitted on the exterior of the property or in the abutting right-of-way, or visible from the abutting public right-of-way.

(I) Effect of violations on licensure. Approvals shall be issued for a one-year period, but shall not be issued or renewed, if violations on three or more separate days at the unit, or at another unit in any building owned by the same owner or managed by the same person or entity, of this section, issued to the short-term rental licensee were adjudicated either by failure to appeal from a notice of violation or a special magistrate's determination of a violation, within the 12 months preceding the date of filing of the application.

(J) Resort taxes. Property owners are subject to resort taxes for rentals under this section, as required by city law.

(K) Association rules. Where a condominium or other property owners' association has been created that includes the rental property, a letter from the association dated not more than 60 days before the filing of the application, stating the minimum rental period and the maximum number of rentals per year, as set forth under the association's governing documents, and confirming that short-term rentals as proposed by the owner's application under subsection (d) above, are not prohibited by the association's governing documents, shall be submitted to the city as part of the application.

(L) Variances. No variances will be granted from the requirements of this section.

(e) *Enforcement.*

(1) Violations of subsection 142-1111(a) shall be subject to the fines as provided in F.S. ch. 162. [1]

Fines for repeat violations by the same offender shall increase regardless of locations. The director of the code compliance department must remit a letter to the Miami-Dade Property Appraiser and the Miami-Dade Tax Collector, with a copy of the special magistrate order

adjudicating the violation, that notifies these governmental agencies that the single-family residential property was used for the transient rental or occupancy at the premises.

(2) In addition to or in lieu of the foregoing, the city may seek an injunction by a court of competent jurisdiction to enforce compliance with or to prohibit the violation of this section.

(3) Any code compliance officer may issue notices for violations of this section, with procedures for enforcement of subsection 142-1111(a) and alternative enforcement of subsection 142-1111(b) as provided in chapter 30 of this Code, subject to fines as provided in F.S. ch. 162. Violations shall be issued to the owner, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this section. In the event the record owner of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the owner at its mailing address in the property appraiser's records and a courtesy notice to the contact person identified in subsection (c)(3) above.

(4) The advertising or advertisement for the transient rental, occupancy or short-term rental of the apartment or townhouse residential property for the purpose of allowing a rental for a period of less than six months and one day at the apartment or townhouse residential premises is direct evidence that there is a violation of subsection 142-1111(a), which is admissible in any proceeding to enforce subsection 142-1111(a). The advertising or advertisement evidence raises rebuttable presumption that the residential property named in the notice of violation or any other report or as identified in the advertising or advertisement is direct evidence that the residential property was used in violation of section 142-1111(a).

(5) Enhanced penalties. The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in this subsection 142-1111(e), for violations of subsection 142-1111 (a):

A. Enhanced penalties for violation of subsection 142-1111(a):

1. The transient rental or occupancy must be immediately terminated, upon confirmation that a violation has occurred, by the Miami Beach Police Department and the Code Compliance Department.

2. A certified copy of an order imposing the civil fines and penalties must be recorded in the public records, and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. The certified copy of an order must be immediately recorded in the public records, and the city may foreclose or otherwise execute upon the lien.

(Ord. No. 2010-3685, § 1, 6-9-10; Ord. No. 2012-3758, § 1, 4-11-12; Ord. No. 2014-3854, § 3, 4-23-14; Ord. No. 2015-3925, § 1, 2-11-15; Ord. No. 2016-4001, § 2, 3-9-16; Ord. No. 2016-4043, § 1, 10-19-16; Ord. No. 2017-4077, § 1, 3-1-17; Ord. No. 2020-4360, § 1, 10-14-20; Ord. No. 2021-4431, 7-28-21)

[1] "...Such fines shall not exceed $1,000.00 per day per violation for a first violation, $5,000.00 per day per violation for a repeat violation, and up to $15,000.00 per violation if the ... special magistrate finds the violation to be irreparable or irreversible in nature. In addition to such fines, a ... special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs ...". F.S. § 162.09(2)(d); see also City of Miami Beach Code sections 30-74 (d) and 114-8.

Sec. 142-1112. - Package liquor store design standards.

(a) No more than 35 percent of the square footage of storefront windows and doors may contain the display of alcoholic beverage products and the container size of said products shall be no smaller than a standard "fifth of liquor" size bottle.

(b) Notwithstanding the regulations in chapter 138, no more than two percent of storefront windows may be covered with alcoholic beverage products.

(c) Subject to the approval of the historic preservation or design review board, as applicable, art display walls may be proposed. The proposed display areas in any storefront windows facing a street or sidewalk shall only contain artwork; retail merchandise or signage shall not be displayed at any time in conjunction with artwork display.

(d) Prior to the issuance of a building permit, change of use or business tax receipt (BTR) for a package store, an interior floor plan, prepared by a registered architect, shall be submitted to and approved by the planning director or designee; such interior floor plan shall contain the following minimum standards:

(1) No stacking of boxes within ten feet of the storefront.

(2) No shelving within ten feet of the storefront.

(3) The interior layout of the cashier and check-out counter shall be located a minimum distance of ten feet from all storefront glass and the main entrance.

(4) One ten square foot table display or case display may be located up to five feet from the storefront glass.

(5) No ATM, currency service, lottery, check cashing services, or other ancillary use signage shall be permitted.

(6) All coolers and/or refrigerated cases shall be located a minimum of 20 feet from any storefront glass.

The approved interior floor plan shall be binding on the space for as long as the package store is in operation.

(Ord. No. 2017-4084, § 1, 4-26-17)

Secs. 142-1113—142-1130. - Reserved.

DIVISION 4. - SUPPLEMENTARY YARD REGULATIONS

Sec. 142-1131. - Generally.

(a) *Determination of side street.* Where these regulations refer to side streets, the planning and zoning director shall be guided by the pattern of development in the vicinity of the lot in question in determining which of the two streets is the side street.

(b) *Established right-of-way.* Where an official line has been established for the future widening or opening of a street upon which a lot abuts, the depth of a front or side yard shall be measured from such official line to the building line.

(c) *Through lots.* Except as otherwise provided in these land development regulations, the required front yard shall be provided on each street.

(d) *Minimum side yards, public and semi-public buildings.* The minimum depth of interior side yards for schools, libraries, religious institutions, and other public buildings and private structures which are publicly used for meetings in residential districts shall be 50 feet, except where a side yard is adjacent to a business district, a public street, bay, erosion control line or golf course, and except for properties that have received conditional use approval as a religious institution located in the 40th Street Overlay, in which cases the depth of that yard shall be as required for the district in which the building is located. In all other cases, the side yard facing a street shall be the same as that which is required for the district in which the lot is located.

(e) *Oceanfront lots, boundary line, setbacks and floor area ratio for oceanfront lots.* The rear boundary of an oceanfront lot shall be the erosion control line. The rear setback shall be measured from the erosion control line or 50 feet from the old bulkhead line, whichever is greater.

(Ord. No. 89-2665, §§ 5-10, 6-25(A), eff. 10-1-89; Ord. No. 2011-3714, § 4, 1-19-11)

Sec. 142-1132. - Allowable encroachments within required yards for districts other than single-family districts.

The following regulations shall apply to allowable encroachments in all districts except single-family residential districts, unless otherwise specified in this Code.

(a) *Accessory buildings.* Accessory buildings which are not a part of the main building may be constructed in a rear yard, provided such accessory building does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven

and one-half feet to a rear or interior side lot line and 15 feet when facing a street. Areas enclosed by screen shall be included in the computation of area occupied in a required rear yard lot but an open uncovered swimming pool shall not be included.

(b) *Awnings.* Awnings attached to and supported by a building wall may be placed over doors or windows in any required yard, but such awnings shall not project closer than three feet to any lot line except as follows:

(1) An awning associated with a commercial use shall be permitted to extend from the entrance door to the street line of any building except those in a townhome district;

(2) The setbacks for awnings in a locally designated historic district or in the National Register of Historic Places shall be determined under the design review procedures pursuant to chapter 118, article VI, and shall be based upon the architecture of the building.

(c) *Boat, boat trailer, camper trailer or recreational vehicle storage.* In all districts, accessory storage of such vehicles shall be limited to a paved, permanent surface area within the side or rear yards, no such vehicle shall be utilized as a dwelling and such vehicles shall be screened from view from any right-of-way or adjoining property when viewed from five feet six inches above grade. Nothing in this subsection shall be construed to prohibit a dry dock facility when such facility is associated with a marina.

(d) *Canopies.* A canopy shall be permitted to extend from an entrance door to the street line of any building except those located in a townhome district. Where a sidewalk or curb exists, the canopy may extend to within 18 inches of the curb line. Such canopies shall not exceed 15 feet and 12 feet in height or be screened or enclosed in any manner and shall provide an unobstructed, clear space between the grade and the bottom of the canopy valance of at least seven feet. The location of vertical supports for the canopy shall be approved by the public works director.

(e) *Reserved.*

(f) *Central air conditioners, emergency generators, swimming pool equipment, and other mechanical equipment.* Accessory central air conditioners, generators, swimming pool equipment, and any other mechanical equipment, including attached screening elements, may occupy a required side or rear yard, in townhome or in the RM-1 residential multifamily low intensity districts only, provided that:

(1) They are not closer than five feet to a rear or interior side lot line or ten feet to a side lot line facing a street.

(2) The maximum height of the equipment including attached screening elements, shall not exceed five eet above current flood elevation, with a maximum height not to exceed ten feet above grade, as defined in subsection 114-1, of the lot at which they are located.

(3) If visible from the right-of-way, physical and/or landscape screening shall be required.

(4) Any required sound buffering equipment shall comply with the setback requirements specified in subsection (f)(1) of this section.

(5) If the central air conditioning and other mechanical equipment do not conform to subsections (1), (2), (3), and (4) above, then such equipment shall follow the setbacks of the main structure.

(6) Washers and dryers located in the RM-1 district, which are abutting and connected to an existing building, shall comply with the following:

a. Washers and dryers shall be for the sole use of building residents.

b. Washers and dryers may be located closer than five feet from a rear or interior side lot line, provided there are not adverse impacts on pedestrian circulation.

c. Washers and dryers shall be setback a minimum of 50 feet from the front property line, and shall not be located within any open courtyards.

d. Washers and dryers shall be physically screened, so that they are not visible from a public street or sidewalk.

e. The overall height of washers and dryers may exceed ten feet above grade, if required to be located at or above minimum flood elevation.

(g) *Driveways.* Driveways and parking spaces leading into a property located in townhome districts are subject to the following requirements:

(1) Driveways shall have a minimum setback of four feet from the side property lines.

(2) Driveways and parking spaces parallel to the front property line shall have a minimum setback of five feet from the front property line.

(3) Driveways and parking spaces located within the side yard facing the street shall have a minimum setback of five feet to the rear property line.

(4) Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or shall have a high albedo surface consisting of a durable material or sealant, as defined in section 114-1 of this Code.

(5) Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 114-1 of this Code, shall be prohibited.

(h) *Fences, walls, and gates.* Regulations and requirements pertaining to materials and heights for fences, walls and gates, excluding for vacant parcels and construction sites, are as follows:

(1) All districts except I-1 and WD-2:

a. Front yard and side yard facing a street. Within the required front yard or required side yard facing a street, fences, walls and gates shall not exceed five feet, as measured from grade. The height may be increased up to a maximum total height of seven feet if the fence, wall or gate is set back from the front and/or side street property line. Height may

be increased by one foot for every two feet of setback. For properties zoned multifamily and located within a locally designated historic district or site, fences shall be subject to the certificate of appropriateness review procedure, and may be approved at the administrative level.

b. Rear and side yard. Within the required rear or side yard, fences, walls and gates shall not exceed seven feet, as measured from grade, except when such yard abuts a public right-of-way, waterway or golf course, in which case the maximum height shall not exceed five feet. Within single-family districts, in the event that a property has approval for adjusted grade, the overall height of fences, walls and gates may be measured from adjusted grade, provided that the portion of such fences, walls or gates above four feet in height consists of open pickets with a minimum spacing of three inches, unless otherwise approved by the design review board or historic preservation board, as applicable.

c. Finish. All surfaces of masonry walls and wood fences shall be finished in the same manner with the same materials on both sides to have an equal or better quality appearance when seen from adjoining properties. The structural supports for wood fences, walls or gates shall face inward toward the property. In the event that a masonry wall or wood fence cannot be equally finished on both sides, an affidavit shall be submitted at the time of building permit, signed by the abutting property owner, consenting to a waiver of this requirement. This shall not apply to portions of masonry walls or fences which face the right-of-way or water.

d. Chain link fences are prohibited in the required front yard, and any required yard facing a public right-of-way or waterway (except side yards facing on the terminus of a dead end street in single-family districts) except as provided in this section and in section 142-1134.

e. Barbed wire or materials of similar character shall be prohibited.

(2) In I-1 light industrial districts, within the front, rear or side yard a fence shall not exceed seven feet, as measured from grade, excluding barbed wire or materials of similar character. Barbed wire or materials of similar character shall be elevated seven feet above grade and be angled towards the interior of the lot. The combined height of a wall or fence plus barbed wire or materials of similar character shall not exceed nine feet.

(3) For government facilities in GU and CCC districts, a fence surrounding the property may be located on the property line, not to exceed six feet in height, as measured from grade. The height may be increased up to a maximum total height of eight feet if the fence is set back one foot from the property line, subject to design review approval; fence(s) shall be constructed in a manner such that there is substantial visibility through the fence.

(4) In the WD-2 districts, the following shall apply:

a. Fences and gates shall be subject to the certificate of appropriateness review criteria, and may be reviewed for approval at the administrative level.

b. Fences and gates shall not exceed six feet in height, as measured from the elevation of Miami Beach Drive at the center of the property.

c. Fences and gates shall consist only of open aluminum picket, unless otherwise approved by the historic preservation board.

d. Wood, chain link, masonry, concrete, barbed wire or materials of similar character shall be prohibited.

(5) For oceanfront properties, the following shall apply with regard to measurement of maximum height.

a. The height of allowable fences, walls and gates located in the front, interior side yard or side yards facing a street (and not also within a rear yard) shall be measured from grade, as defined in section 114-1.

b. The height of allowable fences, walls and gates located within the required rear yard (including overlapping portions of interior and street side yards) shall be measured from the elevation of the beach walk (not an elevated boardwalk) at the center of the property. Where no beach walk is present, the height of allowable fences, walls, and gates shall be measured from the elevation of the erosion control line at the center of the property.

(i) *Hedges.* There are no height limitations. Hedge material must be kept neat, evenly trimmed and properly maintained. For corner visibility regulations see section 142-1135.

State Law reference— Maximum height of hedges in required front yard, § 126-6(1)b.

(j) *Hot tubs, showers, saunas, whirlpools, toilet facilities, decks.* Hot tubs, showers, whirlpools, toilet facilities, decks and cabanas are structures which are not required to be connected to the main building but may be constructed in a required rear yard, provided such structure does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than seven and one-half feet to a rear or interior side lot line. Freestanding, unenclosed facilities including surrounding paved or deck areas shall adhere to the same setback requirements as enclosed facilities.

State Law reference— Setback requiremetns in RM-PRD district, § 142-186.

(k) *Lightpoles.* The following regulations shall apply to lightpoles:

(1) Lightpoles shall have a maximum height of ten feet. Lightpoles shall be located seven and one-half feet from any property line except that when such property line abuts a public right-of-way, or waterway there shall be no required setback.

(2) All light from lightpoles shall be contained on-site or on any public right-of-way as required by the city Code.

(l)

Marine structures. Seaward side yard setbacks for boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind shall not be less than seven and one-half feet. This requirement pertains to the enlargement of existing structures as well as to the construction of new structures. It is further provided that any boat, ship, or vessel of any kind shall not be docked or moored so that its projection extends into the required seaward side yard setback, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. Land side decks may extend to the deck associated with the marine structure. Lighting associated with, but not limited to, the deck, or marine structure shall be installed in such a manner to minimize glare and reflection on adjacent properties and not to impede navigation. The maximum projection of a marine structure shall be determined by the county department of environmental resource management. If a dock or any kind of marine structure/equipment whether it is or is not attached to a dock projects more than 40 feet into the waterway or it extends beyond the maximum projection permitted under section 66-113, the review and approval of the applicable state and county authorities shall be required. In the event any dock, boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind are proposed to extend greater than 40 feet from a seawall adjacent to, or abutting the WD-1 or WD-2 district, conditional use approval from the planning board, in accordance with chapter 118, article IV of the city Code, shall also be required.

(m) *Ornamental fixtures or lamps.* Requirements for ornamental fixtures and lamps shall be as follows:

(1) Ornamental fixtures and lamps are permitted to be placed on walls or fences when they are adjacent to a public street, alley, golf course or waterway. The total height of the combined structure shall not exceed the required fence or wall height by more than two feet.

(2) Ornamental fixtures and lamps shall be located with a minimum separation of eight feet on center with a maximum width of two feet.

(n) *Porte-cochere.* A porte-cochere shall be permitted to extend from an entrance door to the street line of any building except that porte-cocheres shall not be permitted in a townhome district. Where a sidewalk or curb exist, the porte-cochere may extend to within 18 inches of the sidewalk. The porte-cochere shall not exceed 30 percent of building core frontage in width or 16 feet in height or be screened or enclosed in any manner. It shall provide an unobstructed, clear space of not less than nine feet between the grade and the underside of the roof of the porte-cochere.

(o) *Projections.* Every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet, unless otherwise noted.

(1) Belt courses.

(2) Chimneys.

(3) Cornices.

(4) Exterior unenclosed private balconies.

(5) Ornamental features.

(6) Porches, platforms and terraces up to 30 inches above the adjusted grade elevation of the lot, as defined in chapter 114.

(7) Roof overhangs.

(8) Sills.

(9) Window or wall air conditioning units.

(10) Bay windows (not extending floor slab).

(11) Walkways: Maximum 44 inches. May be increased to a maximum of five feet for those portions of walkways necessary to provide Americans with Disabilities Act (ADA) required turn around areas and spaces associated with doors and gates. Walkways in required yards may exceed these restrictions when approved through the design review or certificate of appropriateness procedures, as applicable, and pursuant to chapter 118, article VI, of the city Code. Notwithstanding the foregoing, when required to accommodate ADA access to an existing contributing building within a local historic district, or National Register District, an ADA walkway and ramp may be located within a street side or interior side yard, with no minimum setback, provided all of the following are adhered to:

a. The maximum width of the walkway and ramp shall not exceed 44 inches and five feet for required ADA landings;

b. The height of the proposed ramp and landing shall not exceed the finished first floor of the building(s); and

c. The slope and length of the ramp shall not exceed that which is necessary to meet the minimum Building Code requirements.

Additionally, subject to the approval of the design review board or historic preservation board, as applicable, an awning may be provided to protect users of the ADA walkway and ramp from the weather.

(12) Electric vehicle charging stations and fixtures, located immediately next to an off-street parking space, shall be permitted where driveways and parking spaces are located.

(13) Planters, not to exceed four feet in height, when measured from the finished floor of the primary structure.

(p) *Satellite dish antennas.* Satellite dish antennas are only permitted in the rear yard or on top of multifamily or commercial buildings. Antennas shall be located and sized where they are not visible from the street. Satellite dish antennas shall be considered as an accessory structure;

however the height of the equipment including its base to the maximum projection of the antenna, based upon maximum operational capabilities, to the top part of the antenna shall not exceed 15 feet. If it is attached to the main structure it may not project into a required yard.

(Ord. No. 89-2665, § 6-25(B)(1)—(17), eff. 10-1-89; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 93-2831, eff. 1-16-93; Ord. No. 94-2945, eff. 10-15-94; Ord. No. 97-3083, § 6, 6-28-97; Ord. No. 98-3107, § 3, 1-21-98; Ord. No. 98-3108, § 3, 1-21-98; Ord. No. 2001-3307, § 1, 6-6-01; Ord. No. 2002-3379, § 3, 7-31-02; Ord. No. 2004-3437, § 1, 3-17-04; Ord. No. 2007-3548, § 1, 2-14-07; Ord. No. 2007-3568, § 1, 9-5-07; Ord. No. 2014-3833, § 1, 1-15-14; Ord. No. 2014-3852, § 2, 4-23-14; Ord. No. 2014-3853, § 2, 4-23-14; Ord. No. 2014-3880, § 1, 6-11-14; Ord. No. 2015-3940, § 1, 6-10-15; Ord. No. 2018-4157, § 1, 1-17-18; Ord. No. 2018-4177, § 1, 3-7-18; Ord. No. 2018-4202, § 2, 7-25-18; Ord. No. 2019-4252, § 8, 3-13-19; Ord. No, 2019-4305, § 3, 10-16-19; Ord. No. 2019-4307, § 2, 10-16-19; Ord. No. 2019-4316, § 4, 10-30-19)

Sec. 142-1133. - Swimming pools.

This section applies to swimming pools in all districts, except where specified. Accessory swimming pools, open and enclosed, or covered by a screen enclosure, or screen enclosure not covering a swimming pool, may only occupy a required rear or side yard, provided as follows:

(1) *Rear yard setback.*

a. A six-foot minimum setback shall be required from the: rear property line to the swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure associated or not associated with a swimming pool.

b. Swimming pool decks may extend to the property line and be connected to a dock and its related decking when abutting upon any bay or canal.

c. There shall be a minimum seven and one-half-foot setback from the rear property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.

d. For oceanfront properties, the setback shall be measured from the old city bulkhead line.

(2) *Side yard, interior setback.*

a. A seven and one-half-foot minimum setback shall be required from the side property line to a swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosures associated or not associated with a swimming pool.

b. Nine-foot minimum required setback from side property line to the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.

(3) *Side yard facing a street.* For a side yard facing a street: A 15-foot setback from the property line to the swimming pool, deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure.

(4) *Walk space.* A walk space at least 18 inches wide shall be provided between swimming pool walls and fences or screen enclosure walls. Every swimming pool shall be protected by a sturdy non-climbable safety barrier and by a self-closing, self-locking gate approved by the building official.

a. The safety barrier shall be not less than four feet in height and shall be erected either around the swimming pool or around the premises or a portion thereof thereby enclosing the area entirely, thus prohibiting unrestrained admittance to the swimming pool area.

b. Where a wooden type fence is to be provided, the boards, pickets, louvers, or other such members shall be spaced, constructed and erected so as to make the fence not climbable and impenetrable.

c. The walls, whether of the stone or block type, shall be so erected to make them non-climbable.

d. Where a wire fence is to be used, it shall be composed of two-inch chainlink or diamond weave non-climbable type, or of an approved equal, with a top rail and shall be constructed of heavy galvanized material.

e. Gates, where provided, shall be of the spring lock type so that they shall automatically be in a closed and fastened position at all times. They shall also be equipped with a gate lock and shall be locked when the swimming pool is not in use.

(5) *Size.* The minimum size of all commercial swimming pools shall be 450 square feet with a minimum dimension of 15 feet and all required walkways shall have a minimum width of four feet around the swimming pool, exclusive of the coping. Commercial swimming pools shall also satisfy all applicable requirements of any governmental agency having jurisdiction.

(6) *Visual barriers for swimming pools.* Accessory swimming pools when located on any yard, facing a public street or alley, shall be screened from public view by a hedge, wall or fence not less than five feet in height. The hedge shall be planted and maintained so as to form a continuous dense row of greenery as per the requirements of this division. The maximum height of the visual barrier shall be pursuant to article IV, division 5 of this chapter.

(Ord. No. 89-2665, §§ 6-25(B)(18), 8-6(E), eff. 10-1-89; Ord. No. 2014-3833, § 1, 1-15-14; Ord. No. 2019-4316, § 4, 10-30-19)

Sec. 142-1134. - Tennis courts and similar court games.

The following regulations shall apply for fences, lightpoles or other accessory structures associated with court games in all districts.

(1) In a required front yard the maximum height of fences shall be ten feet and the fences shall be set back at least 20 feet from the front property line.

(2)

In a required side and required rear yard the maximum height of fences shall be ten feet and the fences shall be set back at least 7½ feet from the interior side or rear property line. When the fence faces a street, the maximum height shall be ten feet and the fence shall be set back at least 15 feet from the property line. For oceanfront properties, the rear lot line shall be the old city bulkhead line.

(3) Accessory lighting fixtures, when customarily associated with the use of court games, shall be erected so as to direct light only on the premises on which they are located. The maximum height of light fixtures shall not exceed ten feet when located in a required yard; otherwise, the maximum height shall not exceed 20 feet. Light is permitted to be cast on any public right-of-way.

(4) All chainlink fences shall be coated with green, brown or black materials.

(5) When fences are located in required yards, they shall be substantially screened from view from adjacent properties, public rights-of-way, and waterways by landscape materials.

(6) Any play surface, whether paved or unpaved, when associated with such court games, shall have the following minimum required yards: front—20 feet; interior side—7½ feet; any side facing on a street—15 feet; rear—7½ feet.

(7) Landscaping, when associated with tennis courts, shall be allowed to equal the height of the fence. The area between the tennis court fence and the front lot line shall be landscaped and approved by the planning and zoning director prior to the issuance of a building permit.

(Ord. No. 89-2665, § 6-25(B)(19), eff. 10-1-89)

Sec. 142-1135. - Corner visibility.

On a corner lot, there shall be no structure or planting which obstructs traffic visibility between the height of two feet and ten feet above the street corner grade, within the triangular space bounded by the two intersecting right-of-way lines and a straight line connecting the right-of-way lines 15 feet from their intersection.

(Ord. No. 89-2665, § 6-26, eff. 10-1-89)

Secs. 142-1136—142-1160. - Reserved.

DIVISION 5. - HEIGHT REGULATIONS

Sec. 142-1161. - Height regulation exceptions.

For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

(a)

The height regulations as prescribed in these land development regulations shall not apply to the following when located on the roof of a structure or attached to the main structure. For exceptions to the single-family residential districts, see subsection 142-105(e).

(1) Air conditioning, ventilation, electrical, plumbing equipment or equipment rooms.

(2) Chimneys and air vents.

(3) Decks, not to exceed three feet above the main roofline and not exceeding a combined deck area of 50 percent of the enclosed floor area immediately one floor below.

(4) Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, belfries, not intended for habitation or to extend interior habitable space. Such structures shall not exceed a combined area of 20 percent of the enclosed floor area immediately one floor below.

(5) Elevator bulkheads or elevator mechanical rooms.

(6) Flagpoles subject to the provisions of section 138-72.

(7) Parapet walls, not to exceed three and one-half feet above the main roofline unless otherwise approved by the design review board up to a maximum of 25 feet in height.

(8) Planters, not to exceed three feet in height above the main roofline.

(9) Radio, television, and cellular telephone towers or antennas, and rooftop wind turbines.

(10) Stairwell bulkheads.

(11) Skylights, not to exceed five feet above the main roofline.

(12) Stage towers or scenery lofts for theaters.

(13) Swimming pools, whirlpools or similar structures, which shall have a four-foot wide walkway surrounding such structures, not to exceed five feet above the main roofline.

(14) Trellis, pergolas or similar structures that have an open roof of cross rafters or latticework.

(15) Water towers.

(16) Bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Building Code, provided such bathrooms are not visible when viewed at eye level (five feet, six inches from grade) from the opposite side of the adjacent right-of-way; for corner properties. Such bathrooms shall also not be visible when viewed at eye level (five feet, six inches from grade) from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way.

(17) Solar panels.

(18) Wind turbines on oceanfront properties.

(19) Sustainable roofing systems.

(20) Display or screen structures, projection devices, lobby, concession space, and sound attenuation and screening devices, any of which serve an outdoor movie theater fronting on Alton Road as provided in section 142-310 of this chapter.

(b) The height of all allowable items in subsection (a) of this section, unless otherwise specified, shall not exceed 25 feet above the height of the roofline of the main structure. With the exception of items described in subsection (a)(17) and (a)(18) of this section, when any of the above items are freestanding, they shall follow the height limitations of the underlying zoning district (except flagpoles which are subject to section 138-72).

(c) Notwithstanding other provisions of these regulations, the height of all structures and natural growth shall be limited by the requirements of the Federal Aviation Agency and any airport zoning regulations applicable to structure and natural growth.

(d) Rooftop additions.

(1) *Restrictions.* There shall be no rooftop additions to existing structures in the following areas: oceanfront lots with frontage on Collins Avenue in the Miami Beach Architectural District in the RM-3 zoning district; and non-oceanfront lots fronting Ocean Drive in the MXE zoning district. No variance from this provision shall be granted.

(2) *Additional regulations.* Existing structures within an historic district shall only be permitted to have habitable one-story rooftop additions (whether attached or detached), with a maximum floor to ceiling height of 12 feet except as hereinafter provided. No variance from this provision shall be granted. The additions shall not be visible when viewed at eye level (five feet, six inches from grade) from the opposite side of the adjacent right-of-way; for corner properties, said additions shall also not be visible when viewed at eye level from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way. Notwithstanding the foregoing, the line-of-sight requirement may be modified as deemed appropriate by the historic preservation board based upon the following criteria:

a. The addition enhances the architectural contextual balance of the surrounding area;

b. The addition is appropriate to the scale and architecture of the existing building;

c. The addition maintains the architectural character of the existing building in an appropriate manner; and

d. The addition minimizes the impact of existing mechanical equipment or other rooftop elements.

(3) *Lincoln Road hotel additions.* Notwithstanding the foregoing, a multistory rooftop addition, for hotel uses only, may be permitted for properties on Lincoln Road, located between Pennsylvania Avenue and Lenox Avenue, in accordance with the following

provisions:

a. For properties on the north side of Lincoln Road, a multistory rooftop addition shall be set back at least 75 feet from Lincoln Road and at least 25 feet from any adjacent side street. Additionally, the multistory addition may be cantilevered over a contributing building.

b. For properties located on the south side of Lincoln Road, a multistory rooftop addition shall be set back at least 65 feet from Lincoln Road.

c. The portion of Lincoln Lane abutting the subject property, as well as the remaining portion of Lincoln Lane from block-end to block-end, shall be fully improved subject to the review and approval of the public works department.

d. Participation in the public benefits program, pursuant to subsection 142-337(d), shall be required in order for a hotel project to avail itself of a multistory rooftop addition.

e. There shall be a limit of 500 hotel units for hotel projects including a multistory rooftop addition that are constructed between Pennsylvania Avenue and Lenox Avenue.

(4) *Placement and manner of attachment.* The placement and manner of attachment of all additions (including those which are adjacent to existing structures) are subject to historic preservation board approval.

(5) *Collins Waterfront Historic District, Morris Lapidus/Mid-20th Century Historic District, and oceanfront lots with no frontage on Collins Avenue within the Miami Beach Architectural District in the RM-3 zoning district.* Notwithstanding the foregoing provisions of subsection 142-1161(d)(2), certain types of existing structures located within the Collins Waterfront Historic District and Morris Lapidus/Mid-20th Century Historic District and oceanfront lots with no frontage on Collins Avenue within the Miami Beach Architectural District may be permitted to have habitable rooftop additions (whether attached or detached) according to the following requirements:

a. Height of rooftop additions permitted for structures of five stories or less:

1. Existing buildings of five or less stories may not have more than a one-story rooftop addition, in accordance with the provisions of subsection 142-1161(d)(2). Additionally, at the discretion of the historic preservation board, pursuant to certificate of appropriateness criteria, the maximum floor to ceiling height may be increased to 15 feet within the Morris Lapidus/Mid-20th Century Historic District.

b. Height of rooftop additions permitted for hotel structures of greater than five stories:

1. For those structures determined to be eligible by the historic preservation board for rooftop additions of greater than one story in height according to the provisions of subsection (d)(7) below, one story is allowed per every three stories

of the existing building on which the addition is to be placed, to a maximum of four additional rooftop addition stories, with a maximum floor to floor height of 12 feet, and a maximum floor to roof deck height of 12 feet at the highest new story. The additional stories shall only be placed on the underlying structure creating the eligibility for an addition. Additionally, at the discretion of the historic preservation board, pursuant to certificate of appropriateness criteria, the maximum floor to ceiling height may be increased to 15 feet within the Morris Lapidus/Mid-20th Century Historic District and on oceanfront lots with no frontage on Collins Avenue within the Miami Beach Architectural District, for up to two floors of a permitted roof-top addition.

2. Rooftop additions permitted under this subsection, which are greater than one story, shall be for the sole purpose of hotel unit development. A restrictive covenant in a form acceptable to the city attorney committing the property to such hotel use, subject to release by the historic preservation board when such board determines that the restriction is no longer necessary, shall be recorded prior to the issuance of any building permit for a rooftop addition greater than one story.

(6) *North Beach Resort Historic District.* Notwithstanding the foregoing provisions of subsection 142-1161(d)(2), existing structures located within the North Beach Resort historic district may be permitted to have habitable rooftop additions (whether attached or detached) according to the following requirements:

a. Existing buildings of five or less stories may not have more than a one story rooftop addition, in accordance with the provisions of subsection 142-1161(d)(2).

b. For those structure determined to be eligible by the historic preservation board for rooftop additions of greater than one story in height, according to the provisions of subsection (d)(7) below, existing buildings six or more stories may have a two-story rooftop addition with a maximum floor to floor height of 12 feet, and a maximum floor to roof deck height of 12 feet at the highest new story. The additional stories shall only be placed on that portion of the underlying structure creating the eligibility for an addition.

(7) *CD-3 zoned parcels in the area bounded by Collins Avenue on the east, Drexel Avenue on the west, 16th Street on the south, and 17th Street on the north.* Notwithstanding the provisions of subsection (d)(2), the following shall be permitted for existing structures on sites zoned CD-3 in the area bounded by Collins Avenue on the east, Drexel Avenue on the west, 16th Street on the south, and 17th Street on the north: multistory habitable rooftop additions (whether attached or detached) not to exceed the maximum permitted building height.

(8)

Design and appropriateness guidelines. In determining if existing structures are eligible for rooftop additions, the historic preservation board, in addition to any and all other applicable criteria and guidelines contained in these land development regulations, shall consider whether:

a. The design of an existing structure (or part thereof) to which a new rooftop addition is to be attached is of such nature or style that it does not contain any significant original architectural crown element(s) or other designed composition of significant architectural features, nor does the overall profile of the structure including its rooftop design features have a distinctive quality that contributes to the special character of the historic district, as determined by the historic preservation board. Significant rooftop or upper facade elements or features may include but shall not be limited to towers, domes, crowns, ziggurats, masts, crests, cornices, friezes, finials, clocks, lanterns, original signage and other original architectural features as may be discovered.

b. The proposed rooftop addition shall be designed, placed and attached to an existing structure in a manner that:

    1. Does not obscure, detract from, or otherwise adversely impact upon other significant architectural features of the existing structure, inclusive of significant features that are to be, or should be, restored or reconstructed in the future;
    2. maintains the architectural contextual balance of the surrounding area and does not adversely impact upon or detract from the surrounding historic district;
    3. Is appropriate to the scale and architecture of the existing building;
    4. Maintains the architectural character of the existing building in an appropriate manner;
    5. Does not require major demolition and alterations to existing structural systems in such manner as would compromise the architectural character and integrity of the existing structure; and
    6. Minimizes the impact of existing mechanical equipment or other rooftop elements.

c. The placement and manner of attachment of additions (including those which are adjacent to existing structures) are subject to the historic preservation board granting a certificate of appropriateness for any demolition that may be required as well as for the new construction.

d. The entire structure shall be substantially rehabilitated.

e. Notwithstanding the foregoing, the overall height of any structure located in the Collins Waterfront Historic District or the North Beach Resort Historic District may not exceed the height limitations of the underlying zoning district. No additional stories

may be added under this section through height variances from the underlying zoning district regulations.

f. No variance from the provisions of subject subsection 142-1161(d) shall be granted.

(Ord. No. 89-2665, § 6-28, eff. 10-1-89; Ord. No. 96-3052, § 3, 9-11-96; Ord. No. 98-3150, § 1, 11-4-98; Ord. No. 2000-3233, § 2, 3-4-00; Ord. No. 2001-3293, § 1, 1-31-01; Ord. No. 2002-3379, § 4, 7-31-02; Ord. No. 2004-3439, § 1, 3-17-04; Ord. No. 2012-3766, § 2, 5-9-12; Ord. No. 2014-3879, § 1, 6-11-14; Ord. No. 2014-3880, § 2, 6-11-14; Ord. No. 2017-4124, § 3, 7-26-17; Ord. No. 2019-4303, § 3, 10-16-19; Ord. No. 2020-4358, § 4, 9-16-20; Ord. No. 2021-4422, § 2, 5-28-21; Ord. No. 2022-4501, § 1, 7-20-22)

Secs. 142-1162—142-1180. - Reserved.

DIVISION 6 - RESERVED

Footnotes:
*--- (**18**) ---*
***Editor's note—** Sec. 14 of Ord. No. 2017-4148, adopted Oct. 18, 2017, deleted div. 6, which pertained to housing for low and/or moderate income non-elderly and elderly persons, consisted of §§ 142-1181—142-1184, and derived from Ord. No. 2011-3744, adopted Oct. 19, 2011. User is directed to ch. 58, art. V for provisions pertaining to that subject.*

Secs. 142-1181—142-1190. - Reserved.

DIVISION 7. - COLOR OF EXTERIOR SURFACES

Sec. 142-1191. - Purpose.

The purpose of this section is to enhance the unique architectural environment of the city by establishing guidelines for the choice of primary colors for the exterior surfaces of buildings and structures, including courtyards accessible to the public.

(Ord. No. 89-2665, § 11-1, eff. 10-1-89; Ord. No. 96-3049, § 1(11-1), 7-17-96)

Sec. 142-1192. - Applicability.

(a) The painting of all public and private development, including, but not limited to, new buildings, structures, additions or alterations and the repainting of existing buildings and structures, shall be subject to these regulations and shall be reviewed under the design review procedures as set forth in chapter 118, article VI.

(b)

The reflectance, tinting and coloration of glass on the elevations of a building or structure shall be subject to these regulations and shall be reviewed under the design review procedures as set forth in chapter 118, article VI.

(c) The color of unpainted natural or manufactured materials applied to the exterior facade of buildings or structures shall be subject to these regulations and shall be reviewed under the design review procedures as set forth in chapter 118, article VI.

(d) The color of roof tiles or roof finishes shall be subject to these regulations and shall be reviewed under the design review procedures as set forth in chapter 118, article VI.

(Ord. No. 89-2665, § 11-2, eff. 10-1-89; Ord. No. 96-3049, § 1(11-2), 7-17-96)

Sec. 142-1193. - Color selection procedures and review criteria.

(a) *The city exterior color review chart (color chart).*

(1) The color chart, as amended and dated July 17, 1996, shall be available in the planning, design and historic preservation division and is hereby approved and, by this reference, incorporated into these land development regulations. An applicant for a building permit for paint or the application of a building surface material shall select a color of equal or lesser intensity than a color intensity from the color chart and must provide a paint chip or dry sample sufficient to indicate that the specified paint or color of building surface material to be used matches a color shown on the city exterior color review chart or is a color which is lighter in intensity than any other color on the color chart.

(2) The city exterior color review chart shall consist of the following components:

a. *City-wide color intensities.* These intensities shall be applicable to all structures, except for contributing structures, buildings, improvements in locally designated historic districts and historic sites.

b. *Historic district color intensities.* These intensities shall be applicable to contributing structures, buildings and improvements in locally designated historic districts and to historic sites.

c. *Mediterranean revival architecture colors.* These colors are applicable only to Mediterranean revival architecture buildings and structures and are limited to natural earth tones as represented by examples on the color chart.

For purposes of this subsection (a)(2)c, Mediterranean revival architecture shall be defined as those structures built between 1915 through 1940. This style is generally characterized by, but not limited to, stucco walls, low pitch terra cotta or historic Cuban tile roofs, arches, scrolled or tile capped parapet walls and articulated door surrounds, or Spanish baroque decorative motifs and classical elements.

(3)

Colors commonly described with terms such as neon, fluorescent, day-glo, iridescent and similar terms shall not be permitted to be applied to the exterior surface of any structure unless such color has been approved by the design review board or joint design review board/historic preservation board, as applicable.

(4) Colors for roof tiles and pitched roof finishes shall be limited to terra cotta, white or natural earth tones, unless an alternative color has been approved by the design review board or joint design review board/historic preservation board, as applicable.

(b) *Permit required.*

(1) A building or structure shall not be painted or have applied a natural or manufactured material as an exterior facade without first receiving a building permit or paint permit pursuant to the requirements of the South Florida Building Code. No building or structure shall be painted or have a material applied to the exterior facade, except in a paint color or material approved pursuant to the provisions of this subsection 142-1193(b). No roof tile or roof finish shall be installed or applied on a pitched roof except in a color or finish which complies with the regulations of subsection 142-1193(a)(4).

(2) Permits for repainting of existing structures or painting of new structures, or applying a natural or manufactured material to an exterior facade, shall not be issued until either: (i) the applicant selects a color from the color chart and submits a sample of the color for review and approval by the planning, design and historic preservation division by completion of a paint approval application, or (ii) has a specific color, not represented in the color chart, approved by the design review board or joint design review board/historic preservation board. Upon approval of the color sample, the paint chip or dry sample shall be attached to the building paint or material permit and on the paint or material approval application. The color sample shall be attached to the paint or material approval application and retained by the planning, design and historic preservation division for future reference.

(3) Permits for pitched roofs shall not be issued until the applicant submits a sample of the color or finish for review and approval by the planning, design and historic preservation division. The approved color or finish sample shall be attached to the permit and a color sample shall be retained by planning, design and historic preservation division for future reference.

(4) If the building or structure to be painted, or surfaced with a natural or manufactured material, requires a permit or approval in addition to a paint or material approval from a board or the planning, design and historic preservation division, the applicant may submit an application for a building permit or board approval simultaneously with an application for paint or material color approval. However, a certificate of occupancy, certificate of

completion, or certificate of use, whichever is requested earlier, shall not be issued until the planning, design and historic preservation division or design review or joint design review board/historic preservation board, as applicable, approves the color selection.

(5) The planning, design and historic preservation division shall have the authority to approve or deny the color selection based upon the criteria as set forth in subsection 142-1193(c). The criteria listed in subsection 142-1193(c) may be utilized for projects being reviewed by the design review or joint design review/historic preservation board, as applicable.

(c) *Review criteria.*

(1) At least 70 percent of the exterior of each wall of a building or structure shall be in a color of equal or less intensity than one of the colors on the city exterior color review chart.

(2) Color intensities greater than those represented on the city exterior color review chart may be utilized only for purposes of emphasizing trim and accenting architectural features of a structure and shall not exceed 30 percent of each wall area.

(3) Color intensities listed in neighborhood plans or, to the extent applicable, listed in exterior design guidelines adopted by the city commission may be used, in the neighborhoods or areas defined in such plans or guidelines, in lieu of those specified in the city exterior color review chart.

(4) Colors selected shall be appropriate to the architectural style, ornamentation, massing and scale of the structure.

(5) For purposes of color review, the percentage of a building's or structure's wall shall be exclusive of glass areas.

(Ord. No. 89-2665, § 11-3, eff. 10-1-89; Ord. No. 90-2722, eff. 11-21-90; Ord. No. 96-3049, § 1(11-3), 7-17-96)

Sec. 142-1194. - Appeal.

An applicant may appeal a decision made by the planning, design and historic preservation division regarding these regulations, including those related to single-family homes, to the design review board, except in the case of single-family homes located in a historic preservation district or listed as a historic site, such appeal shall be to the historic preservation board. If the building or structure is not a single-family home and is located within a locally designated historic preservation district or is listed as a historic site, such an appeal shall be to the joint design review board/historic preservation board. The appeal shall be filed with the historic preservation and urban design director within 30 days of the date of the decision. The basis of the appeal is whether the planning, design and historic preservation division acted arbitrarily or capriciously in reaching its decision. Appeal of a design review board decision shall be made pursuant to procedures as set forth in section 118-262. Appeal of a joint design review board/historic preservation board or historic preservation board decision shall be made pursuant to procedures as set forth in section 118-537.

(Ord. No. 89-2665, § 11-4, eff. 10-1-89; Ord. No. 96-3049, § 1(11-4), 7-17-96)

Secs. 142-1195—142-1220. - Reserved.

ARTICLE V. - SPECIALIZED USE REGULATIONS

DIVISION 1. - GENERALLY

Secs. 142-1221—142-1250. - Reserved.

DIVISION 2 - ASSISTED LIVING AND MEDICAL USES

> *Footnotes:*
> *--- (**19**) ---*
> ***Editor's note—** Sec. 2 of Ord. No. 2018-4170, adopted Jan. 17, 2018, amended div. 2 in its entirety to read as herein set out. Former div. 2 pertained to adult congregate living facilities, consisted of §§ 142-1251—142-1253, and derived from Ord. No. 89-2665, effective Oct. 1, 1989.*

Sec. 142-1251. - Purpose.

The purpose of this division is to provide mandatory requirements and review criteria to be used in reviewing requests for assisted living facilities (ALFs) and other medical uses. On October 1, 1989, the city adopted Ordinance No. 89-2665, which created this division, and was devoted exclusively to adult congregate living facilities (ACLFs). The City Code had not been amended in 27 years, and the term ACLF is no longer utilized by the State of Florida for licensure purposes. The city desires to encourage compatible uses within the various zoning districts in order to provide for the needs of the community, and to take into consideration the existing and proposed infrastructure, accessibility to emergency and public service vehicles, and proximity to public safety and public facilities in relation to various medical uses. Therefore, the city, which previously had not defined crisis stabilization units, residential detoxification centers, community residential homes, and residential medical rehabilitation centers, and any similar or derivative uses associated with such uses, desires to define said uses, consistent with state law and state licensure requirements, and to determine the compatibility of those uses within the various zoning districts. This division shall delineate the locations for the various types of medical uses and where they are permitted, conditional or prohibited within the various zoning districts.

(Ord. No. 2018-4170, § 2, 1-17-18)

Sec. 142-1252. - Definitions.

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.

Beds means one resident or patient, as applicable.

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.")

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

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.

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 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.

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.

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

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.

Dietician. (See "medical office.")

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

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.

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.

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.

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

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.

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.

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).

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.

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.

Nursing home means a facility that provides nursing, personal, custodial, and rehabilitative care. Nursing homes, sometimes called skilled nursing facilities, are freestanding, which means they are not part of a hospital. They provide 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. Nursing homes are licensed and surveyed by the State of Florida.

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

Optician means a professional that provides eve exams for the purposes of the retail sale of glasses or contact lenses.

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

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 eve bank is an entity involved in the recovery, processing, storage or distribution of eve 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 eve 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.

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

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.

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

Residential. 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.

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.

(Ord. No. 2018-4170, § 2, 1-17-18)

Sec. 142-1253. - Medical use classifications.

Medical uses shall be organized into classes for the purpose of determining allowable locations, process of approval, and other zoning regulations. Generally, as the potential for impacts to surrounding areas increase as the class increases. None of the, distance separation, size, or length of stay requirements under the various classes of medical uses may be varied, or increased in scope (whether by variance request or conditional use approval. unless specifically authorized in division. The classes and medical sub-uses within each class are as follows:

(a) *Class I medical uses.* Class I Medical Uses generally have an impact similar to, and often incorporate retail uses. These uses are often seen as a small accessory use to large-scale residential and hotel uses as well. Class I medical sub-uses include the following:

(1) Optician.

(2) Retail clinic.

(3) Adult day care center.

(4) Electrology facility.

(5) Medical office.

(b) *Class II medical uses.* Class II medical uses generally provide medical care throughout extended working hours, along with diagnostic and testing services. These may involve the generation of higher levels of medical waste than Class I, and generate higher levels of traffic.

Class II medical sub-uses include the following:

(1) Ambulatory surgical center (ASC).

(2) Laboratory.

(3) Comprehensive outpatient rehabilitation facility.

(4) End-stage renal disease center.

(5) Health care clinic.

(6) Prescribed pediatric extended care center.

(7) Urgent care center.

(8) Women's health clinic.

(9) Pathologist.

(10) Rehabilitation agency.

(c) *Class III medical uses.* Class III medical uses generally dispense pharmaceuticals as part of their treatment plan. These may involve frequent visits from patients who may require services from the facility on a daily basis and limited overnight stays. Class III medical sub-uses include the following:

(1) Detoxification center.

(2) Intensive outpatient treatment facility.

(3) Pain management clinic.

(d) *Class IV medical uses.* Class IV medical uses generally are those in which assistance is given to permanent residents in daily personal activities including, but not limited to, bathing, dressing, eating, grooming, and dispensing of medicine in a residential setting. Such a facility may have no more than six residents. Class IV medical sub-uses include the following:

(1) Adult family care home.

(2) Assisted living facility.

(3) Community residential home.

(4) Homes for special services.

(5) Hospice facility.

(6) Intermediate care facility developmentally disabled.

(e) *Class V medical uses.* Class V medical uses generally are those in which assistance is given to permanent residents with assistance in daily personal activities including, but not limited to, bathing, dressing, eating, grooming, and dispensing of medicine in a residential setting. Such a facility may have no more than 14 residents. Class V medical sub-uses include the following:

(1) Adult family care home.

(2) Assisted living facility.

(3) Community residential home.

(4) Homes for special services.

(5) Hospice facility.

(6) Intermediate care facility developmentally disabled.

(7) Residential treatment facility (level V).

(f) *Class VI medical uses.* Class VI medical uses generally provide 24-hour medical supervision and may implement medication management and other medical care for its residents. However, the patients do not pose a physical danger to themselves or others. They are typically in a residential setting; however, they may have some institutional components. They may contain recreational amenities to improve the quality of life of patients. Such a facility may have no more than 80 residents and patients. Such facilities are generally intended to assist permanent residents. Class VI medical sub-uses include the following:

(1) Adult family care home.

(2) Assisted living facility.

(3) Birth center.

(4) Community residential home.

(5) Day/night treatment community housing.

(6) Homes for special services.

(7) Hospice facility.

(8) Intermediate care facility developmentally disabled.

(9) Nursing home.

(10) Residential treatment facility (level IV and V).

(11) Transitional living facility.

(g) *Class VII medical uses.* Class VII medical uses generally provide 24-hour medical supervision and may implement medication management for its residents or patients; however, they treat residents or patients who may pose a physical danger to themselves or others and security is required. They are typically of an institutional nature, though they may take place in a more residential setting. Such a facility may contain recreational amenities to improve the quality of life of patients. Class VIII medical sub-uses include the following:

(1) Adult family care home.

(2) Assisted living facility.

(3) Birth center.

(4) Community residential home.

(5) Day/night treatment community housing.

(6) Homes for special services.

(7) Hospice facility.

(8) Prescribed pediatric extended care.

(9) Intensive inpatient treatment facility.

(10) Intermediate care facility for the developmentally disabled.

(11) Nursing home.

(12) Residential treatment facility (level I, II, III, IV and V).

(13) Residential treatment facility for children.

(14) Residential treatment center for children and adolescents.

(15) Transitional living facility.

(h) *Class VIII medical uses.* A medical use that treats a full range of medical related issues. This is the most intense medical use. Class VIII medical sub-uses include the following:

(1) Hospital.

(2) Trauma systems.

(3) Crisis stabilization unit.

(4) Addiction receiving facility.

(5) Medication and methadone maintenance treatment facility.

(6) Detoxification center.

(7) Organ and tissue procurement facility.

(8) Intensive inpatient treatment center.

(9) Prescribed pediatric extended care.

(10) Other medical uses.

(i) Medical sub-uses not identified in subsections (a) through (i) above or in section 142-1254 shall be considered Class VIII medical uses. If an applicant feels that the proposed medical sub-use is of a similar nature or impact as the uses in a differing class, the applicant may provide a description of the proposed medical sub-use and expected impacts from the use to the planning department for a determination of equivalent impact. The planning department may request additional information, as necessary, in order to make a determination. The planning department may require a study to support the descriptions and impacts in the study to support the descriptions and impacts and that the study be peer reviewed at the expense of the applicant. The study must consider the supplemental conditional use criteria in section 142-1257, as applicable, in addition to any other information deemed necessary.

(Ord. No. 2018-4170, § 2, 1-17-18)

Sec. 142-1254. - Exempt uses.

The following medical sub-uses, which service individuals in their place of residence, shall be exempt from the regulations of this division:

(a) Health care services pool.

(b) Home health agency.

(c) Home medical equipment provider.

(d) Homemaker and companion services.

(e) Home hospice service.

(f) Massage therapist.

(g) Portable x-ray provider.

(h) Pharmacies.

(i) Medical cannabis treatment centers.

(Ord. No. 2018-4170, § 2, 1-17-18)

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Sec. 142-1255. - Zoning district regulations.

The following table identifies the zoning districts in which each medical use class is allowed and if conditional use approval is required:

Zoning District	Class I	Class II	Class III	Class IV	Class V	Class VI	Class VII	Class VIII
RS-1, 2, 3, 4				P				
TH				P				
RM-1				P	C			
RM-PRD				P				
RM-2	A			P	C	C	C	
RM-PRD-2	A			P				
RM-3	A			P	C	C	C	

CD-1	P			P	C	C		
CD-2	P	P		P	C	C		
CD-3	P	P	C	P	C	C	C	
I-1	P	P	C					
MXE	P			P				
GU	P	P	P	P	P			
HD	E	P	P	P	P	P	P	P
RO	P			P	C	C		
RMPS-1				P	C			
RPS-1				P				
RPS-2				P				
RPS-3	A			P				
RPS-4	A			P				
C-PS1*	P			P	C	C		
C-PS2	P	P	C	P	C	C		
C-PS3	P	P		P	C	C		
C-PS4	P	P	C	P	C	C	C	
TC-1	P	P		P	C	C	C	
TC-2	P	P		P	C	C		

TC-3	C			P	C			

P—Main permitted use

A—Permitted as an accessory use

C—Conditional use

Boxes with no designation signify that the use is NOT permitted

(Ord. No. 2018-4170, § 2, 1-17-18)

Sec. 142-1256. - Minimum zoning standards.

In addition to the regulations in the underlying zoning district and overlays (as applicable) and other regulations in this division, medical uses shall comply with the following minimum standards:

(a) *Standards for all medical use classes:*

(1) Medical uses that allow for overnight stays shall not exceed the maximum density limits, when such limits are established by the underlying future land use designation in the Miami Beach Comprehensive Plan. For the purposes of determining residential density, a medical use in single-family districts containing up to six residents shall be deemed one dwelling unit. In other districts, every two beds shall count as one dwelling unit.

(2) For the determination of minimum distance separation requirements when established in subsection (b) below:

A. The minimum distance separation, the requirement shall be determined by measuring a straight line between the property lines of each use.

B. When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question.

(b) *Standards for specific medical use classes:*

(1) *Class I medical uses:*

A. In zoning districts where Class I medical uses are permitted as an accessory use, such uses shall be treated as a commercial use and shall be subject to the regulations on accessory uses in chapter 142, article IV, division 2 of the land development regulations, as well as any applicable regulations for the underlying zoning district. If located within a main use parking garage as an allowable accessory use, such uses shall be subject to the applicable regulations in section 130-68 of the land development regulations.

B.

Class I medical uses shall not operate between the hours of 10:00 p.m. and 7:00 a.m. Such hours may be modified with conditional use approval.

C. Overnight stays are prohibited.

(2) *Class II medical uses:*

A. Class II medical uses shall not operate between the hours of 10:00 p.m. and 7:00 a.m. Such hours may be modified with conditional use approval.

B. Overnight stays are prohibited.

(3) *Class III medical uses:*

A. Class III medical uses shall have a minimum distance separation of 1,500 feet from other Class II, III, IV, V, VI, VII, or VIII medical use.

B. Class III medical shall have a minimum distance separation of 600 feet from religious institutions, schools, or parks.

C. Hotel, residential, or other commercial uses shall be prohibited on lots with Class III medical uses.

D. Overnight stays are prohibited in I-1 districts.

E. Class III medical uses shall not be open to walk-in patients between the hours of 9:00 p.m. and 7:00 a.m.; notwithstanding the foregoing, if such facility is located within 375 feet of a residential district, such facility shall not be open to walk-in patients between the hours of 7:00 p.m. and 7:00 am. Such hours may be modified with conditional use approval.

F. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the city property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. U.S. Department of the Interior, as amended.

G. Participation in the fee in lieu of parking program for Class III medical uses shall be prohibited.

(4) *Class IV medical uses:*

A. Class IV medical uses shall have a minimum distance separation of 1,000 feet from other Class IV medical uses.

B. Class IV medical uses shall be the primary place of residence for patients or residents.

C. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the city property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for

Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.

D. Participation in the fee in lieu of parking program for Class IV medical uses located in residential districts shall be prohibited.

(5) *Class V medical uses:*

A. Class V medical uses shall have a minimum distance separation of 1,200 feet from other Class V medical uses.

B. Class V medical uses shall be the primary place of residence for patients or residents.

C. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the city property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.

D. Participation in the fee in lieu of parking program for Class IV medical uses located in residential districts shall be prohibited.

(6) *Class VI medical uses:*

A. Class VI medical uses shall have a minimum distance separation of 1,500 feet from other Class VI medical uses.

B. The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the city property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.

C. Participation in the fee in lieu of parking program for Class IV medical uses located in residential districts shall be prohibited.

(7) *Class VII medical uses:*

A. Class VII medical uses shall have a minimum distance separation of 1,500 feet from other Class III, VI, or VII medical uses. Notwithstanding the foregoing, a class VIII Medical Use may incorporate Class VIII medical sub-uses on the same site; however, the stricter zoning standards shall apply to the combined uses.

B. Class VII medical uses shall have a minimum distance separation of 375 feet from parks or schools.

C. Other hotel or residential uses shall be prohibited on sites with Class VII medical uses.

D.

The entire building shall conform with the Florida Building Code, fire prevention and safety code, and with the city property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior, as amended.

E. Participation in the fee in lieu of parking program for Class VII medical uses located in residential districts shall be prohibited.

(8) *Class VIII medical uses:*

A. Class VIII medical uses shall comply with the requirements of the HD district.

(9) Notwithstanding the foregoing, medical uses located in an HD district shall be exempt from distance separation and hours of operation requirements identified in this section. However, said facilities shall be utilized for determining distance separation requirements for facilities in other zoning districts.

(10) Notwithstanding the foregoing, medical uses located in an HD district shall be exempt from limitations on hours of operation and uses.

(Ord. No. 2018-4170, § 2, 1-17-18; Ord. No. 2022-4469, § 1, 1-20-22)

Sec. 142-1257. - Supplemental conditional use review criteria.

In reviewing an application for a conditional use under this division 2, the planning board shall apply the following supplemental review guidelines criteria in addition to the review guidelines listed in section 118-192, as applicable:

(a) For medical uses not allowing overnight stays or residence, whether hours of operation are identified in order to limit potential impacts to surrounding properties.

(b) Whether patients and residents served will pose a danger to themselves or others, and what measures are being taken to ensure their safety and the safety of others in surrounding areas.

(c) Whether a security plan for the establishment and supporting parking facility has been provided that addresses the safety of the medical use, its users, and surrounding areas, and minimizes impacts on the neighborhood.

(d) Whether a noise attenuation plan has been provided that addresses how noise will be controlled from emergency vehicles, in the drop off areas, loading zone, parking structures, and delivery and sanitation areas, to minimize adverse impacts to adjoining and nearby properties.

(e) Whether a sanitation plan has been provided that addresses on-site facilities as well as off-premises issues resulting from the operation of the medical use.

(f) Smaller scale facilities are encouraged in order to provide a non-institutional environment.

(g) Where overnight stays or permanent residency is allowed, if the facility is design to minimize its institutional nature.

(h) Whether the facility will serve various income groups.

(i) Facilities located in newly constructed buildings are encouraged.

(j) Whether a plan for the delivery of goods for the medical use 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.

(k) Whether the proximity of the proposed medical uses to residential uses creates adverse impacts and how such impacts are mitigated.

(l) Whether the scale of the proposed medical 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.

(Ord. No. 2018-4170, § 2, 1-17-18)

Sec. 142-1258. - Penalties, enforcement and appeals.

(a) *Penalties and enforcement.*

(1) The city manager has the authority to suspend or revoke a business tax receipt following notice and hearing, or to summarily suspend a business tax receipt pending a hearing pursuant to section 102-385 of the City Code.

(2) A violation of this division 2 shall be subject to the following fines:

A. If the violation is the first offense, a person or business shall receive a civil fine of $5,000.00:

B. If the violation is the second violation within the preceding six months, a person or business shall receive a civil fine of $10.000.00;

C. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of $20,000.00; and

D. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of $30,000.00 and the business tax receipt shall be revoked,

(3) Enforcement. The code compliance department shall enforce this division 2. This shall not preclude other law enforcement agencies from any action to assure compliance with this division 2 and all applicable laws. If a violation of this division 2 is observed, the 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 paving 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.

(4) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

(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 service 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 this City 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.

(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 police officer or code compliance officer. The failure of the named violator to appeal the decision of the police officer or code compliance 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.

(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. 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.

(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 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.

(G)

The special magistrate shall not have discretion to alter the penalties prescribed in subsection (a)(2).

(Ord. No. 2018-4170, § 2, 1-17-18; Ord. No. 2021-4431, 7-28-21)

Sec. 142-1259. - Reasonable accommodation.

The city may receive an application for a reasonable accommodation to accommodate persons with disabilities consistent with federal law. Nor shall the occupancy requirements or hours of operation requirements be varied if it causes undue financial and administrative burdens or requires a fundamental alteration in the nature of the services offered by the city.

(Ord. No. 2018-4170, § 2, 1-17-18)

Secs. 142-1260—142-1270. - Reserved.

DIVISION 3. - ADULT ENTERTAINMENT

Footnotes:
*--- (**20**) ---*
Cross reference— *Alcoholic beverages, ch. 6; businesses, ch. 18.*

Sec. 142-1271. - Definitions.

For the purpose of this division, the following terms, phrases and words shall have the meaning given herein:

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

(1)

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; 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

(2) 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.

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.

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.

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.

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.

Specified anatomical areas as used in this division shall mean either of the following:

(1) 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

(2) 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.

(Ord. No. 89-2665, § 12A-1, eff. 10-1-89; Ord. No. 90-2685, eff. 3-3-90)

Cross reference— Definitions generally, § 1-2.

Sec. 142-1272. - Adult entertainment establishments prohibited in certain locations.

(a) No adult entertainment establishment is permitted on a parcel of land located:

(1) Within 300 feet of any district designated as RS, RM, or RPS on the city's official zoning district map;

(2)

Within 300 feet of any parcel of land upon which a house of worship, school, public park or playground is located; or

(3) Within 1,000 feet of any parcel of land upon which another adult entertainment establishment is located.

(b) The minimum distance separation shall be measured by following a straight line from the main entrance or exit of the adult entertainment establishment to the nearest point of the property designated as RS, RM, or RPS on the city's official zoning district map or used for a house of worship, school, or public park or playground. In cases where a minimum distance is required between an adult entertainment establishment and another adult entertainment establishment, the distance separation shall be determined by measuring a straight line between the principal means of entrance of each use.

(c) A hotel with a minimum of 300 hotel units shall be exempt from subsections (a)(1), (a)(2) and (a)(3) of this section.

(Ord. No. 89-2665, § 12A-2, eff. 10-1-89; Ord. No. 90-2685, eff. 3-3-90)

Sec. 142-1273. - Adult bookstores; display rental or sale of adult materials to minors prohibited.

(a) Adult bookstores are prohibited from displaying adult material in such manner that such material is visible to minors (persons under 17 years of age).

(b) Adult bookstores are prohibited from knowingly selling or renting adult material to minors. As used in this subsection, "knowingly" shall mean having general knowledge of, reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both.

(Ord. No. 89-2665, § 12A-3, eff. 10-1-89; Ord. No. 90-2685, eff. 3-3-90)

Secs. 142-1274—142-1300. - Reserved.

DIVISION 4. - RESERVED

Footnotes:

*--- (**21**) ---*

***Editor's note—** Ord. No. 2016-4005, adopted Mar. 9, 2016, repealed Div. 4, in its entirety. Former Div. 4 pertained to alcoholic beverages, consisted of §§ 142-1301—142-1303, and derived from Ord. No. 89-2665, effective Oct. 1, 1989; Ord. No. 98-3132, effective July 15, 1998; Ord. No. 99-3222, effective Dec. 15, 1999; and Ord. No. 2011-3728, adopted May 11, 2011.*

Secs. 142-1301—142-1330. - Reserved.

DIVISION 5. - MAJOR CULTURAL DORMITORY FACILITIES

Sec. 142-1331. - Purpose.

The purpose of this division is to provide mandatory requirements and review criteria to be used in reviewing requests for a conditional use permit for major cultural dormitory facilities (MCDF).

(Ord. No. 89-2665, § 10A-1, eff. 10-1-89; Ord. No. 92-2778, eff. 3-28-92)

Sec. 142-1332. - Mandatory requirements.

(a) A major cultural dormitory facility must be sponsored by and operated for use by a major cultural institution that meets the following mandatory requirements:

(1) For the purposes of this division, a major cultural institution shall be one 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) and serves the general public.

(2) The institution shall be designated by the Internal Revenue Service as tax exempt pursuant to section 501(c)(3) or (4) of the Internal Revenue Code.

(3) The institution shall be a not-for-profit corporation established pursuant to F.S. ch. 617.

(4) The institution shall have an established state corporate charter for at least three years.

(5) The institution shall provide evidence of an operating budget of at least $2,000,000.00 for each of the previous two years and for the next projected fiscal year.

(6) The institution shall demonstrate the need for a dormitory facility and why there is a need for it to be located in the city.

(7) The institution shall demonstrate its audience support and recognition in the city, through awards, subscription and/or membership.

(b) In addition to the sponsoring institution meeting all of the above requirements, the major cultural dormitory facilities shall be subject to the following additional mandatory requirements:

(1) Facilities shall not be located in the Ocean Drive/Collins Avenue Historic District or in the ground floor of properties located on that portion of Lincoln Road which is closed to vehicular traffic.

(2) The design of the dormitory facility shall be reviewed under the design review process pursuant to chapter 118, article VI.

(3) The dormitory facility shall conform with the South Florida Building Code, fire prevention and safety code, and with the city property maintenance standards. If it is a historic structure, it shall also conform with the Secretary of the Interior's Standards for Rehabilitation and

Guidelines for Rehabilitating Historic Structures, U.S. Department of the Interior (revised 1983), as amended.

(4) The dormitory facility shall be for the sole use and enjoyment of major cultural institution members and their authorized guests and shall not be leased or subleased to the general public.

(5) No accessory use of a commercial nature shall be permitted in the dormitory building.

(6) The dormitory facility shall have no less than one common kitchen facility. Dormitory units shall be permitted to have a five-cubic-foot refrigerator and a microwave oven.

(7) Dormitory units shall have a minimum size of 200 square feet for the first two occupants and an average size of no less than 240 square feet.

(8) The dormitory facility shall have personnel situated at the front desk at all times for security purposes.

(9) The dormitory facility shall have a fully operational sprinkler system.

(10) The major cultural dormitory facility shall only be operated by the major cultural institution initially approved to operate the facility; the major cultural dormitory facility's conditional use permit shall not be transferable except upon a new application, public hearing and approval by the planning board.

(Ord. No. 89-2665, § 10A-2, eff. 10-1-89; Ord. No. 92-2778, eff. 3-28-92)

Sec. 142-1333. - Review criteria.

Major cultural dormitory facilities should be in substantial compliance with the following review criteria as determined by the planning board:

(1) Smaller scale dormitory facilities (100 units or less) are encouraged in order to provide a noninstitutional environment.

(2) Dormitory facilities should be within walking distance (2,500 feet or less) from the major cultural institution they serve.

(3) In order to encourage geographic distribution, dormitory facilities should not be located within 1,000 feet from each other.

(4) The location of the major cultural dormitory facility should be consistent with the city's comprehensive plan and all other adopted neighborhood plans.

(Ord. No. 89-2665, § 10A-3, eff. 10-1-89; Ord. No. 92-2778, eff. 3-28-92)

Secs. 142-1334—142-1360. - Reserved.

DIVISION 6. - ENTERTAINMENT ESTABLISHMENTS

Footnotes:
*--- (**22**) ---*
***Cross reference—** Businesses, ch. 18.*

Sec. 142-1361. - Definitions.

For the purpose of this division, the following terms, phrases and words shall have the meaning given 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.

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

Neighborhood impact establishment means:

(1) 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

(2) 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.

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.

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

(Ord. No. 89-2665, § 12B-1, eff. 10-1-89; Ord. No. 2000-3238, § 1, 4-12-00; Ord. No. 2000-3264, § 2, 9-13-00)

Cross reference— Definitions generally, § 1-2.

Sec. 142-1362. - Review guidelines.

(a) In reviewing an application for an outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, or after-hours dance hall, the planning board shall apply the following supplemental review guidelines criteria in addition to the standard review guidelines for conditional uses pursuant to chapter 118, article IV:

(1) An operational/business plan which addresses hours of operation, number of employees, menu items, goals of business, and other operational characteristics pertinent to the application.

(2) A parking plan which fully describes where and how the parking is to be provided and utilized, e.g., valet, selfpark, shared parking, after-hour metered spaces and the manner in which it is to be managed.

(3) An indoor/outdoor crowd control plan which addresses how large groups of people waiting to gain entry into the establishment, or already on the premises will be controlled.

(4) A security plan for the establishment and any parking facility, including enforcement of patron age restrictions.

(5) A traffic circulation analysis and plan which details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.

(6) A sanitation plan which addresses on-site facilities as well as off-premises issues resulting from the operation of the establishment.

(7) A noise attenuation plan which addresses how noise will be controlled to meet the requirements of the noise ordinance.

(8) Proximity of proposed establishment to residential uses.

(9) Cumulative effect of proposed establishment and adjacent pre-existing uses.

(b) After-hours dance halls not also operating as restaurants with full kitchens and serving full meals shall require conditional use approval, except that any establishment subject to this provision which legally exists as of September 13, 2000, shall obtain conditional use approval within six months of the date of September 13, 2000.

Note: For purposes of this section, "full kitchens" shall mean having commercial grade burners, ovens and refrigeration units of sufficient size and quantity to accommodate the occupancy content of the establishment. Full kitchens must contain grease trap interceptors, and meet all applicable city, county and state codes.

(Ord. No. 89-2665, § 12B-2, eff. 10-1-89; Ord. No. 2000-3264, § 3, 9-13-00)

Sec. 142-1363. - Appeal of a determination regarding outdoor entertainment establishment, open air entertainment establishment, neighborhood impact establishment, or an after-hours dance hall.

When it is alleged that there is an error made by an administrative official in the enforcement of these land development regulations with regard to the determination of the use of a property as an outdoor entertainment establishment, open air entertainment, neighborhood impact establishment, or after-hours dance hall, such appeal shall be to the zoning board of adjustment pursuant to chapter 118, article VIII.

(Ord. No. 89-2665, § 12B-3, eff. 10-1-89; Ord. No. 2000-3264, § 4, 9-13-00)

Sec. 142-1364. - Patron age restriction and hours of operation for after-hours dance halls.

After-hours dance halls may not admit patrons under the age of 21, and may only operate between the hours of 10:00 p.m. Friday to 8:00 a.m. Saturday, from 10:00 p.m. Saturday to 8:00 a.m. Sunday, and from 10:00 p.m. on any day preceding a national holiday to 8:00 a.m. on the national holiday.

(Ord. No. 2000-3264, § 5, 9-13-00)

Secs. 142-1365—142-1400. - Reserved.

DIVISION 7. - BED AND BREAKFAST INNS

> *Footnotes:*
> *--- (**23**) ---*
> ***Cross reference—** Businesses, ch. 18.*

Sec. 142-1401. - Conditions for bed and breakfast inns.

Bed and breakfast inns are permitted with the following conditions:

(1) The use shall be situated in a contributing building and located in a locally designated historic preservation district. The use may also be situated in a noncontributing building if it is restored to its original historic appearance and re-categorized as "contributing."

(2) The owner of the bed and breakfast inn shall permanently reside in the structure.

(3) (a) The structure shall have originally been constructed as a single-family residence; and

(b) The existing structure is not classified by the city as an apartment building as defined in section 114-1 of the City Code.

The structure may have original auxiliary structures such as a detached garage or servant's residence, but shall not have noncontributing multifamily or commercial auxiliary structures.

(4) The structure shall maintain public rooms (living room/dining room) for use of the guests.

(5) The size and number of guestrooms in a bed and breakfast inn shall conform to the following:

a. The structure shall be allowed to maintain (or restore) the original number and size of bedrooms which, with the exception of rooms occupied by the owner, may be rented to guests.

b. Historic auxiliary structures, such as detached garages and servants' residences, may be converted to guestrooms. New bedrooms constructed shall have a minimum size of 200 square feet and shall have a private bathroom.

c. Architecturally compatible additions not exceeding 25 percent of the floor area of the historic building shall be permitted to accommodate emergency stairs, other fire safety requirements, and new bathrooms. Additions shall be consistent with required setbacks and shall not be located on primary or highly visible elevations.

d. If there is evidence of interior alterations and original building plans are not available, the guestrooms shall be restored to the probable size and configuration as proposed by a preservation architect and subject to approval by the historic preservation/design review board.

(6) There shall be no cooking facilities/equipment in guestrooms. One small refrigerator with maximum capacity of five cubic feet shall be permitted in each guestroom. All cooking equipment which may exist shall be removed from the structure with the exception of the single main kitchen of the house.

(7) The bed and breakfast inn may serve breakfast and/or dinner to registered guests only. No other meals shall be provided. The room rate shall be inclusive of meal(s) if they are to be made available; there shall be no additional charge for any meal. Permitted meals may be served in common rooms, guestrooms or on outside terraces (see subsection 142-1401(9)). The meal service is not considered an accessory use and is not entitled to an outside sign.

(8) Permitted meals may be served in areas outside of the building under the following conditions:

a. Existing paved patios shall be restored but not enlarged. If no paved surface exists, one consistent with neighboring properties may be installed.

b. The area shall be landscaped and reviewed under the design review process. Landscape design shall effectively buffer the outdoor area used for meals from adjacent properties.

c. Any meal served outdoors shall be carried out from inside facilities. Outdoor cooking, food preparation, and/or serving/buffet tables are prohibited.

(9) Notwithstanding subsections (7) and (8) above, bed and breakfast inns that have had historic assembly use prior to December 18, 2010, for which documentation is accepted and confirmed by the planning director or designee, may be permitted to have limited nonentertainment assembly uses (including, but not limited to: art exhibits, corporate

seminars, educational lectures and presentations and similar assembly uses without entertainment as defined in section 142-1361), if approved by the planning board as a conditional use, subject to the following limitations:

a. The assembly uses shall consist of private events by invitation only, not open to members of the general public;

b. The assembly events shall end no later than 11:30 p.m.;

c. Invitations to assembly events must indicate that no street parking is available for the events, and direct guests to city parking lots or licensed private parking lots; and

d. No deliveries to the bed and breakfast inn shall occur before 9:00 a.m., or after 5:00 p.m. during weekdays, and before 10:00 a.m., or after 3:00 p.m., during weekends.

e. No speakers shall be permitted in outdoor areas.

(10) The entire building shall be substantially rehabilitated and conform to the South Florida Building Code, property maintenance standards, the fire prevention and life safety code and the U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Buildings, as amended. In addition, the entire main structure shall have central air conditioning and any habitable portion of auxiliary structures shall have air conditioning units.

(11) Building identification sign for a bed and breakfast inn shall be the same as allowed for an apartment building in the zoning district in which it is located.

(12) The maximum amount of time that any person other than the owner may stay in a bed and breakfast inn during a one-year period shall not exceed three months.

(13) The required off-street parking for a licensed bed and breakfast inn shall be the same as for a single-family residence. There shall be no designated loading zones on any public right-of-way and required parking spaces shall not be constructed on swales, public easements or rights-of-way.

(Ord. No. 89-2665, § 6-22(H), eff. 10-1-89; Ord. No. 92-2786, eff. 7-19-92; Ord. No. 2010-3712, § 1, 12-8-10; Ord. No. 2014-3877, § 1, 6-11-14)

Secs. 142-1402—142-1410. - Reserved.

DIVISION 8. - HOME BASED BUSINESS OFFICE

Sec. 142-1411. - Home based business office.

(a) Notwithstanding any provision to the contrary herein contained, offices for certain businesses, professions or occupations may be maintained within residentially zoned areas as provided herein. Any person engaged in a business, profession or occupation who chooses to conduct said

business, profession or occupation from his or her personal, permanent, primary residence shall, prior to conducting such business, profession or occupation, apply for and receive an occupational license for a home based business office. Said applicant shall list his or her home address as a place of business and must, at all times, comply with the following criteria:

(1) Home based business office activities shall be accessory and clearly incidental to the primary single-family residence or apartment unit.

(2) Home based business office activities shall occur entirely within the single-family residence or apartment unit.

(3) Employees, in addition to the person engaged in the business, profession or occupation of the home based business office as provided above, shall reside at the subject single-family residence or apartment unit as a permanent resident; for purposes of this section, a "permanent resident" shall mean a person residing in a single-family residence or apartment unit for no less than six months per calendar year.

(4) No goods or services shall be dispensed, sold, distributed or provided directly from the single-family residence or apartment unit, except for those transmitted by telephone, computer modem, facsimile or other similar electronic means, with the exception of one business pickup by courier per day in addition to regular U.S. Postal Service. Bulk mailing shall not be allowed.

(5) The aggregate of deliveries of any kind required by, received by, or made in connection with a home based business office at a single-family residence or apartment unit shall not exceed one business delivery by courier per day in addition to regular U.S. Postal Service.

(6) No inventory or storage of materials, goods, products or supplies shall be permitted at the single-family residence or apartment unit, except those minor supplies necessary for the operation of the home based business office.

(7) No materials, goods, products or supplies shall be displayed for sale or kept as samples at the subject single-family residence or apartment unit, except those which can be readily transported in a hand carried sample case.

(8) No customer, client, business associate, sales person, assistant or other nonresident shall be permitted to visit the home based business office for purposes of transacting business.

(9) The exterior of the single-family residence or apartment unit shall not be altered in any manner to attract attention to the home based business office or the residence as a place of business.

(10) No signs indicating the presence of the home based business office shall be located on or about the single-family residence or apartment unit.

(11) No noise, odor, smoke, hazard or other nuisance of any type shall arise from the conduct of the home based business office.

(12) The operation of a home based business office shall not cause any increase in parking at the single-family residence or apartment unit or vehicular traffic to and from the single family residence or apartment unit.

(13) No vehicle with the name of a home based business office business shall be parked or stored on the site, except in a closed garage.

(14) The conduct of a home based business office shall not result in an increase in demand on city services as compared to the average typical residence of the same size.

(15) Home based business office activities may be advertised or publicized provided that the address of the single-family residence or apartment unit shall not be referenced, and further provided that any advertisement or publication shall not in any manner invite, attract or draw persons to the single family residence or apartment unit in which the home based business office is located.

(b) A home based business office which does not satisfy all of the above standards at all times during operation shall be prohibited and no license shall be issued to an applicant whose business operation would violate said standards.

(c) All home based business offices shall be required to obtain and maintain a business tax receipt from the city.

(d) The city, upon probable cause to believe that there is a violation of one or more of the provisions of this section, may seek permission from the code compliance special magistrate to inspect a property in order to assist in making a finding as to whether or not there is a violation; the city shall not inspect a property without the afore-described permission.

(e) A home based business office shall have no parking requirement in addition to the requirement for the single-family residence or apartment unit.

(f) Nothing contained herein shall be deemed to authorize, legalize, or otherwise permit a home-based business office that is otherwise prohibited by a legally enforceable restrictive covenant, association document or other instrument or restriction on such use.

(Ord. No. 98-3109, § 3(6-22I), 5-20-98; Ord. No. 2020-4359, § 4, 10-14-20; Ord. No. 2021-4431, 7-28-21)

Secs. 142-1412—142-1420. - Reserved.

DIVISION 9. - DANCE HALLS

Sec. 142-1421. - Generally.

(a) *Minimum distance separation.*

(1)

As per subsection 6-4(a)(9) of this Code, the minimum distance separation between dance halls licensed to sell alcoholic beverages, and not also operating as restaurants with full kitchens and serving full meals, shall be 300 feet.

(2) The minimum distance separation between dance halls not licensed to sell alcoholic beverages shall be 300 feet.

(b) *Determination of minimum distance separation.*

(1) For purposes of determining the minimum distance separation, the requirement shall be determined by measuring a straight line between the principal means of entrance of each use.

(2) When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning and zoning director that the minimum distance separation has been met.

(c) *Variances.* Variances to the provisions of this section may be granted pursuant to the procedure in section 118-351 et seq.

(Ord. No. 99-3224, § 2, 12-15-99)

Secs. 142-1422—142-1499. - Reserved.

DIVISION 10. - CONTROLLED SUBSTANCES REGULATIONS AND USE

Sec. 142-1500. - Intent.

Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4 authorize a limited number of dispensing organizations throughout the State of Florida to cultivate, process, and dispense low-tetrahvdrocannabinol (low-THC) cannabis and medical cannabis for use by qualified patients suffering from cancer, terminal conditions, and certain chronic conditions as defined in F.S. § 381.986(2). The state qualified dispensing organizations must be approved by the Florida Department of Health and, once approved, are subject to state regulation and oversight and zoning approval through the city's procedures.

The intent of this division is to establish the criteria for the location and permitting of establishments that dispense low-THC cannabis, medical cannabis, and medicinal drugs in accordance with F.S. § 381.986, and Florida Administrative Code Chapter 64-4. The intent is also to regulate pharmacy stores to better protect the industry, the residents and visitors to the City of Miami Beach from the national emergency, and the State of Florida declared public health emergency due to the opioid epidemic. In 2015, heroin, fentanyl and oxycodone were directly responsible for the deaths of 3,896 Floridians, according to the most recent Florida Department of Law Enforcement statistics, which is about 12 percent of all the 33,000 people nationwide

who died that year of opioid overdoses. Last year in South Florida, the morgues in Palm Beach County were strained to capacity by 525 fatal opioid overdoses, the Sun Sentinel newspaper reported in March 2017. The deadly cocktail of heroin mixed with fentanyl or carfentanil figured in 220 deaths in Miami-Dade County last year, the paper reported. And 90 percent of the fatal drug overdoses in Broward County involved heroin, fentanyl or other opioids. On November 1, 2105, the American Pharmacists Association published the article "Pharmacies in the crosshairs: Prescription drug crime and law enforcement," which advises that the industry is in the cross-hairs. And according to the article on the law enforcement side of prescription drug abuse—there has been a rise in pharmacy crime, such as robberies. On September 30, 2015, Pharmacists Mutual Insurance Company announced publication of a report, Pharmacy Crime: A Look at Pharmacy Burglary and Robbery in the United States and the Strategies and Tactics Needed to Manage the Problem (https://apps.phmic.com/RMNLFlipbook/PharmacvCrime2015/) and recommend enhanced safety measure to protect from the opioid crisis and the City of Miami Beach desires to implement regulations to protect the residents, visitors and pharmacists in the city.

(Ord. No. 2017-4133, § 4, 9-25-17)

Sec. 142-1501. - Applicability.

This division shall only be construed to allow the dispensing of low-THC cannabis or medical cannabis by a state qualified dispensing organization for medical use of cannabis. The sale of cannabis or marijuana is prohibited the City of Miami Beach except in a medical cannabis treatment center approved in accordance with this division.

Pharmacy stores shall be required to comply with the provisions of this division to ensure the safety and security of the community, residents and the employees of a pharmacy store from crimes associated with the opioid epidemic.

(Ord. No. 2017-4133, § 4, 9-25-17)

Sec. 142-1502. - Zoning districts allowing medical cannabis treatment centers, pharmacy stores, and related uses, prohibited locations, and nonconforming uses.

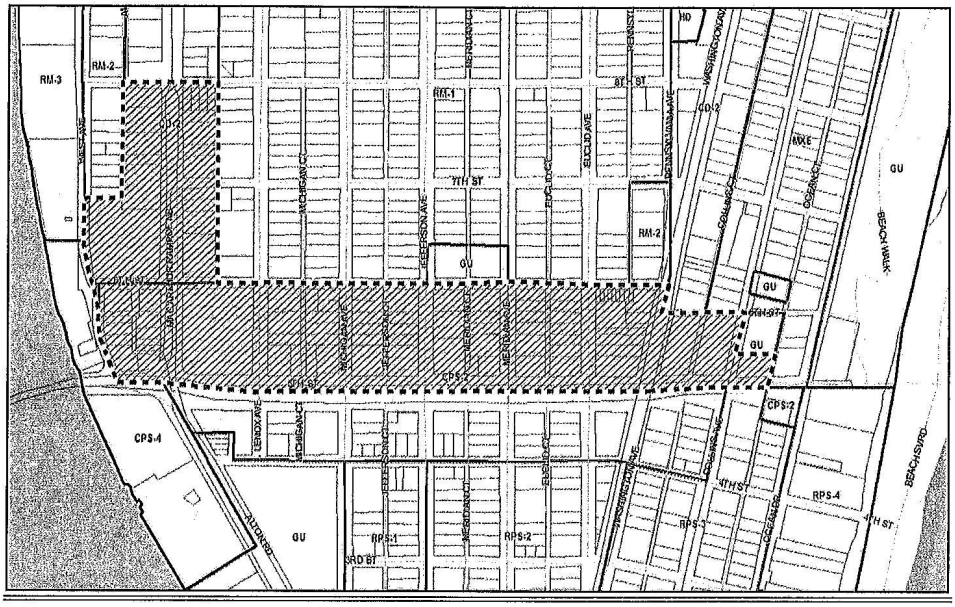
Any term not specifically defined in these land development regulations shall maintain the meaning provided for in F.S. ch. 381, medical cannabis treatment centers and pharmacy stores shall comply with the following regulations:

(a) *Permitted areas.* Only in accordance with the requirements of this division and the applicable zoning district, medical cannabis treatment centers and pharmacy stores shall be permitted only in the areas listed below:

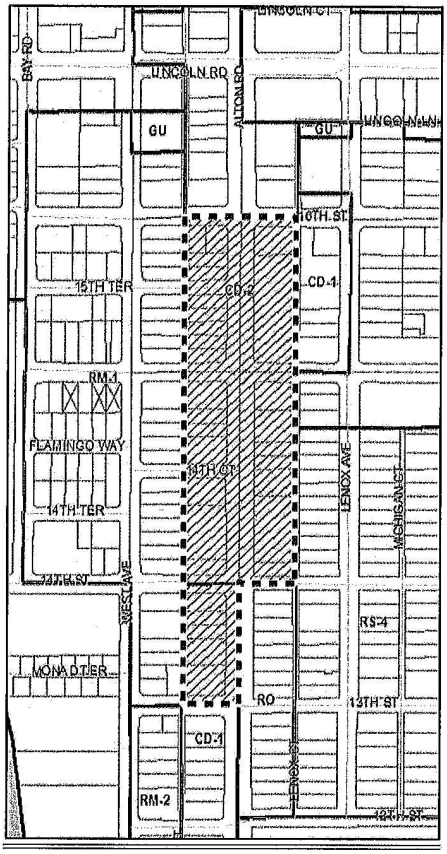
(1) Area 1 shall in include the following subareas:

a.

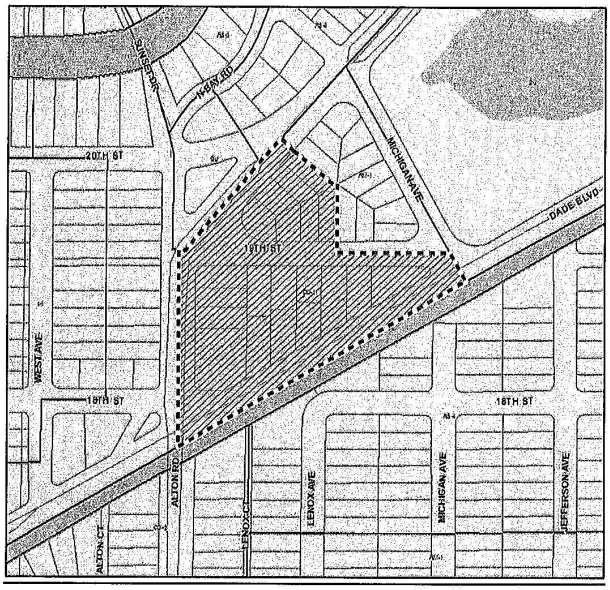
Lots zoned CD-2, generally located along Alton Road between 6th Street and 8th Street: lots zoned C-PS2 located north of 5 th Street between Ocean Court on the east and West Avenue on the west; as depicted in the map below:



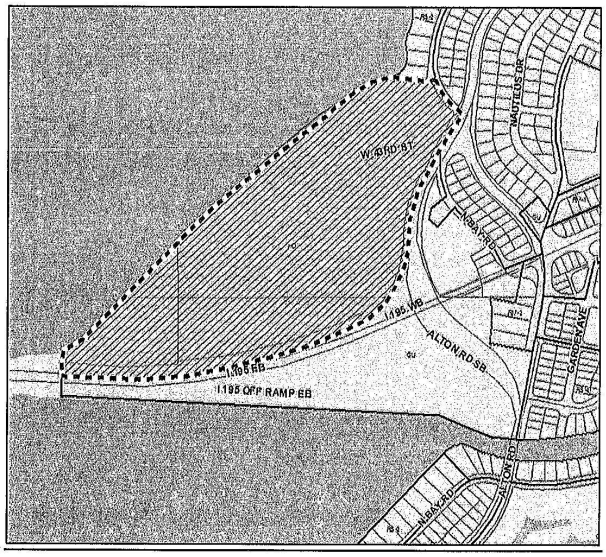
b. Lots zoned CD-1 and CD-2 fronting Alton Road between 13th Street and 16th Street, as depicted in the map below:



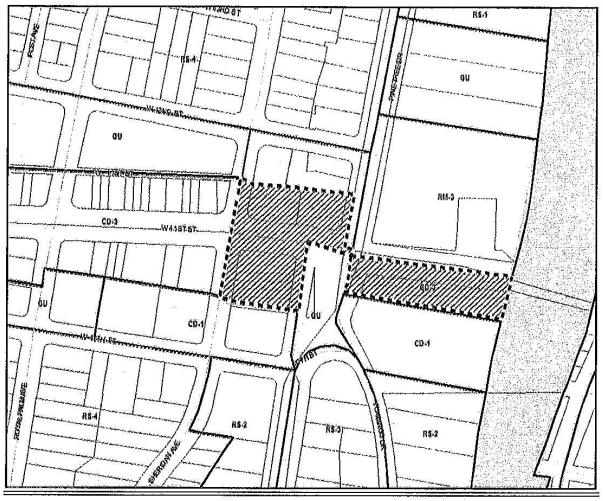
c. Lots zoned CD-1, generally located between Alton Road on the east and north, Dade Boulevard on the south, Michigan Avenue on the west, as depicted in the map below:



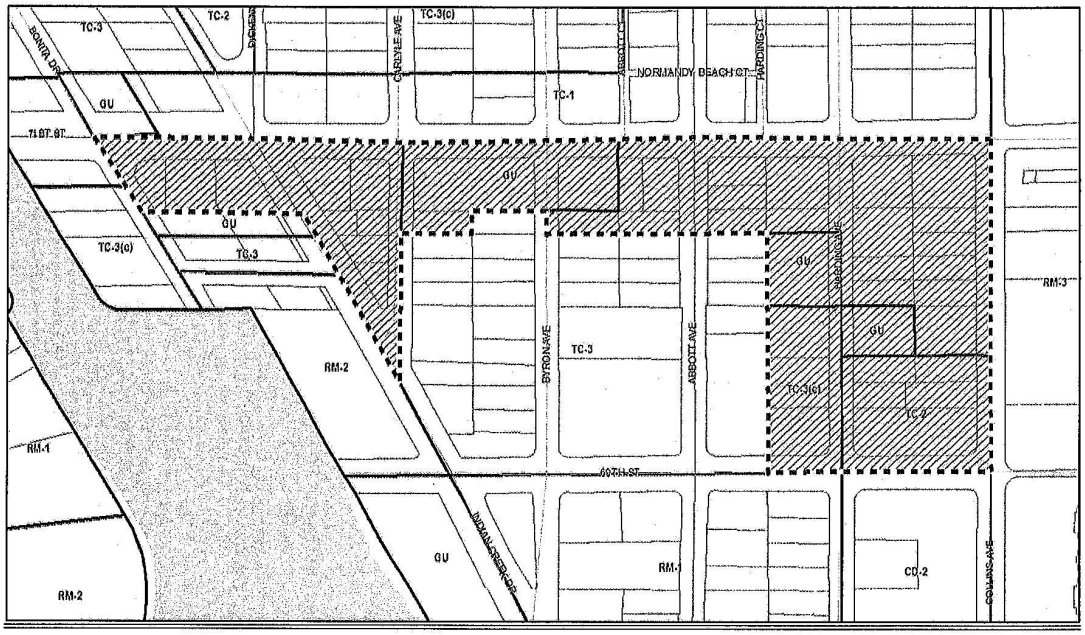
(2) Area 2 shall include the lots zoned HP located north of the Julia Tuttle Causeway - Interstate 195, as depicted in the map below:



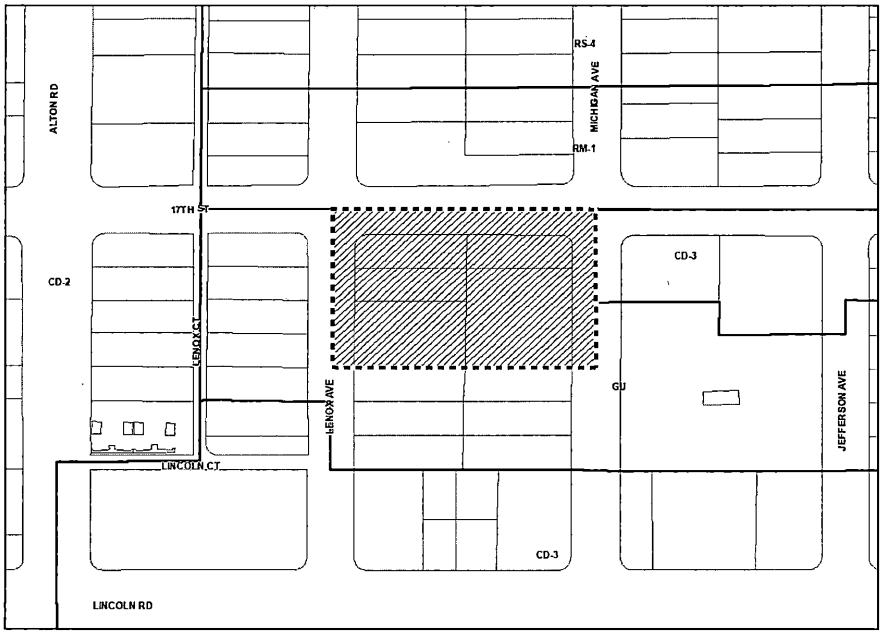
(3) Area 3 shall include [lots] zoned CD-3 and fronting 41st Street between Sheridan Avenue and the Indian Creek Waterway, as depicted in the map below:



(4) Area 4 shall include lots zoned TC-1 and TCC south of 71st Street, generally located between Collins Avenue on the east, 71st Street on the north, the west lot line of lots fronting Bonita Avenue on the west, and 69th Street on south, as depicted in the map below:



(5) Area 5 shall include lots zoned CD-3 south of 17th Street, generally located between Michigan Avenue on the east, 17th Street on the north, Lenox Avenue or the west, and the north lot line of city parking lot number P25, as depicted on the map below:



(b) *Location of uses.*

(1) Medical cannabis treatment centers or pharmacy stores shall be prohibited in all zoning districts and areas not described in subsection (a), above.

(2)

Medical cannabis treatment centers and pharmacy stores shall be considered prohibited uses on all GU sites.

(3) No medical cannabis treatment center shall be located within 500 feet of a public or private elementary, middle or secondary school. The minimum distance separation requirement shall be determined by measuring a straight line from the entrance and exit of the medical cannabis treatment center to the nearest point of the property line of the school.

(4) No medical cannabis treatment canter shall be located within 1,200 feet of another medical cannabis treatment center.

(5) No pharmacy store shall be located within 1,200 feet of another pharmacy.

(6) The minimum distance separation requirements set forth in subsections (4) and (5) shall be determined by measuring a straight line from the entrance and exit of each business.

(c) *Prohibited cannabis related uses.* The following cannabis related uses and activities shall be prohibited anywhere within the city:

(1) Cultivation, production, processing, storage, distribution or possession of marijuana plants or cannabis plants.

(2) Sale of cannabis from any motor vehicle.

(3) Medical cannabis product and cannabis derivative product manufacturing.

(4) Medical cannabis testing.

(5) Storage of cannabis or cannabis-related products off the site of the medical cannabis treatment center.

(6) Marijuana membership clubs.

(7) Vapor lounges.

(d) *Prohibited accessory uses within medical cannabis treatment centers and pharmacy stores.*

(1) Entertainment is prohibited within a medical cannabis treatment center or pharmacy store.

(2) Any medical cannabis treatment center or pharmacy store shall be prohibited from obtaining a special events permit.

(e) *[Exceptions.]* Notwithstanding the foregoing, medical cannabis treatment centers and pharmacy stores in Area 5 shall comply with the following additional regulations, which shall control in the event of a conflict with subsections (b), (c), or (d) above:

(1) Only medical cannabis treatment centers or pharmacy stores that are accessory to a medical office, clinic, or health center, shall be permitted in Area 5. The hours of operation of the pharmacy store or medical cannabis treatment center shall be consistent with the hours of operation of the principal medical office, clinic, or health center, but in no event

shall an accessory pharmacy store or medical cannabis treatment center operate past 6:00 p.m., except for one night per week during which the pharmacy or medical cannabis treatment center may operate until 7:00 p.m. As used in the subsection (e), the term "medical office, clinic, or health center" requires a minimum of two full-time physicians or physician extenders (which shall be defined as physician's assistants or nurse practitioners), and a minimum of five patient examination rooms.

(2) The building in which the medical cannabis treatment center or pharmacy store is located shall be an existing office building that is a minimum of 25,000 square feet in size on the effective date of this ordinance [section].

(3) A medical cannabis treatment center or pharmacy store shall not be located on the ground floor.

(4) The area dedicated for use as a pharmacy store or medical cannabis treatment center shall not exceed 1,000 square feet. For the purpose of calculating the area of the accessory pharmacy store or medical cannabis treatment center, only the portion of the building that is being used as a pharmacy store or medical cannabis treatment center shall be included, and the portion of the building that serves as the principal medical office, clinic, or health center shall not be included in the maximum area calculation. The pharmacy store or medical cannabis treatment center will use its best efforts to serve only patients of the medical office, clinic, or health center and not the general public.

(5) Pharmacy stores and medical cannabis treatment centers in Area 5 shall only serve patients from private waiting rooms. Queueing of patients in hallways or common areas of the building in which the use is located is prohibited. Any violation of this subsection shall be subject to the penalties set forth in section 142-1512.

(6) Accessory pharmacy stores and medical cannabis treatment centers in Area 5 are exempt from the wall separation requirement of section 142-1503(e).

(7) Pharmacy stores in Area 5 are prohibited from distributing cannabis or cannabis products.

(8) Exterior signage is prohibited for pharmacy stores and medical cannabis treatment centers located in Area 5.

(9) No pharmacy store in Area 5 shall be located within 600 feet of another pharmacy store.

(10) No medical cannabis treatment center in Area 5 shall be located within 600 feet of another medical cannabis treatment center.

(11) The minimum distance separation requirements in this subsection (e) shall be measured in accordance with section 142-1502(b)(6).

(12) There shall be no variances from the requirements of this subsection (e).

(f) *Nonconforming uses.*

(1) Any pharmacy store (authorized prior to the adoption of this division), any pharmacy store approved after adoption of this division, or a medical cannabis treatment center use, created and established under the land development regulations in a legal manner, which may thereafter become legally nonconforming, may continue until there is an abandonment of said use. Once the legally nonconforming pharmacy store or medical cannabis treatment center use is abandoned, it shall not be re-established unless it conforms to the requirements of this division. Abandonment shall consist of: a change of use or suspension of active business with the public for a period of at least six months: or a lesser time if a written declaration of abandonment is provided by the owner of the premises or, if the property is subject to a lease, by the owner and tenant thereof.

(2) A lawfully authorized medical cannabis treatment center cannot apply for a change of use or a business tax receipt to become a pharmacy store. A lawfully authorized pharmacy store cannot apply for a change of use or a business tax receipt to become a medical cannabis treatment center without meeting the requirements of this division as if it were a new establishment.

(Ord. No. 2017-4133, § 4, 9-25-17; Ord. No. 2019-4247, § 1, 2-13-19; Ord. No. 2021-4450, § 1, 10-27-21)

Sec. 142-1503. - Requirements for medical cannabis treatment centers and pharmacy stores.

(a) Reserved.

(b) Dispensing of, payment for, and receipt of low-THC, medical cannabis, or pharmaceutical drugs administered by a pharmacy is prohibited anywhere outside of the dispensing facility, including, but not limited to, on sidewalks, in parking areas, drive-thrus, or in the rights-of-way surrounding the dispensing facility; provided, however, this provision shall not be construed to prohibit delivery of low-THC, medical cannabis, or pharmaceutical drugs to an eligible patient, as permitted by state law or rule.

(c) Required parking shall be located on the same parcel or unified development site as the medical cannabis treatment center or pharmacy store, or within 500 feet of the site either in private parking facilities or a public parking facility, not within a residential district, with a lease, unity of title, or covenant-in-lieu of unity of title, or other document of a similar nature. Participation in the fee-in-lieu of parking program and the parking credit program is prohibited.

(d) The facility shall comply with the following regulations related to signage, advertisement, and display of merchandise:

(1) Signage visible from public rights-of-way and adjacent establishments and parcels shall be limited to the name of the establishment and signs necessary to comply with the requirements of the State of Florida, Miami-Dade County, and the City of Miami Beach. Depictions of cannabis, cannabis products and pharmaceutical products shall not be visible

from public rights-of-way and adjacent establishments and parcels.

(2) No advertisement for the establishment, cannabis, cannabis derivative product, cannabis delivery devices, cannabis related products, or pharmaceutical products is permitted on signs mounted on vehicles, temporary signs, hand-held or other portable signs, handbills, leaflets or other fivers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the city or on the Internet; and (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth.

(3) Under no circumstances shall activities related to sales of cannabis, cannabis derivatives, cannabis delivery devises, cannabis-infused products and pharmaceutical products be visible from the exterior of the business.

(e) All cannabis treatment center or pharmacy store establishments shall be divided within a building from floor to ceiling. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical cannabis treatment center or pharmacy store and any adjacent business.

(f) Each Individual cannabis treatment center or pharmacy store establishment shall not exceed 7,500 square feet, exclusive of required parking. This limitation shall not apply to establishments located in area 2.

(g) A business tax receipt (BTR) shall be obtained for the low-THC, medical cannabis dispensing facility, or pharmacy store on an annual basis. The application for the BTR shall be made on a form prescribed by the city.

(1) The city shall have the right to periodically inspect the premises of any medical cannabis treatment center, or pharmacy store at any reasonable time to ensure that the facility has a current and valid BTR, per employee, and per business and to ensure compliance with the terms and conditions under which it was issued. Violators will be subject to all appropriate penalties, including revocation of the BTR.

(2) Where a civil violation notice relating to this division has been issued and appealed by the alleged violator, the BTR shall not be renewed where the appeal has been pending for 180 days or more and the delay is attributable to the alleged violator. Where, determinations of guilt for three or more violations have been made, or the special magistrate has determined that a nuisance exists at the medical cannabis treatment center facility or pharmacy store, the BTR shall be revoked immediately, and a new application may not be made within a period of 12 months.

(h)

No certificate of use, business tax receipt, or building or other permit shall be issued for a medical cannabis treatment center facility or pharmacy store where the proposed place of business does not conform to the requirements of this division.

(i) Neither use shall be allowed a drive-thru component.

(Ord. No. 2017-4133, § 4, 9-25-17; Ord. No. 2019-4247, § 1, 2-13-19; Ord. No. 2021-4431, 7-28-21)

Sec. 142-1504. - Specific additional criteria.

Only state qualified dispensing organizations entitled to a medical cannabis treatment center (as authorized under F.S. ch. 381) business tax receipt, or a dispensing pharmacy store (as authorized under chapter 465) business tax receipt, Florida Statutes, pursuant to the regulations in section 142-1505, of these land development regulations, shall be eligible to submit an application for a pharmacy or medical marijuana treatment center.

A general security plan shall be provided. The plan must sufficiently demonstrate enhanced security measures in excess of the minimum requirements set forth in state regulations. The enhanced security measures include, but are not limited to, steel security doors, improved video surveillance system capability, advanced alarm systems, improved fire safety systems, natural disaster security, packaging of dispensed products, procedures for waste removal, and other measures, such as the use of hurricane impact windows. If the facility is located below the base flood elevation plus City of Miami Beach Freeboard, the plan should incorporate floodproofing measures to ensure the continued functioning of security devices in the event of a natural disaster and sea level rise. The plan must be reviewed and approved by the City of Miami Beach Police Department before it can be considered by planning staff. Both uses should protect its window and have an alarm system and strong locks on the doors: To harden the establishment by doing things that make it less attractive to the potential criminal. There should be physical barrier to protect the pharmacist or medical marijuana treatment center employee from the general public and ensure that the narcotics or medical cannabis is not accessible to a person under the influence of opioids or other narcotics. A glass barrier wall shall be installed around the area holding the prescription pharmaceuticals or the medical cannabis and the general public.

(a) *A business plan shall be provided.* The plan is to demonstrate the applicant's ability to successfully operate in a highly regulated industry over an extended period of time. The plan may include, but is not limited to, the following: Scope of work for the planning and development; scope of work for capital improvements: an estimate of first-year revenues; an estimate of first-year operating expenses and evidence that the applicant will have the resources necessary to pay for those expenses; and a description of the applicant's history of compliance in a highly regulated industry. The plan must be reviewed and approved by the City of Miami Beach Police Department before it can be considered by planning staff.

(b)

An operating plan shall be provided. The operating plan is to enumerate the specific means through which the applicant intends to achieve the business goals and comply with the city and state regulatory requirements. The operating plans may include, but is not limited to, the following: Staffing schedules to ensure adequate coverage and experience during all business hours; employee training programs for security, product knowledge and safety; proactive consumer education and community outreach practices; an operations manual demonstrating compliance with state and city retail marijuana laws or pharmaceutical drug laws, as applicable; and disposal of waste. The plan must be reviewed and approved by the City of Miami Beach Police Department before it can be considered by planning staff.

(c) *An odor management plan shall be provided.* It shall be required that the odor of marijuana must not be perceptible at the exterior of the building or at any adjoining use of the property. Facilities shall adopt best management practices with regard to implementing state-of-the-art technologies in mitigating odor, such as air scrubbers, charcoal filtration systems, and sealed walls. The plan must include maintenance of systems, including preventing the buildup of mold.

(Ord. No. 2017-4133, § 4, 9-25-17)

Sec. 142-1505. - Penalties, enforcement and appeals.

(a) *Penalties and enforcement.*

(1) The city manager has the authority to suspend or revoke a business tax receipt following notice and hearing, or to summarily suspend a business tax receipt pending a hearing pursuant to section 102-385 of the City Code.

(2) A violation of this division 10 shall be subject to the following fines:

a. If the violation is the first offense, a person or business shall receive a civil fine of $5,000.00;

b. If the violation is the second violation within the preceding six months, a person or business shall receive a civil fine of $10.000.00;

c. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of $20,000.00; and

d. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of $30,000.00 and the business tax receipt shall be revoked.

(3) Enforcement. The code compliance department shall enforce this division 10. This shall not preclude other law enforcement agencies from any action to assure compliance with this division 10 and all applicable laws. If a violation of this division 10 is observed, the 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 paving 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.

(4) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

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 service 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 this City 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.

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 police officer or code compliance officer. The failure of the named violator to appeal the decision of the police officer or code compliance 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.

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. 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.

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 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.

g. The special magistrate shall not have discretion to alter the penalties prescribed in subsection (a)(2).

(Ord. No. 2017-4133, § 4, 9-25-17; Ord. No. 2021-4431, 7-28-21)

Secs. 142-1506—142-1509. - Reserved.

DIVISION 11. - TOBACCO/VAPE DEALERS

Sec. 142-1510. - Intent.

It is the intent of this division to limit access and exposure of tobacco and vaping products to children and adolescents due to their addictive nature and damaging effects on health. It is also the intent to limit the proliferation of tobacco, vaping, and smoking device product dealers in areas where the city encourages tourism, and to minimize the negative implications that these types of businesses may portray to the city's visitors seeking a unique vacation destination.

(Ord. No. 2019-4269, § 5, 6-5-19)

Sec. 142-1511. - Locations prohibiting the sale of tobacco and vape products.

(a) *Prohibited locations.* Tobacco/vape dealers are prohibited in the following locations:

(1) Within 500 feet of any property used as a public or private, elementary, middle, or secondary school. The minimum distance separation requirement shall be determined by measuring a straight line from the main entrance or exit of the establishment which contains the tobacco/vape dealer to the nearest point of the property line of the school.

(2) In those specific areas that have been identified within the underlying zoning district regulations in chapter 142, article II or overlay district regulations in chapter 142, article III of the city Code.

(3) Notwithstanding the foregoing, the prohibitions of this section shall not be applicable to medical cannabis treatment centers permitted pursuant to the chapter 142, article V, division 10.

(b) *Distance separation.* No tobacco/vape dealer shall be located within 1,200 feet of another tobacco/vape dealer.

(c) *Determination of minimum distance separation.* When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning director or designee that the minimum distance separation has been properly satisfied.

(d) *[Variances.]* Variances from the requirements of this section shall be prohibited.

(Ord. No. 2019-4269, § 5, 6-5-19)

Sec. 142-1512. - Penalties, enforcement, and appeals.

(a) *Penalties and enforcement.* The following penalties shall be imposed against a person or business for a violation of this section:

(1) A violation of this division shall be subject to the following fines:

a. If the violation is the first offense, a person or business shall receive a civil fine of $1,000.00;

b. If the violation is the second violation within the preceding six months, a person or business shall receive a civil fine of $3,000.00;

c. If the violation is the third violation within the preceding six months, a person or business shall receive a civil fine of $5,000.00; and

d. If the violation is the fourth or subsequent violation within the preceding six months, a person or business shall receive a civil fine of $7,500.00 and the business tax receipt shall be revoked.

(2) Enforcement. The code compliance department shall enforce this division. This shall not preclude other law enforcement agencies from any action to assure compliance with this division and all applicable laws. If a violation of this division is observed, the 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.

(3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

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 service 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 this city 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.

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 police officer or code compliance officer. The failure of the named violator to appeal the decision of the police officer or code compliance 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.

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. 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.

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 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.

g. The special magistrate shall not have discretion to alter the penalties prescribed in subsection (a)(1).

(Ord. No. 2019-4269, § 5, 6-5-19; Ord. No. 2021-4431, 7-28-21)

Secs. 142-1513, 142-1514. - Reserved.

DIVISION 12. - VITAMIN SHOPS

Sec. 142-1515. - Intent.

It is the intent of this division to limit exposure of products sold by vitamin shops, which are not regulated and do not require a medical prescription, to children and adolescents due to the potential effects on health of certain products. It is also the intent to limit the proliferation of vitamin shops in the city's commercial districts, particularly the city's premier retail corridors, which draw both residents and visitors, and to minimize the negative impacts of these businesses on the city's unique brand as a vacation destination.

(Ord. No. 2022-4531, § 1, 12-14-22)

Sec. 142-1516. - Compliance with regulations.

(a) *Vitamin shops as a primary use.* Where a vitamin shop is the primary use of a site, building or establishment (i.e., vitamin shop goods occupy 50 percent or more of the establishment's floor area) the following shall apply:

(1) *Prohibited locations.* Such establishments are prohibited in the following locations:

i. Within 500 feet of any property used as a public or private elementary, middle, or secondary school. The minimum distance separation requirement shall be determined by measuring a straight line from the main entrance or exit of the establishment which contains the vitamin shop to the nearest point of the property line of the school.

ii. In those specific areas that have been identified within the underlying zoning district regulations in chapter 142, article II or overlay district regulations in chapter 142, article 111 of the City Code.

(2) *Distance separation from vitamin shops.* Vitamin shops shall not be located within 1,200 feet of another vitamin shop. The minimum distance separation requirement shall be determined by measuring a straight line from the main entrance or exit of the establishment which contains the vitamin shop to the nearest point of the property line of the other vitamin shop.

(3) *Determination of minimum distance separation.* When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning director or designee that the minimum distance separation has been properly satisfied.

(b) *Vitamin shops as an accessory use.* Where vitamin shops are an accessory use to another type of commercial establishment, and not the primary use, the following shall apply:

(1) No more than ten percent of the floor area may be used for vitamin shop goods.

(2) Exterior signage is prohibited related to the accessory vitamin shop use and related products.

(3) Vitamin shop merchandise shall not be visible from public rights-of-way.

(c) *Variances.* Variances from the requirements of this section shall be prohibited.

(Ord. No. 2022-4531, § 1, 12-14-22)

APPENDIX A - FEE SCHEDULE

FEE SCHEDULE

Pursuant to section 1-15 of this Code, this appendix includes all fees and charges established by the city commission that are referred to in the indicated sections of the Code of Ordinances. Certain specified fees and charges, as identified herein, shall be subject to annual adjustment by the city manager, pursuant to the provisions of section 1-15 and this Appendix "A". A schedule of all current city fees and charges as set forth in Appendix "A" shall be maintained on the city's website.

Section of this Code	Description	FY 2024 Fee	Annual Adjustment (References shown are defined at the end of this Appendix A)
	Subpart A. General Ordinances		
	Chapter 2. Administration		
	Article V. Finance		
2-277	Fee for dishonored checks or electronic funds transfer (consistent with Florida Statute 68.065)		
	Bank fees actually incurred by the City plus a service charge of:		
	If face value does not exceed $50.00	25.00	N/A
	If face value exceeds $50.00 but does not exceed $300.00	30.00	N/A

	If face value exceeds $300.00	40.00 or 5% of face value, whichever is greater	N/A
	Lien search fees:		
	Online lien search	96.00	[A]
	Condominium online lien search	144.00	[A]
	Certified lien search	128.00	[A]
	Certified condominium lien search	191.00	[A]
	Expedited certified lien search	315.00	[A]
	Expedited certified condominium lien search	377.00	[A]
	Article VII. Standards of Conduct		
	Division 3. Lobbyists		
2-482(a)	Registration fee per issue	350.00	N/A
2-482(f)	Annual registration fee	500.00	N/A
	Administrative Hearing Fees:		
	Initial Fee	128.00	[A]
	Fee for Appeal	128.00	[A}
	Chapter 6. Alcoholic Beverages		
	Article I. In General		

6-2(a)	Service charge for review of application for license	503.00	[A]
	Chapter 14. Building Regulations Part I		
	Article II. Construction Standards		
	Division 1. Generally		
14-33(b)	Delinquency penalty for violation of article:		
	First month, 10%		
	Subsequent months, 5%		
14-37	Hearing requested by aggrieved owner/applicant for denial of certificate of use, determination of fees/penalties due, and/or warning of potential suspension/revocation	75.00	N/A
	Division 2. Permit Fees		
14-61(b)	Double fees for starting work prior to issuance of permit, plus the following penalty:		
	First offense	500.00	N/A
	Second offense	1,000.00	N/A
	Subsequent offenses	2,000.00	N/A
14-61(c)(1)	Reinspection fee:		

	In compliance with F.S. § 553.80(2)(c), any inspection after an initial inspection and one subsequent reinspection, shall be charged a fee of four times the amount of the fee imposed for the initial inspection or first reinspection, whichever is greater, for each such subsequent reinspection.	104.00	N/A
14-61(d)	Records request/Lost plans fee:		
	Plus the cost per page reproduced:		
	• Letter (8½ × 11), Legal (8½ × 14), single-sided, per page	0.15	N/A
	• Letter (8½ × 11), double-sided, per page	0.20	N/A
	• Certified documents (letter or legal)	1.00	N/A
	Documents on Compact Discs (CDs)	3.00	N/A
	Reproduction of documents beyond legal	At cost to City	N/A
14-61(e)	Revised plans processing fee:		
	Commercial minor revisions: 1 to 5 pages	244.00	[A]
	Commercial minor revisions: 6 to 35 pages	627.00	[A]
	Commercial major revisions: over 35 pages	26.00 per page	[A]
	Commercial total revision when determined by the building official	50% of Original Permit Fee	N/A

	Residential minor revision: 1 to 5 pages	124.00	[A]
	Residential minor revision: 6 to 15 pages	253.00	[A]
	Residential major revisions: over 15 pages	26.00 per page	[A]
	Residential total revision when determined by the building official	50% of Original Permit Fee	N/A
14-61(f)	Lost permit card, Fee per required signature	103.00	[A]
14-61(g)	Inspection fee hourly rate:		
	The inspection fee hourly rate is calculated at the beginning of each fiscal year based on the department's approved budget, overhead and indirect costs and the resources assigned to the inspection program		
14-61(h)	Plans re-review fee:		
	First and second re-review	0.00	N/A
	Plans re-review fee. Pursuant to the Florida Building Commission, and in compliance with F.S. § 553.80(2)(b), when extra plans reviews are due to the failure to correct code rejections specifically and continuously noted in each rejection, each time after the third such review that plans are rejected for the same code rejections, a fee of $250.00 per discipline shall be attributed to plans review	305.00	[A]

14-61(i)	Expedited plan review and inspection fee: Upon request from the applicant, the department may schedule an expedited plans review by department staff.	3057.00 for each review or inspection requested	[A]
14-61(j)	Administrative processing fee for all supplementary processes and permits for work not identified in "Appendix A"	62 minimum fee	[A]
14-61(n)	Phase permits:		
	Commercial new construction	6,071.00	[A]
	Commercial alteration	4,856.00	[A]
	Residential new construction Single-family residence	2,429.00	[A]
14-61(p)	Photovoltaic fees	0.00	N/A
14-62(a)	Up-front processing fee: Percent of estimated permit fee or the minimum processing fee, whichever is greater		
	Percent of estimated permit fee rounded up to the nearest $5.00 increment	20%	N/A
	Minimum up-front fee	65.00	[A]
14-62(b)(4)	Change of contractor	124.00	[A]
14-62(b)(4)	Change of architect or engineer	124.00	[A]

14-62(b)(6)	One-time request for building permit extension (permit must not be expired)	124.00	[A]
14-62(b)(6)	Additional request for building permit extension (permit must not be expired): 50 percent of building permit fee line item only	50%	N/A
	Renewal of expired permits:		
14-62(b)(7)	New or renewed permits for expired, revoked and nullified or voided permits	25% of original permit fee	N/A
14-62(b)(7)	Processing fee	124.00	[A]
14-62(c)	Building permit fees:		
	Commercial Permit Fees for Building Permits:		
	New construction minimum fee	172.00	[A]
	Alterations minimum permit fee	124.00	[A]
	Permit fee for a building whose estimated construction cost is equal to or less than $35 million is 1.9% of the cost of construction as approved by the building official or his or her designee, plus 1.0% of the construction cost for any amount over $35 million but less than or equal to $100 million; and 0.25% of costs exceeding $100 million as approved by the building official or his or her designee.		N/A

	Due to hurricane events, fees for minor repairs under a total value of $20,000, the above fee (14-62(c)) shall be reduced by 40% for the following period: Three months from the hurricane event to pull permit. This does not apply to any permits needed for railing repairs and all repairs must be of a substantially similar design, quality and appearance.		N/A
	Residential Permit Fees for Building Permits:		
	New construction minimum permit fee	148.00	[A]
	Alterations minimum permit fee	111.00	[A]
	Residential: Single-family, Duplex: Permit fee for a building whose estimated construction cost is equal to or less than $1.5 million is 1.7% of the cost of construction as approved by the building official or his or her designee, plus 1.0% of the construction cost for any amount over $1.5 million as approved by the building official or his or her designee		N/A
	Due to hurricane events, fees for minor repairs under a total value of $20,000, the above fee (14-62(c)] shall be reduced by 40% for the following period: Three months from the hurricane event to pull permit. This does not apply to any permits needed for railing repairs and all repairs must be of a substantially similar design, quality and appearance.		N/A
	Temporary and Special Event Fees:		

	Temporary platforms for public assembly, first approval	184.00	[A]
	Temporary bleachers for public assembly, first approval	184.00	[A]
	Temporary platforms or bleachers for public assembly, re-approval	124.00	[A]
	Tents excluding electric and plumbing, per tent		
	• Up to 1,000 square feet	184.00	[A]
	• Each additional 1,000 square feet over 1,000	62.00	[A]
	Temporary structure/trusses/statues (no electrical or plumbing included)	184.00	[A]
	Temporary chiller	608.00	[A}
	Temporary generator	608.00	[A}
	Construction trailer, per trailer	608.00	[A]
	Office trailer, per trailer	608.00	[A]
	Temporary power for construction	366.00	[A]
	Temporary power for test	222.00	[A]
	Temporary multi-seat toilet trailer, per trailer	124.00	[A]
	Temporary individual toilet, per event	62.00	[A]
	Temporary fencing	184.00	[A]

	Electrical installation - Small events (1—10 tents, bleachers, stages and other structures)	305.00	[A]
	Electrical installation - Large events (more than 10 tents, bleachers, stages and other structures)	608.00	[A]
	Mechanical installation - Small events (1—10 tents, bleachers, stages and other structures)	305.00	[A]
	Mechanical installation - Large events (more than 10 tents, bleachers, stages and other structures)	608.00	[A]
	Plumbing installation - Small events (1—10 tents, bleachers, stages and other structures)	305.00	[A]
	Plumbing installation - Large events (more than 10 tents, bleachers, stages and other structures)	608.00	[A]
14-63	Plumbing permit fees:		
	Minimum plumbing permit fee	1242.00	[A]
	This minimum does not apply to permits issued as supplementary to current outstanding permits for the same job		
	Commercial Permit Fees for Plumbing Permits:		

	Permit fee for a building whose estimated construction cost is equal to or less than $35 million is 1.9% of the cost of construction as approved by the building official or his or her designee, plus 1.0% of the construction cost for any amount over $35 million but less than or equal to $100 million; and 0.25% of costs exceeding $100 million as approved by the building official or his or her designee		N/A
	Residential Permit Fees for Plumbing Permits:		
	Residential: Single-family, Duplex: Permit fee for a building whose estimated construction cost is equal to or less than $35 million is 1.9% of the cost of construction as approved by the building official or his or her designee, plus 1.0% of the construction cost for any amount over $35 million but less than or equal to $100 million; and 0.25% of costs exceeding $100 million as approved by the building official or his or her designee		N/A
14-64	Electrical permit fees:		
	Minimum electrical permit fee: This minimum does not apply to permits issued as supplementary to current outstanding permits for the same job	124.00	[A]
	Commercial Permit Fees for Electrical Permits:		

	Permit fee for a building whose estimated construction cost is equal to or less than $35 million is 1.9% of the cost of construction as approved by the building official or his or her designee, plus 1.0% of the construction cost for any amount over $35 million but less than or equal to $100 million; and 0.25% of costs exceeding $100 million as approved by the building official or his or her designee		N/A
	Residential Permit Fees for Electrical Permits:		
	Residential: Single-family, Duplex: Permit fee for a building whose estimated construction cost is equal to or less than $35 million is 1.9% of the cost of construction as approved by the building official or his or her designee, plus 1.0% of the construction cost for any amount over $35 million but less than or equal to $100 million; and 0.25% of costs exceeding $100 million as approved by the building official or his or her designee		N/A
14-65	Mechanical permit fees:		
	Minimum mechanical permit fee. This minimum does not apply to permits issued as supplementary to current outstanding permits for the same job	124.00	[A]
	Commercial Permit Fees for Mechanical Permits:		

	Permit fee for a building whose estimated construction cost is equal to or less than $35 million is 1.9% of the cost of construction as approved by the building official or his or her designee, plus 1.0% of the construction cost for any amount over $35 million but less than or equal to $100 million; and 0.25% of costs exceeding $100 million as approved by the building official or his or her designee		N/A
	Residential Permit Fees for Mechanical Permits:		
	Permit fee for a building whose estimated construction cost is equal to or less than $35 million is 1.9% of the cost of construction as approved by the building official or his or her designee, plus 1.0% of the construction cost for any amount over $35 million but less than or equal to $100 million; and 0.25% of costs exceeding $100 million as approved by the building official or his or her designee		N/A
	Smoke control test		
	• Up to 10,000 square feet	244.00	[A]
	• 10,000 to 50,000 square feet	608.00	[A]
	• Over 50,000 square feet	1,216.00	[A]
	Elevators, escalators and other lifting apparatus:		

	Permit for new installation or major revamping per ASME A17.1 Section 8.7 Building permit required (includes initial inspection and certificate)		
	Installation of traction elevators and escalators, per unit		
	• Up to three stories	3,327.00	[A]
	• 3—10 stories	4,057.00	[A]
	• Each additional story over 10	129.00	[A]
	Installation of hydraulic elevator, per unit		
	• Up to three stories	1,734.00	[A]
	• 3—10 stories	2,204.00	[A]
	Installation of escalator, per unit	3,238.00	[A]
	Installation of parking lifts, per unit	302.00	[A]
	Installation of robotic parking, per apparatus	4,500.00	[A]
	Installation of residential elevator, per unit	1,820.00	[A]
	Installation of wheelchair lift, chair stairs and dumbwaiter	1,465.00	[A]
	Elevator Repair and Maintenance		
	Annual maintenance repair permit (not to include major revamping)	904.00	[A]

	Repairs (value over $5,000.00) per ASME 17.1, Section 8.62	952.00	[A]
	Repairs (jack/oil lines) up to $5,000.00	377.00	[A]
	Repairs (cab interior/other) up to $5,000.00	377.00	[A]
	Roof window cleaning machine, each machine	164.00	[A]
	Permit for removal of elevator from service	857.00	[A]
	Elevator tests, temporary use, variances and compliance inspections:		
	Emergency power test	1,628.00	[A]
	Elevator fire recall test, per unit	1,535.00	[A]
	Temporary use permit (must be renewed every 30 days)	1,977.00	[A]
	Temporary use renewal	153.00	[A]
	Application for variances from codes to install or modernize equipment	782.00	[A]
	Annual fees for certificate of operation and inspection		
	Certificate of operation for each unit (mandated)	115.00	[A]
	Renewal of delinquent certificate of operation	153.00	[A]
	Duplicate certificate of operation (mandated)	40.00	[A]

	Dumbwaiters, elevators and escalators — Certificate and inspection:		
	Monitoring/jurisdictional fee	302.00	[A]
	Reinspection fee, each reinspection	159.00	[A]
	Compliance inspection if witnessed test failed, per inspection	159.00	[A]
	Elevator and escalator renewal late fee	228.00	[A]
	Elevator expired permit renewal fee	128.00	[A]
	Elevator permit renewal processing fee	74.00	[A]
	Expedited plan review and inspection fee. Upon request from the applicant, the department may schedule an expedited plans review or inspection on an overtime basis by department staff, per each review or inspection requested	315.00	[A]
	Any elevator, escalator, etc., owner who fails to comply with the order to correct a violation issued within 30 days, is subject to an administrative fine up to $500.00 in addition to any other penalty provided by law. Fines can be imposed for every 30-day period that the violation remains active		N/A
	These fines, before or after paid, can be appealed to the department director whose decision shall be final. No clearance for the use of the elevator shall be given until these fines have been paid or waived		

	Elevator Lockbox	83.00	[A]
	Boilers and pressure vessels, installation permit fees, including initial inspections and certificate; does not include installation or connection of fuel and water lines:		
	Boilers (as defined in the ASME Boiler and Pressure Vessel Code):		
	Annual inspection for boilers	318.00	[A]
14-66(1)	Certificate of occupancy fees:		
	Residential units R-1, R-2, and R-3, per unit	184.00	[A]
	All commercial occupancies except residential units, per square foot	0.07	N/A
	Minimum fee for commercial certificates of occupancy	305.00	[A]
	When a temporary certificate of occupancy or completion has been issued and the fee has been paid, the fee for a final certificate of occupancy or completion	0.00	N/A
14-66(1)	Temporary certificate of occupancy or completion fees:		

	100% of final certificate of occupancy or completion and letter of final completion fee plus the cost of any additional required inspections. Additional required inspections will be charge based on actual time spent on inspection multiplied	244.00	[A]
	Extension of temporary certificate of occupancy or completion, per period as set by the building official. Percent of final certificate of occupancy or completion fee:	100%	N/A
	Forty-year recertification program fee:		
14-67(a)	Per building	1,045.00	[A]
	Building official approval of 6-month extension for building recertifications	1,045.00	[A]
14-67(c)	Late report fee if recertification not completed within 90 days of building's being declared unsafe	1,099.00	[A]
14-67(e)	Lat submission fee for buildings greater than five floors for annual structural maintenance lot after a 30-day notice	1,099.00	[A]
14-69	Employee training, education, safety, and technology procurement and implementation for service enhancement surcharge	6% of each and every building permit fee	N/A
14-70	Other general fees		

14-70(1)	Pursuant to Florida Statutes § 553.721, in order for the department of business and professional regulation to administer the Florida Building Code, there is created a surcharge to be assessed at the rate of 1.0 percent of the permit fee associated with enforcement of the Florida Building Code. The minimum amount collected on any permit issued shall be $2.00		N/A
14-70(2)	Pursuant to Miami-Dade County Ordinance 8-12(e), a surcharge to building permits for county code compliance program, per $1,000.00 of work valuation	0.60	N/A
14-70(3)	Pursuant to Florida Statutes § 468.631, the building code administrator's and inspector's fund shall be funded through a surcharge to be assessed at the rate of 1.5 percent of all permit fees associated with enforcement of the Florida Building Code. The minimum amount collected on any permit issued shall be $2.00		N/A
14-70(5)	Sanitation surcharge for all building, electrical, plumbing, mechanical demolition permits, 0.30 percent of estimated cost of project:		
	Minimum	15.00	N/A
	Maximum	1,822.00	[A]
14-70(6)	A separate fire safety, public works and/or zoning review fee associated with the building permit process shall be charged as outlined in appendix A. See applicable department fee sections		

14-72(1)	Interest and collection fees shall be charged for unpaid amounts (fees) due		
14-72(2)	Documents. Requests for copies of building department records, inspection reports, logs, or similar documents maintained by the building department will be charged a fee as specified in subsection 14-61(d) of appendix A		
	Chapter 15. Zoning Review Fee Associated with Building Permit Process		
	Planning Fees Associated with the Building Permit Process:		
15-31(a)	Planning review fee for a commercial building permit shall be assessed at .70% of the cost of construction		N/A
15-31(a)	Planning review fee for a residential building permit shall be assessed at .50% of the cost of construction		N/A
15-31(b)	Double fees for work prior to issuance of permit, plus penalties shall be consistent with subsection 14-61(b)		
15-31(c)(1)	Reinspection fees shall be consistent with subsection 14-61(c)(1)		
15-31(d)	Lost Plans fee shall be consistent with subsection 14-61(d). Planning shall not assess administrative processing fee		
15-31(e)	Revised Plan Review fee:		

	Commercial (Minimum of one page charge)	49.00 per page	[A]
	Residential (Minimum of one page charge)	26.00 per page	[A]
15-31(f)	Lost Permit Card fee shall be consistent with subsection 14-61(f)		
15-31(g)	Inspection Fee hourly rate. As determined by the department at the beginning of each fiscal year		
15-31(h)	Plans re-review fee shall be consistent with subsection 14-61(h)		
15-31(i)	Expedited plans review and inspections in addition to all applicable fees:		
	Expedited plans review (not to exceed 4 hours)	627.00	[A]
	Expedited inspection	191.00	[A]
15-31(n)	Phased Permit. If department review of Phase Permit application is required, a fee consistent with subsection 14-61(n) shall be assessed		
15-32(a)(1), (2)	Upfront Fee shall be consistent with subsection 14-62(a)		
15-32(b)	Refunds, time limitations, cancellations, change of contractors shall be processed and fees assessed consistent with subsections 14-62(b)(4), (5), (6), (7)		

15-33	Certificate of occupancy or completion shall be processed and fees assessed consistent with subsection 14-66(1)		
15-35	Employee training, education, safety and technology enhancements and other surcharge will be assessed consistent with subsection 14-69, 14-70(1), (2), (3), (5) as applicable		
15-36(a)	Interest and collection fees shall be charged for unpaid amounts (fees) due		N/A
15-36(b)	Documents. Requests for copies of department records, inspection reports, logs, or other similar documents maintained by the department will be charged a fee consistent with subsection 14-61(d)		
	Minimum Planning fee associated with a building permit	91.00	[A]
	Chapter 18. Businesses		
	Article XV. Street Performers and Vendors		
18-903(3)f	Artist Vendor Certificate Fees:		
	For a three-month certificate	33.00	[A]
	For a six-month certificate	61.00	[A]
	For a nine-month certificate	87.00	[A]
	For a one-year certificate	108.00	[A]

	Artist vendor and street performer lottery application	65.00	[A]
	Artist vendor and street performer lottery winner	128.00	[A]
	Non-profit lottery application fee	171.00	[A]
	Chapter 42. Emergency Services		
	Article II. Alarm Systems		
	Division 3. Burglar Alarms		
42-84(a)	Renewal of alarm registration fee	10.00	N/A
	Chapter 46. Environment		
	Article III. Litter		
	Division 1. Generally		
	Tree removal permit—Plan review fees:		
	Single-family residential	232.00	[A]
	Multifamily residential	287.00	[A]
	Business/commercial	342.00	[A]
	Right-of-way/swale	232.00	[A]
	Permits issued after tree has already been removed are doubled		N/A
	Tree removal permit—Site inspection fees:		
	Single-family residential	113.00	[A]

	Multifamily residential	113.00	[A]
	Business/Commercial	113.00	[A]
	Right-of-way/swale	113.00	[A]
	Plus additional inspection fee per tree (Single-family/Multifamily/Business/Commercial)	32.00	[A]
	Plus additional inspection fee per tree (Right-of-Way/Swale)	19.00	[A]
	Tree removal permit—Donations/contributions in lieu of planting required mitigation trees:		
	Mitigation Shortfall to Tree Trust Fund (per tree)	1,216.00	[A]
	Commemorative trees:		
	Large tree	3,749.00	[A]
	Medium tree	2,189.00	[A]
	Small tree	627.00	[A]
	Chapter 50. Fire Prevention and Protection		
50-3(a)	Fire review fee for a commercial building permit shall be assessed at .70% of the cost of construction		N/A
50-3(a)	Fire review fee for a residential building permit shall be assessed at .50% of the cost of construction		N/A

50-3(b)	Double Fees for work prior to issuance of a permit, plus penalties shall be consistent with subsection 14-61(b)		
50-3(c)(1)	Reinspection fees shall be consistent with subsection 14-61(c)(1)		
50-3(d)	Lost plans fee shall be consistent with subsection 14-61(d). Fire [Department] shall not assess administrative processing fee		
50-3(e)	Revised Plans Review fee shall be consisted with subsection 14-61(e)		
50-3(f)	Lost Permit Card Fee shall be consistent with subsection 14-61(f)		
50-3(g)	Inspection Fee hourly rate. As determined by the department at the beginning of each year		
50-3(h)	Plans re-review fee shall be consistent with subsection 14-61(h)		
50-3(i)	Expedited plans review and inspections in addition to all applicable fees		
	Expedited plans review (not to exceed 4 hours)	315.00	[A]
	Expedited inspection	315.00	[A]
50-3(n)	Phased Permit. If department review of Phase Permit application is requested, a fee consistent with subsection 14-61(n) shall be assessed		

50-3(p)	Specialty Permits. Building: Temporary/special events permits		
	Temporary structure/trusses/statues (not including tents, platforms or bleachers)	94.00	[A]
	Temporary platforms for public assembly, first approval	229.00	[A]
	Temporary bleachers for public assembly, first approval	209.00	[A]
	Temporary platforms/bleachers for public assembly, re-approval	30.00	[A]
	Tents up to 1,000 square feet per unit	174.00	[A]
	Tents each additional 1,000 square feet over 1,000 per unit	50.00	[A]
	Construction trailer, per trailer	177.00	[A]
	Office trailer, per trailer	177.00	[A]
50-4(a)(1), (2)	Upfront Fee shall be consistent with subsection 14-62(a)		
50-4(b)	Refunds, time limitations, cancellations, change of contractors shall be processed and fees assessed consistent with subsections 14-62(b)(4), (5), (6), (7)		
50-5(1)(a), (b)	Certificate of occupancy or completion shall be processed and fees assessed consistent with subsection 14-66(1)		

50-7	Employee training, education, safety and technology enhancements and other surcharge will be assessed consistent with subsection 14-69, 14-70(1), (2), (3), (5), as applicable		
50-8(b)	Documents, Requests for copies of department records, inspection reports, logs or other similar documents maintained by the department will be charged a fee consistent with subsection 14-61(d)		
50-9	Interest and collection fees shall be charged for unpaid amounts (fees) due		
	Minimum Fire fee associated with a building permit	91.00	[A]
50-10(a)	Fire permits		
	Sprinkler/standpipe systems based on area of work		
	• Up to 2,500 square feet	741.00	[A]
	• 2,501 to 3,000 square feet	806.00	[A]
	• 3,001 to 5,000 square feet	930.00	[A]
	• 5,001 to 10,000 square feet	1,269.00	[A]
	• 10,001 to 15,000 square feet	1,390.00	[A]
	• 15,001 to 30,000 square feet	1,887.00	[A]
	• 30,001 to 75,000 square feet	3,371.00	[A]
	• 75,001 to 100,000 square feet	4,948.00	[A]

	• 100,001 to 150,000 square feet	7,049.00	[A]
	• 150,001 to 500,000 square feet	20,960.00	[A]
	• Over 500,001 square feet	24,698.00	[A]
	Standpipe systems only (no sprinkler system) per 100 feet	315.00	[A]
	Fire pump acceptance testing	373.00	[A]
	Pressure reducing valve acceptance testing	1,039.00	[A]
	Minor work on existing sprinkler system (1—5 components)	86.00	[A]
	Minor work on existing sprinkler system (6—15 components)	263.00	[A]
	Replace sprinkler heads (more than 15)		
	• Up to 2,500 square feet	220.00	[A]
	• 2,501 to 3,000 square feet	251.00	[A]
	• 3,001 to 5,000 square feet	313.00	[A]
	• 5,001 to 10,000 square feet	374.00	[A]
	• 10,001 to 15,000 square feet	437.00	[A]
	• 15,001 to 30,000 square feet	620.00	[A]
	• 30,001 to 75,000 square feet	1,363.00	[A]
	• 75,001 to 100,000 square feet	1,981.00	[A]

	• 100,001 square feet and up	2,907.00	[A]
50-10(a)	Fire alarm system based on area of work		
	• Up to 2,500 square feet	392.00	[A]
	• 2,501 to 3,000 square feet	462.00	[A]
	• 3,001 to 5,000 square feet	527.00	[A]
	• 5,001 to 10,000 square feet	708.00	[A]
	• 10,001 to 15,000 square feet	772.00	[A]
	• 15,001 to 30,000 square feet	958.00	[A]
	• 30,001 to 75,000 square feet	1,453.00	[A]
	• 75,001 to 100,000 square feet	1,919.00	[A]
	• 100,001 to 150,000 square feet	3,060.00	[A]
	• 150,001 to 500,000 square feet	8,998.00	[A]
	• 500,001 to 1,000,000 square feet	10,973.00	[A]
	• Repair and replace fire alarm panel only		
	• Up to 2,500	102.00	[A]
	• 2,501 to 3,000	102.00	[A]
	• 3,001 to 5,000	121.00	[A]
	• 5,001 to 10,000	140.00	[A]
	• 10,001 to 15,000	140.00	[A]

	• 15,001 to 30,000	175.00	[A]
	• 30,001 to 75,000	251.00	[A]
	• 75,001 to 100,000	509.00	[A]
	• 100,001 to 150,000	595.00	[A]
	• 150,001 to 500,000	1,846.00	[A]
	• Over 500,000	2,141.00	[A]
	Installation of new single station smoke detectors		
	• Under 5 devices, minimum	132.00	[A]
	• Up to 25 devices	586.00	[A]
	• Per additional 25 devices beyond the initial 25 or fraction thereof, above fee plus	392.00	[A]
	Minor work on existing fire alarm system (1—5 components)	53.00	[A]
	Minor work on existing fire alarm system (6—15 components)	255.00	[A]
50-10(a)	Fire suppression system. Localized suppression system (cooking hood, paint booth, etc.), per unit or system. Multiple systems in same area (i.e., kitchen) will be charged at 50% of above fee for each additional system	310.00	[A]
50-10(a)	Fire suppression system. Room suppression system (computer hood, electrical rooms, etc.), per unit or system	806.00	[A]

	Minor work on existing fire suppression system (1—5 components)	74.00	[A]
50-10(b)	Hydrant flow test	308.00	[A]
50-10(c)	Occupant content sign	308.00	[A]
50-10(d)	Pyrotechnic display permit	275.00	[A]
50-10(e)	Fireworks permit	405.00	[A]
50-10(f)	Open burning permit	275.00	[A]
50-10(g)	Bonfire permit	184.00	[A]
50-10(h)	Special events fees: See subsection 50-3(p)		
50-10(i)	Trade shows (fee for event plans covering MBCC or similar facility hall area or part thereof)	191.00	[A]
50-10(j)	Sidewalk cafes—Propane tank heaters per establishment	33.00	[A]
50-10(k)	Special master cases	128.00	[A]
50-10(l)	Documents. Requests for copies of department records, inspection reports, logs or other similar documents maintained by the department will be charged a fee consistent with subsection 14-61(d)		
	Fees for the issuance of the fire safety permit and the annual renewal thereof:		
50-12(a)—(e)	Assembly occupancies:		

	Class A—occupant load greater than 1,000 persons	147.00	[A]
	Class B—occupant load greater than 300 but not greater than 1,000 persons	110.00	[A]
	Class C—occupant load of 50 or more but not > 300 persons	75.00	[A]
	Educational occupancies:		
	Schools (private)—educational facilities inclusive of the first to the 12th grade:		
	Buildings up to 10,000 square feet	75.00	[A]
	Buildings greater than 10,000 square feet	75.00	[A]
	Plus, for each additional 1,000 square feet	1.47	[B]
	Nurseries, day care centers, kindergartens—educational facilities up to but not including the first grade	75.00	[A]
50-12(a)—(e)	Health care occupancies:		
	Private hospitals, nursing homes, limited care facilities:		
	Up to 100 beds	181.00	[A]
	Over 100 beds	181.00	[A]
	Plus, per bed over 100	1.82	[B]

50-12(a)—(e)	Residential occupancies:		
	Apartment buildings:		
	3—11 dwelling units	75.00	[A]
	12—50 dwelling units	103.00	[A]
	Over 50 dwelling units	103.00	[A]
	Plus, per unit over 50	2.90	[B]
	Hotel, motel, dormitories, lodging house or rooming house:		
	3—50 rental sleeping units	103.00	[A]
	Over 50 sleeping units	103.00	[A]
	Plus, per unit over 50	2.90	[B]
	Board and care facilities:		
	Small facilities—Not more than 16 residents	103.00	[A]
	Large facilities—More than 16 residents	103.00	[A]
	Plus, per unit over 16	2.90	[B]
50-12(a)—(e)	Mercantile occupancies:		

	Class A—all stores having an aggregate gross area of more than 30,000 square feet or utilizing more than three levels, excluding mezzanines, for sales purposes	110.00	[A]
	Plus, 1,000 square feet over 30,000 square feet	1.47	[B]
	Class B—all stores of more than 3,000 square feet but not more than 30,000 square feet aggregate gross area, or	110.00	[A]
	utilizing floors above or below the street floor level for sales	110.00	[A]
	Class C—all stores of not more than 3,000 square feet gross area used for sales purposes on one story only	75.00	[A]
50-12(a)—(e)	Business occupancies:		
	General offices, including doctors', dentists', and outpatient clinics (ambulatory):		
	Up to 5,000 square feet	75.00	[A]
	Over 5,000 square feet	75.00	[A]
	Plus, for each additional 1,000 square feet	1.47	[B]
	Colleges and university instructional buildings, classrooms under 50 persons and instructional laboratories	75.00	
	Plus, for each classroom	1.47	[B]

50-12(a)—(e)	Industrial occupancies:		
	General industrial occupancies—industrial operations conducted in buildings of conventional design suitable for various types of industrial processes; subject to possible use for types of industrial processes with high density of employee population:		
	Up to 5,000 square feet	75.00	[A]
	Over 5,000 square feet	75.00	[A]
	Plus, for each additional 1,000 square feet	1.47	[B]
	Special purpose industrial occupancies—industrial operations in buildings designed for and suitable only for particular types of operations, characterizes by a relatively low density of employee population, with much of the area occupied by machinery or equipment		
	Up to 5,000 square feet	110.00	[A]
	Over 5,000 square feet	110.00	[A]
	Plus, for each additional 1,000 square feet	1.82	[B]
	High hazard industrial occupancies—buildings having high hazard materials, processes, or contents:		
	Up to 5,000 square feet	147.00	[A]

	Over 5,000 square feet	147.00	[A]
	Plus, for each additional 1,000 square feet	2.20	[B]
50-12(a)—(e)	Storage occupancies:		
	Low hazard contents—classified as those of such low combustibility that no self-propagating fire therein can occur	75.00	[A]
	Ordinary hazard contents—classified as those that are likely to burn with moderate rapidity or to give off a considerable volume of smoke:		
	Up to 10,000 square feet	110.00	[A]
	Over 10,000 square feet	110.00	[A]
	Plus, for each additional 2,000 square feet	1.82	[B]
	High hazard contents—classified as those that are likely to burn with extreme rapidity or from which explosions are likely:		
	Up to 5,000 square feet	147.00	[A]
	Over 5,000 square feet	147.00	[A]
	Plus, for each additional 1,000 square feet	2.20	[B]
50-12(a)—(e)	Marinas:		
	3 to 12 boat slips	75.00	[A]

	13 to 50 boat slips	133.00	[A]
	Over 50 boat slips	133.00	[A]
	Plus, per slip over 50	2.20	[B]
50-12(a)—(e)	Hazardous material permit fee	191.00	[A]
	Late permit fee, after 30 days	315.00	[A]
	Late permit fee, after 90 days	627.00	[A]
50-12(a)—(e)	Placard fee for hazardous materials	65.00	[A]
	Chapter 58. Housing		
	Article III. Property Maintenance Standards		
	Division 2. Administration		
	Subdivision II. City Manager's Designee		
58-233	Appeals from actions or decisions of city manager's designee	315.00	[A]
	Division 3. Minimum Standards		

58-301(b)	Administrative charges for providing notice to the owner of any lot, parcel or tract of land within the city of the failure of the owner to keep such premises clean and free of vegetation in accordance with city ordinances and a request to remedy the condition within a certain timeframe (or else the city will remedy the situation and bill the owner for the associated costs)	96.00	[A]
	Chapter 62. Human Relations		
	Article II. Discrimination		
	Division 3. Regulations		
62-162(d)(4)	Registering the declaration of registered domestic partnership	50.00	N/A
	Amending or terminating the declaration of registered domestic partnership	25.00	N/A
	Chapter 66. Marine Structures, Facilities and Vehicles		
	Article III. Piers, Docks and Boat Ramps		
66-114(a)	Plans review fee shall be consistent with subsection 14-61(h). Up-front processing fee shall be consistent with subsection 14-62(a)		
66-114(b)	Reinspection fees shall be consistent with subsection 14-61(c)(1)		
	Chapter 74. Peddlers and Solicitors		

	Article II. Charitable Solicitations		
	Division 2. Permit		
74-72	Permit fee	10.00	N/A
	Chapter 82. Public Property		
	Article III. Use of Public Property		
	Division 2. Revocable Permit		
82-92(9)	Application fee	1,251.00	[A]
	Mailing fee, per address within 375 feet of subject property	0.65	[B]
	Involving use of city property	3,749.00	[A]
82-95(b)	Non-waterfront property for single-family use, per square foot subject to permit	0.59	[B]
	Maximum	9,371.00	[A]
	Non-waterfront property for multifamily or commercial use, per square foot subject to permit	1.15	[B]
	Waterfront property, regardless of use, per square foot subject to the permit	1.59	[B]
82-96(g)	Commercial Outdoor Fee Based Activity permit fee	253.00	[A]
82-96(g)	Commercial Outdoor Fee Based Activity application fee	65.00	[A]
	Article IV. Use in Public Rights-of-Way		

	Division 2. Temporary Obstructions		
82-151(c)(4)	Base fee	40.00	[A]
	Plus, per lineal foot of street obstructed, per day	0.33	[B]
82-151(e)	Applications for hearing	96.00	[A]
	Division 3. Newsracks		
	Subdivision II. Administration and Enforcement		
82-204(a)(1)	Newsrack removal fee	65.00	[A]
	Newsrack storage fee per day	6.27	[B]
82-204(a)(2)	Removal and storage fee deposit upon filing of a request for hearing	33.00	[A]
82-204(b)	Reinspection fee	31.25	[B]
	Subdivision III. Registration		
82-231(b)(3)a	Per publisher, for any number of newsracks	9.61	[B]
82-231(b)(3)b	At initial registration, per newsrack	9.78	[B]
	Registration of at least 20 newsracks, per newsrack	4.91	[B]
	Division 4. Pay Telephones		

	Subdivision II. Permit		
82-307(a)	Annual fee for pay telephones provided by local exchange companies for local service only	464.00	[A]
82-307(b)	Annual fee for all other pay telephones providers, for each pay telephone installed	815.00	[A]
	Or, if a commission is paid to a private premises owner, an initial permit fee shall be paid of	315.00	[A]
	Upon renewal, an additional permit fee shall be paid, equal to the difference between $650.00 and the commission paid to the private premises owner, plus $250.00		
82-307(c)	The first $250.00 of all annual permit fees shall be nonrefundable		
82-307(d)	Late payments, per month	25.00	N/A
	Subdivision III. Regulations		
82-341(j)	Retroactive annual permit fee for existing pay telephones:		
	Minimum	128.00	[A]
	Maximum	815.00	[A]
	Article V. Beaches		
	Division 2. Restricted Areas		
82-468(c)	Kiteboard operator permit (Note: Permit duration for 5 years)	60.00	[A]

	Chapter 86. Sales		
	Article II. Garage Sales		
	Division 2. Permit		
86-56(b)	Permit, each (for non-online application)	20.00	N/A
	Article III. Nonprofit Vending and Distribution		
	Division 2. Permit		
86-173	Permit fee, per application, not less than	20.00	N/A
	Division 4. Enforcement		
	Chapter 90. Solid Waste		
	Article III. Collection and Disposal		
	Division 3. Rates, Charges, Billing Procedures		
90-137(a)†	Single-family residences, per month*	47.45	[E]
†	Apartments, condominiums with less than nine (9) dwelling units, per month per dwelling unit*	43.02	[E]
	† The FY 2024 fees will be calculated upon the receipt of the Miami-Dade County notification and CPI percentage in October. Once received, the solid waste feet will be updated to be effective on January 1, 2024		
	Article IV. Private Waste Collectors/Contractors		
	Division 4. Specialty Contractors		

	Subdivision II. Rolloff Waste Container Contractors		
90-276(2)	Annual Permit Fee	1,178.00	[A]
90-278(1)	When rolloff is located in parking meter spaces, per meter, per day	5.00	N/A
90-278(4)	Failure to timely submit the monthly report	50.00	N/A
90-278(6)	Failure to timely pay license fee	50.00	N/A
	Subdivision IV. Hazardous, Biohazardous Waste Containers		
90-332(b)	Annual fee, each permit	33.00	[A]
	Chapter 98. Streets and Sidewalks		
	Article III. Excavations		
	Division 2. Permit		
98-92(c)(1)	Street excavation permit:		
	50 lineal feet or less	457.00	[A]
	Each additional lineal foot	3.84	[B]
98-92(c)(2)	Sidewalk repair permit:		
	50 lineal feet or less	376.00	[A]
	Each additional lineal foot	3.84	[B]
98-92(c)(3)	Sidewalk construction permit:		
	50 lineal feet or less	342.00	[A]

	Each additional lineal foot	3.84	[B]
98-92(c)(4)	Paving or resurfacing of parkway or shoulder area permit:		
	25 lineal feet or less	376.00	[A]
	Each additional lineal foot	8.12	[B]
98-92(c)(5)	Landscaping, per tree	132.00	[A]
98-92(c)(6)	Landscaping, bedding	132.00	[A]
98-92(c)(7)	Building line and grade survey permit:		
	50 lineal feet or less	457.00	[A]
	Each additional lineal foot	9.08	[B]
98-92(c)(8)	Driveway construction permit, each driveway	164.00	[A]
98-92(c)(9)	Flume excavation permit, each excavation	376.00	[A]
98-92(c)(10)	Utility placement permit, poles, splice pits, manholes, hand holes, catch basins, pedestals, vaults and auger holes	376.00	[A]
	Plus, for each additional, per block on same permit	18.15	[B]
98-92(c)(11)	Underground utility service connection right-of-way excavation permit, each water, gas, electric, telephone, cable, television or sanitary sewer connection from base building line to the utility located within the public right-of-way	376.00	[A]

98-92(c)(12)	Groundwater monitoring wells, each well	376.00	[A]
98-92(c)(13)	Permit renewal fee: 90-day extension of permit fee expiration date	164.00	[A]
98-92(c)(14)	After-the-fact permit fee. For any work described in (1) through (12), (16) and (17) herein, performed without proper permits and inspections, quadruple the fees		
98-92(c)(15)	Reinspection fees. When additional inspection is required for work previously inspected and rejected by the department of public works, a reinspection fee will be required, for each reinspection	146.00	[A]
98-92(c)(16)	Dewatering permit fee	457.00	[A]
98-92(c)(17)	Blocking of right-of-way Note: For major thoroughfares, full day permit is defined as five hours and 30 minutes between 10:00 a.m. and 3:30 p.m., pursuant to Resolution No. 2016-29583		
	Standard review (full day permit):		
	• Local road	403.00	[A]
	• Collector road	536.00	[A]
	• Major thoroughfares	1,251.00	[A]
	Priority review (same day permit review)		

	• Local road	483.00	[A]
	• Collector road	642.00	[A]
	• Major thoroughfare	1,251.00	[A]
	Consecutive multi-day additional fee (per day) For local and collector roads	75.00	[A]
	Consecutive multi-day additional fee (per day) For major thoroughfares	1,251.00	[A]
	Partial day permit (4 hours or less)		
	• Local road	203.00	[A]
	• Collector road	270.00	[A]
	Blocking Right-of-Way (local and Collector) — $0.28 per LF and $0.06 per S.F	$0.33 per LF and $0.08 per S.F.	[B]
	Blocking Right-of-Way (arterial) — $2.67 per LF and $0.33 per S.F	$3.15 per LF and $0.40 per S.F.	[B]
98-92(c)(18)	Revocable permit:		
	Application fee, involving city property	5,183.00	[A]
	Mailing fee, per address within 375 feet	0.66	[B]
98-92(c)(19)	Coastal review	11506.00	[A]

98-92(c)(20)	Sewer capacity certification letter application	197.00	[A]
98-93(a)	Public Works review fee for a commercial building permit shall be assessed at .70% of the cost of construction		N/A
98-93(a)	Public Works review fee for a residential building permit shall be assessed at .50% of the cost of construction		N/A
98-93(b)	Double Fees for work prior to issuance of permit, plus penalties shall be consistent with subsection 14-61(b)		
98-93(c)(1)	Reinspection fees shall be consistent with subsection 14-61(c)(1)		
98-93(d)	Lost Plans fee shall be consistent with subsection 14-61(d). Planning shall not assess administrative processing fee		
98-93(e)	Revised Plans Review fee		
	Commercial (Minimum of one page charge)	49.00 per page	[A]
	Residential (Minimum of one page charge)	26.00 per page	[A]
98-93(f)	Lost Permit Card fee shall be consistent with subsection 14-61(f)		
98-93(g)	Inspection Fee hourly rate. As determined by the department at the beginning of each fiscal year		

98-93(h)	Plans re-review fee shall be consistent with subsection 14-61(h)		
98-93(i)	Expedited plans review and inspections in addition to all applicable fees		
	Expedited plans review (not to exceed 4 hours)	627.00	[A]
	Expedited inspection	191.00	[A]
98-93(n)	Phased Permit. If department review of Phase Permit application is required, a fee consistent with subsection 14-61(n) shall be assessed		
98-94(a)(1), (2)	Upfront Fee shall be consistent with subsection 14-62(a)		
98-94(b)	Refunds, time limitations, cancellations, change of contractors shall be processed and fees assessed consistent with subsection 14-62(b)(4), (5), (6), (7)		
98-95	Certificate of occupancy or completion shall be processed and fees assessed consistent with subsection 14-66(1)		
98-97	Employee training, education, safety and technology enhancements and other surcharge will be assessed consistent with subsections 14-69, 14-70(1), (2), (3), (5) as applicable		
98-98(b)	Documents. Requests for copies of department records, inspection reports, logs or other similar documents maintained by the department will be charged a fee consistent with subsection 14-61(d)		

98-99	Interest and collection fees shall be charged for unpaid amounts (fees) due		
	Minimum Public Works fee associated with a building permit	91.00	[A]
98-101	Temporary and special event fees:		
	Temporary platforms for public assembly, first approval	37.00	[A]
	Temporary bleachers for public assembly, first approval	33.00	[A]
	Tents up to 1,000 square feet per unit (excluding electric and plumbing)	37.00	[A]
	Tents each additional 1,000 square feet over 1,000 per unit (excluding electric and plumbing)	26.00	[A]
	Construction trailer, per trailer	37.00	[A]
	Office trailer, per trailer	37.00	[A]
	Temporary power for construction	37.00	[A]
	Temporary toilet/outhouse	21.00	[A]
	Article V. Maintenance of Sidewalks and Swale Areas		
	Chapter 102. Taxation		
	Article IV. Resort Tax		
	Division 4. Tax		

102-310(b)	Resort tax registration fee:		
	At time of registration	33.00	[A]
	If compelled to register because of failure or refusal to pay	100.00	N/A
102-311(h)	Dishonored checks (consistent with Florida Statute 68.065)		
	Bank fees actually incurred by the City plus a service charge of:		
	If face value does not exceed $50	25.00	N/A
	If face value exceeds $50 but does not exceed $300	30.00	N/A
	If face value exceeds $300	40.00 or 5% of face value, whichever is greater	N/A
102-314(f)	Reporting fee:		
	Initial late reporting fee	50.00	N/A
	Plus, for each 30-day late period	25.00	N/A
	Maximum	500.00	N/A
	Article V. Local Business Tax		
102-379(d)	Business Tax Receipt Application	59.00	[A]

The following numbers shall refer to the Occupation Code for each business tax category:	Annual Permit Fee/Business Tax by Business Tax Category		
	A		
95000200	Accountant, auditor; requires state license	343.00	[A]
95000300	Acupuncturist; requires state license	298.00	[A]
95000301	Addictions recovery facility	1,339.00	[A]
95000302	Adult day care center	403.00	[A]
9500303	Adult family care home:		
	1. First 10 beds	259.00	[A]
	2. Each additional bed	9.00	[A]
95000304	Ambulatory surgical center (ASC)	430.00	[A]
95000400	Assisted living facility (ALF):		
	1. First 10 beds	272.00	[A]
	2. Each additional bed	9.00	[A]

95000500	Advertising, all kinds	298.00	[A]
95901000	Adult entertainment establishments; must be 300 ft. from schools and churches	8,532.00	[A]
95000601	Agents, bureau, brokers, operators or dealers of all kinds, including commercial, insurance, loans, claims, transportation, manufacturer or any other kind of business or occupation except pawnbrokers, for each class of business handled, etc., unless covered elsewhere in this section; appropriate license required:		
	1. Each firm	298.00	[A]
	2. Ea. individual as salesman	129.00	[A]
	3. Ea. individual as broker	298.00	[A]
	4. Business broker	298.00	[A]
	5. Business consultant	343.00	[A]
	Alcohol beverage establishments selling beer, wine and/or liquor for consumption on premises:		
95000700	1. Open after midnight, closing no later than 2:00 a.m.	1,684.00	[A]
95000701	2. Open after 2:00 a.m., closing no later than 5:00 a.m.	5,598.00	[A]
	All other businesses not specifically named (per § 102-380 of this Code):		

95240015	1. General business office uses	257.00	[A]
95240030	2. Heavy/industrial	437.00	[A]
	Alterations/tailor:		
95000550	1. Each shop	261.00	[A]
95000551	2. In another shop	129.00	[A]
95000800	Antique dealer, those who deal in preowned merchandise are not required to obtain a secondhand dealer license	675.00	[A]
95700000	Apartment buildings (rental), not including kitchens and bathrooms; (insurance and state license required):		
	1. 4 rental units or less	Needs review	[A]
	2. 5—15 rental units	101.00	[A]
	Each additional rental unit	9.00	[A]
N/A	Apartment buildings (condominium); needs certificate of use only	Needs review	[A]
95001000	Appraiser	298.00	[A]
95001100	Arcade:	298.00	[A]
95011801	1. Each coin machine (game/jukebox)	137.00	[A]
95001200	Architect; state license required	343.00	[A]

95001300	Armored car service	343.00	[A]
95001400	Arms, ammo, pistols, knives, etc.:		
	1. Dealer, alone or in connection with any other business	675.00	[A]
	2. Each employee	118.00	[A]
95001401	3. Starting, tear gas and B.B. guns	675.00	[A]
95001500	Artists, including, retouching, sketching, cartooning, crayon or ferrotype or other similar line	137.00	[A]
95001600	Attorneys; appropriate license required	343.00	[A]
95001650	Auction business; state license required	5,598.00	[A]
95003602	Auto teller machine (off premises of financial institution) (each machine)	298.00	[A]
	Auto/truck:		
95008302	1. Body shop/garage/storage	440.00	[A]
95000630	2. Broker (no vehicles on-premises)	298.00	[A]
95001704	3. Dealer	592.00	[A]
	4. Reserved		
	5. Reserved		
95008303	6. Painting	512.00	[A]
95001707	7. Parking garage	343.00	[A]

95001701	8. Rental agency	2,107.00	[A]
95001703	9. Sub rental agency (no cars on location)	675.00	[A]
95001900	10. Auto shipper (required bond)	675.00	[A]
95008305	11. Wash and detailing, mobile	396.00	[A]
95008307	12. Wash and detailing and gas station, etc.	298.00	[A]
	Automobile for hire, limousines, except sightseeing busses:		
95001708	1. Each automobile	466.00	[A]
95001709	2. Each private or nursery bus, per bus	298.00	[A]
95001705	3. Limousine service	404.00	[A]
95001706	Each limousine (insurance required)	129.00	[A]
	B		
95002000	Baggage and transfer business, including moving companies	424.00	[A]
95002100	Bail bonds	298.00	[A]
95002200	Bakery, wholesale; state agricultural license required NOTE: For any retail sales a separate business tax receipt is required:		
	1. Five employees or less	164.00	[A]
	2. Six to 25 employees	361.00	[A]

	3. Over 25 employees	440.00	[A]
95002400	Barbershop (with or without manicurist and shoeshine stands, each shop); requires a state license; each barber needs to have his own business tax receipt:		
	1. With one to five chairs	298.00	[A]
	2. With six to ten chairs	368.00	[A]
	3. With 11 to 15 chairs	452.00	[A]
	4. Each chair over 15	35.00	[A]
95002401	Barber; requires state license	35.00	[A]
95000665	Baths, Turkish, mineral, sun or similar	298.00	[A]
	Beach front concession:		
2002600	1. Upland fee, per unit	28.00	[A]
95002601	2. Per equip, activity/location	984.00	[A]
95002700	Beauty parlors, hairdressing, facial, nail shop, etc., each shop; state license required; each manicurist/beautician needs to have their own business tax receipt:		
	1. With one to five chairs	298.00	[A]
	2. With six to ten chairs	368.00	[A]
	3. With 11 to 15 chairs	452.00	[A]

	4. Each chair over 15	35.00	[A]
95002701	Beautician; state license required	35.00	[A]
95002750	Bed and breakfast inn; state license required		
	1. From one to 15 rooms	272.00	[A]
	2. Each additional room	27.00	[A]
95002800	Bicycle, rent and repair NOTE: Retail sales needs separate business tax receipt	298.00	[A]
95002900	Billiards, pool tables (each table)	164.00	[A]
95002901	Birth center:		
	1. First 10 beds	259.00	[A]
	2. Each additional bed	9.00	[A]
95003100	Boardinghouse (as defined in section 17-1 of this Code):		
	1. From one to 15 rooms	252.00	[A]
	2. Each additional room	27.00	[A]
	Boat, ship, watercraft, surfboards; insurance required:		
95003407	1. Boat slips	101.00	[A]
95003402	2. Commercial passenger boat (per boat)	129.00	[A]
95003406	3. Commercial docks	181.00	[A]

95003403	4. Charter (per boat)	129.00	[A]
95003410	5. Dealer (new)	592.00	[A]
95000603	6. Dealer broker (used)	512.00	[A]
95003408	7. Docks (per linear foot)	8.00	[A]
95003416	8. Ferry terminal	898.00	[A]
95009550	9. House barges	307.00	[A]
95003200	10. Livery (renting) requires special approvals and insurance:		
	One to eight boats	396.00	[A]
	Each additional five boats or fraction	101.00	[A]
99003417	11. Boat or surfboard rentals, as an accessory use in hotels under current zoning ordinance (requires special approvals and insurance):		
	One to eight units (total of both)	396.00	[A]
	Each additional five units (total of both)	101.00	[A]
95003412	12. Yards and ways doing repair work	675.00	[A]
95003401	13. Sightseeing, excursion	846.00	[A]
95003418	14. Storage bases and sheds	846.00	[A]
95003404	15. Towing and lightering	298.00	[A]
95003415	16. Water taxi:		

	One to three boats	452.00	[A]
	Each additional boat	181.00	[A]
95003550	Bowling alley, per alley	101.00	[A]
95003600	Building and loan associations, mortgage companies, saving and loan associations, financial institutions (each branch thereof); state license required	1,015.00	[A]
	C		
95003700	Cabanas (each)	24.00	[A]
95003900	Carpet and rug cleaning	343.00	[A]
95000659	Casting office	298.00	[A]
95004100	Caterers; state license required	424.00	[A]
95004101	Caterers operating mobile unit, designed and intended for the purpose of vending from such mobile unit sandwiches, pastries, candy, beverages, soft drinks and like items to workmen on construction sites, city shops, and yards (one such permit shall be issued for each construction and state licensed required).	459.00	[A]
N/A	Charitable, etc., organizations; occasional sales, fundraising	N/A	N/A
95004200	Check cashing office	298.00	[A]
95004500	Chiropractor	343.00	[A]

95004700	Clerical office (mail order, requires bond)	298.00	[A]
95004800	Clinic, medical, dental	452.00	[A]
	Closing out sale:		
95004900	Good for 30 days	1,076.00	[A]
95004901	Additional 15-day periods	675.00	[A]
95005000	Coin dealers	298.00	[A]
	Coin operated merchandise or service vending machines, except machines vending newspapers or drinking cups not otherwise provided for herein:		
95011305	Distributor, coin operated machine	396.00	[A]
95005101	1-cent to 25-cent machines (each mach.)	35.00	[A]
95005102	25-cent machines and over (each mach.)	57.00	[A]
95005200	Collection agency	298.00	[A]
95005201	Community residential home:		
	1. First 10 beds	259.00	[A]
	2. Each additional bed	9.00	[A]
95005202	Comprehensive outpatient rehabilitation facility	430.00	[A]
95005203	Comprehensive inpatient rehabilitation facility	1,339.00	[A]
95004600	Consultant, advisor, practitioners	343.00	[A]

95800000	Condo (no state license required)		
95400000	Conditional use		
95005300	Convention service bureau	298.00	[A]
95019802	Counselor, marriage, etc.	343.00	[A]
95005500	Court reporter	298.00	[A]
95240028	Credit bureau	298.00	[A]
95000627	Currency exchange	298.00	[A]
	D		
	Dance hall/entertainment establishment; (for entertainment establishments without dancing, see entertainment establishments):		
95005800	1. Dance hall/entertainment establishment without alcohol (see subsection 142-1362(b) for after-hours dance halls)	1,684.00	[A]
95005805	2. Dance hall/entertainment establishment with alcohol	298.00	[A]
3005825	Additionally, for occupancy loads of 200 or more, nightclub fee of $3.00 per person occupant load, based upon max. occupant load from building/fire department	6.00	[A]
95015701	Day care center, nursery school HRS state license required	434.00	[A]
95015702	Day/night treatment with community housing	1,339.00	[A]

	Dealers in pre-owned/secondhand merchandise:		
95017000	1. Goods other than wearing apparel	512.00	[A]
95017001	2. Wearing apparel	579.00	[A]
95005910	Dental hygienists; state license required	298.00	[A]
95005900	Dentist; state license required	343.00	[A]
95006100	Dietician; state license required	343.00	[A]
95006200	Doctors, physicians (all others); state license required	343.00	[A]
95006300	Doctors, hospital staff; state license required	181.00	[A]
95006400	Doctors, physicians' assistant; state license required	101.00	[A]
95006500	Dog grooming or small animal clinic	343.00	[A]
	E		
95006600	Electric light company	14,171.00	[A]
95006700	Electrologists; state license required	343.00	[A]
95006800	Employment agency (bond required)	298.00	[A]
95006801	End-stage renal disease center	1,339.00	[A]
95006900	Engineers, all; state license required	343.00	[A]
	Entertainment establishments; (see dance hall/entertainment establishment for establishments with dancing)		

95240029	Entertainment establishments without dance hall	298.00	[A]
95007100	Equipment rental	298.00	[A]
95006801	Escort service (bond required)	298.00	[A]
	Express mail service:		
95007250	1. P.O. box rentals, packing and sending; on-site copy, fax, money order, office supplies, stamps, money wire agent, notary, passport photos	592.00	[A]
95007251	2. All of number 1, plus answering service (5 phones):	682.00	[A]
	Each additional phone	36.00	[A]
	F		
95018701	Fax service:	343.00	[A]
	Accessory to main occupation	101.00	[A]
95007400	Fire prevention service	298.00	[A]
95007500	Florist	343.00	[A]
95007600	Flower stand, selling cut or potted flowers or plants	261.00	[A]
95007700	Food sales (retail inventory) each business, if zoning permits, will be allowed to sell any retail food item; however, all items will be totaled in their inventory assessment; state license required:		
95007701	1. 1st $1,000.00 of value or less	350.00	[A]

	2. Each $1,000.00—$89,999.00 of value	35.00	[A]
	3. From $90,000.00—$199,999.00 of value	3,585.00	[A]
	4. From $200,000.00—$499,999.00 of value	5,376.00	[A]
	5. From $500,000.00 and over	7,165.00	[A]
95007104	Formal rental	298.00	[A]
95007900	Fortunetellers, palmists, clairvoyants, astrologers, phrenologists, physiognomist, numerologists, mind readers and others of a similar nature	2,805.00	[A]
95007950	1. Where not gratuitous, not in a nightclub or accessory to main business, each individual	675.00	[A]
	Provided that before tax receipt is issued to any persons pursuant to the foregoing item, a report must be made by the police department to the effect that the applicant has no record or conviction in any case involving a felony, and the application must be accompanied by three or more references		
95008000	Fruit, nut, packing, shipping, subject to the provisions of this chapter:	399.00	[A]
95008002	1. As an accessory	101.00	[A]
	Fuel dealers, bottled gas, etc.:		
95008100	1. Fuel oil dealer	512.00	[A]
95008101	2. Fuel bottled gas dealer	252.00	[A]

95008120	3. Wood yard dealer	199.00	[A]
95008200	Funeral home	1,049.00	[A]
	G		
95008001	Gallery	539.00	[A]
	Garbage, waste contractor insurance required; see Chapter 90, Article IV for all requirements; state license required		
95008404	1. Biohazardous	846.00	[A]
95008401	2. Franchise	846.00	[A]
95008403	3. Hazardous	846.00	[A]
95008402	4. Recycling (DERM permit)	846.00	[A]
95008400	5. Roll off	846.00	[A]
95008500	Gas companies	14,171.00	[A]
95008550	Gasoline wholesale dealer	4,202.00	[A]
95008600	1. Where only fuel oil not more volatile than diesel oil and (not exceeding 15,000 barrels in quantity is stored	987.00	[A]
	General merchandise retail sales (see also merchants category):		
	Merchant sales (based on cost of inventory):		
95012065	1. 1st $1,000.00 of value or less	361.00	[A]

95012065	2. Each additional $1,000.00—$99,999.00	30.00	[A]
95012066	3. From $100,000.00—$199,000.00	3,585.00	[A]
95012066	4. From $200,000.00—$499,000.00	5,376.00	[A]
95012966	5. From $500,000.00 and over	7,167.00	[A]
95008802	Golf driving courses	181.00	[A]
95008801	Golf miniature courses	404.00	[A]
95008800	Golf pro	298.00	[A]
95006150	Guard, watchman, patrol agency; state license required	343.00	[A]
	H		
95021500	Hall for hire	199.00	[A]
95006255	Healers, magnetic	846.00	[A]
95009100	Health club, gym (a letter of approval or exemption from state department of agriculture and consumer services required)	298.00	[A]
95009200	Health maintenance plan	298.00	[A]
95000619	Home based business (plus occupation)	46.00	[A]
95006200	Homeopathic physicians; state license required	343.00	[A]
95006201	Homes for special services	1,339.00	[A]
95006202	Hospice facility	343.00	[A]

	Hotel; state license required:		
95009500	1. First 15 rooms	343.00	[A]
	2. For each additional room over 15	26.00	[A]
95009600	Hypnotist, hypnotherapist	298.00	[A]
	I		
95009700	Immigration service	298.00	[A]
95009800	Import and export dealer	298.00	[A]
95009900	Income tax service:		
	1. Reserved	298.00	[A]
	2. Inside only		
95010000	Installers, floor covering, carpet, tiles, glass, etc.	298.00	[A]
95000606	Insurance agency	298.00	[A]
95010200	1. Adjuster	298.00	[A]
95000649	2. Insurance broker	298.00	[A]
95010100	3. Casualty and liability	432.00	[A]
95010105	4. Company	432.00	[A]
95010101	5. Fire	432.00	[A]
95010102	6. Industrial	432.00	[A]
95010103	7. Life	432.00	[A]

95010104	Intensive inpatient treatment center/facility	1,339.00	[A]
95010105	Intensive outpatient treatment center/facility	430.00	[A]
95010300	Interior decorators whose business is confined to furnishing curtains, draperies, hangings, furniture, etc., exclusively	343.00	[A]
95010301	Interior designers; state license required	343.00	[A]
95010302	Intermediate care facility for the developmentally disabled	1,339.00	[A]
95010400	Investment counselor; state license required	298.00	[A]
	J		
95010500	Janitorial and maid service (bond required)	343.00	[A]
	Jewelers shall be required to pay merchant's business tax determined as follows; (based on cost of inventory):	361.00	[A]
95010600	1. First $1,000.00 of value or less	361.00	[A]
95010600	2. Each additional $1,000.00—$99,999.00	30.00	[A]
95010601	3. From $100,000.00—$199,000.00	3,585.00	[A]
95010601	4. From $200,000.00—$499,000.00	5,376.00	[A]
95010601	5. From $500,000.00 and over	7,167.00	[A]
	K		
95010700	Key machines	46.00	[A]

	L		
95010900	Laboratory (chemical, dental, optical, x-ray, etc.) (independent); state license required	396.00	[A]
95010901	Laboratory technicians, including the taking of blood pressure	343.00	[A]
95011000	Land development companies; state license required	1,819.00	[A]
95011100	Landscape architects, contractors, nursery men, etc.	343.00	[A]
95011200	Landscape maintenance	82.00	[A]
95015601	Laser photo printing service	272.00	[A]
95011302	Laundry dry cleaners	512.00	[A]
95011303	Laundry dry cleaners (remote location)	164.00	[A]
95011304	Laundry coin operated location, each (includes accessory folding and hand ironing)	343.00	[A]
95011305	Laundry (coin equipment distributor)	396.00	[A]
95011307	Each machine	9.00	[A]
95011307	Laundry, coin operated equipment not licensed by one of the above listings, each machine	9.00	[A]
4007701	Liquor sales/merchant sales (based on cost of inventory):		
	1. First $1,000.00 of value or less	350.00	[A]

	2. Each additional $1,000.00—$99,999.00	35.00	[A]
	3. From $100,000.00—$199,000.00	3,585.00	[A]
	4. From $200,000.00—$499,000.00	5,376.00	[A]
	5. From $500,000.00 and over	7,167.00	[A]
95011400	Locksmith	343.00	[A]
	M		
	Machine and games, mechanical photographs, consoles, jukeboxes, picturetaking, record-making, or other similar machines:		
95011800	Distributors	1,076.00	[A]
95011802	Each machine	137.00	[A]
95004705	Mail order business; bond required	298.00	[A]
95011600	Manufacturers, all products; to include any assembling or processing operations otherwise mentioned in this section	396.00	[A]
95011700	Manufacturer representative	98.00	[A]
95240008	Marine appraiser, surveyor, testing	298.00	[A]
95011999	Massage clinic; state license required	298.00	[A]
95012000	Massage therapist; state license required	64.00	[A]
	Medical cannabis/marijuana		

	Merchants, all persons engaged in the business of selling medical cannabis, as defined in chapter 6, article III, or chapter 14, division 10, of any kind, sort or description, except as otherwise specifically provided by this section, shall be required to pay a merchant's business tax, determined as follows, based on cost of inventory:		
95012100	1. First $1,000.00 of value or less	350.00	[A]
95012100	2. Each additional $1,000.00—$99,999.00	36.00	[A]
95012100	3. From $100,000.00—$199,000.00	3,585.00	[A]
95012100	4. From $200,000.00—$499,000.00	5,376.00	[A]
95012100	5. From $500,000.00 and over	7,167.00	[A]
95012100	6. Cost per employee for medical marijuana treatment center; and reimbursement for law enforcement and/or consultant review, as agents of planning department, plus recovery for law enforcement or consultant review.	59.00	[A]
	Background check fee for each employee at medical marijuana treatment center	161.00	[A]
95012101	Medication and methadone maintenance treatment facility:		
	1. First $1,000.00 of value or less	333.00	[A]
	2. Each additional $1,000.00—$199,000.00	33.00	[A]
	3. From $100,000.00—$199,000.00	3,414.00	[A]

	4. From $200,000.00—$499,000.00	5,119.00	[A]
	5. From $500,000.00 and over	6,825.00	[A]
	Merchants, all persons engaged in the business of selling merchandise of any kind, sort or description, except as otherwise specifically provided by this section, shall be required to pay a merchant's business tax, determined as follows; based on cost of inventory:		
95012065	1. First $1,000.00 of value or less	361.00	[A]
95012065	2. Each additional $1,000.00—$99,999.00	30.00	[A]
95012066	3. From $100,000.00—$199,000.00	3,585.00	[A]
95012066	4. From $200,000.00—$499,000.00	5,376.00	[A]
95012066	5. From $500,000.00 and over	7,167.00	[A]
95012200	Messenger service (exclusive of telegrams)	164.00	[A]
95000625	Model, talent agency; state license required	298.00	[A]
95012400	Money broker	298.00	[A]
95012500	Money order agency	101.00	[A]
95012550	Monogram, silkscreen, retail	298.00	[A]
95000610	Mortgage broker, all firms; state license required:	298.00	[A]
95000610	1. Each additional broker connected therewith	298.00	[A]
95000652	2. Salesman; state license required	129.00	[A]

	Motor scooter, motorcycle, rental agency; insurance required:		
95012800	1. 1 to 20 units	512.00	[A]
95012800	2. Each unit over 20	35.00	[A]
	Movie theater:		
95012900	1. One screen	1,684.00	[A]
95012901	2. Each additional screen	181.00	[A]
	N		
95013300	Newspapers or periodicals	272.00	[A]
	Newsstand sidewalk	101.00	[A]
	Nightclub (same as dance hall/entertainment establishment):		
95005800	1. Dance hall/entertainment establishment without alcohol (see subsection 142-1362(b) for after-hours dance halls)	1,684.00	[A]
95005805	2. Dance hall/entertainment establishment with alcohol	298.00	[A]
95013600	Nursing homes and private hospital; state license required	1,406.00	[A]
	O		
95013800	Office, other than listed	298.00	[A]

95013900	Optician; state license required NOTE: Retail sales needs separate merchant sales business tax receipt	343.00	[A]
95014000	Optometrist; state license required NOTE: Retail sales needs separate merchant sales business tax receipt	329.00	[A]
95014001	Organ and tissue procurement facility	430.00	[A]
95240018	Orthodontist; state license required	343.00	[A]
95014200	Osteopath; state license required	343.00	[A]
95014201	Outpatient treatment facility	430.00	[A]
	P		
95014202	Pain management clinics:		
	1. First $1,000.00 of value or less	333.00	[A]
	2. Each additional $1,000.00—$199,000.00	33.00	[A]
	3. From $100,000.00—$199,000.00	3,414.00	[A]
	4. From $200,000.00—$499,000.00	5,119.00	[A]
	5. From $500,000.00 and over	6,825.00	[A]
95014350	Paper hanger	298.00	[A]
95014500	Parking lot	343.00	[A]
95001707	1. Parking garage	343.00	[A]
95014507	2. Under-utilized	343.00	[A]

95014502	3. Provisional	343.00	[A]
95014506	4. Temporary lot	343.00	[A]
95014505	5. Parking valet lot only	343.00	[A]
95014504	6. Self-parking lot	343.00	[A]
99020700	7. Valet parking (per location); insurance required. A letter of permission from the owner, lessee or operator of the business from which the valet service is operating must be submitted prior to the issuance of a valet parking business tax receipt.	396.00	[A]
	Each additional location	199.00	[A]
95014600	Party planner	298.00	[A]
95014700	Pathologist; all	343.00	[A]
95017003	Pawnbroker, selling other than articles taken on pledge must also have a regular merchant's business tax receipt, no tax receipt issued to pawnbrokers shall be transferred from the person to whom it was issued	1,406.00	[A]
95007300	Pest control; state license required	396.00	[A]
95004850	Pharmacy store; state license required		
95004850	1. First $1,000.00 of value or less	350.00	[A]
95004850	2. Each additional $1,000.00—$99,999.00	36.00	[A]
95004850	3. From $100,000.00—$199,000.00	3,585.00	[A]

95004850	4. From $200,000.00—$499,000.00	5,376.00	[A]
95004850	5. From $500,000.00 and over	7,167.00	[A]
95004850	6. Cost per employee for medical marijuana treatment center; and reimbursement for law enforcement and/or consultant review, as agents of planning department, plus recovery for law enforcement or consultant review. Each employee must obtain a business tax receipt pursuant to § 142-1503(g)	59.00	[A]
95015000	Phlebotomist; state license required	343.00	[A]
95015100	Photography, studio, film developing/printing on-site	343.00	[A]
95015101	Photography, drop off developing only, not done on-site	199.00	[A]
95015300	Physiotherapist; state license required	343.00	[A]
95015400	Picture framing	169.00	[A]
95015500	Podiatrist; state license required	343.00	[A]
95015550	Postal box rentals	298.00	[A]
N/A	Postage stamp sales:		
	1. Stamp machine distributor	298.00	[A]
	2. Each machine	24.00	[A]
	NOTE: Retail sales of postage stamps needs separate merchant sales business tax receipt		

95015570	Prescribed pediatric extended care center	1,339.00	[A]
95015600	Printing, copying service	272.00	[A]
95015602	As accessory to main occupation	101.00	[A]
95006000	Private investigative agency; department of state license required	343.00	[A]
95015700	Private schools, schools, tutorial services, colleges or other educational or training institutions operating for profit, for each place of business	424.00	[A]
95015800	Process service	298.00	[A]
95000657	Production company	298.00	[A]
95006265	Professional association, corporation	343.00	[A]
	Promoter; bond required:		
95050199	1. Single event/single location (less than 150 permitted occupancy)	118.00	[A]
95050199	2. Single event/single location (greater than 150 permitted occupancy)	236.00	[A]
95050200	3. Multiple event/single location (less than 150 permitted occupancy)	118.00	[A]
95050200	4. Multiple event/single location (greater than 150 permitted occupancy)	236.00	[A]
95050201	5. Multiple event/multiple location (less than 150 permitted occupancy)	298.00	[A]

95050201	6. Multiple event/multiple location (greater than 150 permitted occupancy)	592.00	[A]
95015900	Property management, or the business of opening and closing of homes, or both	343.00	[A]
95240019	Psychiatrist; state license required	343.00	[A]
95016000	Public relations	298.00	[A]
95016100	Publisher	298.00	[A]
	Q		
	R		
95000670	Real estate brokerage firm, corp.; state license required:	298.00	[A]
95000607	1. Each broker with firm	298.00	[A]
95000652	2. Each salesman with firm	129.00	[A]
95000660	Rehabilitation agency	430.00	[A]
95016300	Repair shops including upholstering, furniture repairing, knife and lawnmower sharpening/repair, etc., for each place of business	343.00	[A]
95016320	Residential treatment center for children and adolescents	1,339.00	[A]
95016330	Residential treatment facility	1,339.00	[A]
	Restaurant and bars:		

95016400	Restaurants, drugstores or other establishments serving food permitting the operation of cafe, cafeteria, dining room, tearoom or restaurant takeout with chairs, or stools, each to count as one seat	272.00	[A]
	1. Per chair up to 50 (not include sidewalk cafe area)	10.00	[A]
	2. Per chair 51 and up (not include sidewalk cafe area)	11.00	[A]
	3. No chairs	272.00	[A]
	4. Sidewalk cafe area per sq. ft. Separate permit application. Must have a valid restaurant business tax receipt to have a sidewalk cafe.		
95016400	Bar (no restaurant); appropriate state licenses required. Restaurant, add occupancy code load. See "Nightclubs" for additional fees if applicable. See "Dance halls" for additional fees if applicable.	272.00	[A]
95000702	5. No sale of alcohol beverage for on-premises consumption		
95016650	Rink, skating, bike or others, owners or persons maintaining same; need commission approval	199.00	[A]
95016600	Roominghouses, lodginghouses, boardinghouses or hostels; state license required:		
	1. One to 20 rooms	252.00	[A]

	2. Each room over 20: Any apartment house, hotel or any other place serving meals or food other than a boardinghouse, requires a restaurant license.	9.00	[A]
	S		
	Sailmaker	298.00	[A]
95016800	Sales office, developers, temporary	396.00	[A]
95013600	Sanitarium or institution of like character	1,406.00	[A]
95017001	Secondhand dealers/dealers in preowned merchandise:		
	1. Goods other than wearing apparel	512.00	[A]
	2. Wearing apparel	579.00	[A]
95017100	Service station:		
	1. One pump	199.00	[A]
	2. Each additional pump NOTE: Retail sales needs separate merchant sales business tax receipt	82.00	[A]
95017200	Shoe repairing	261.00	[A]
95017300	Transient short-term rental (state license required) each rental unit	84.00	[A]
95017400	Sightseeing buses (each bus); insurance required	846.00	[A]
95017500	Sign writers	343.00	[A]

95017600	Sociologist or marriage counselor; state license required	343.00	[A]
95006209	Social worker (LCSW); state license required	343.00	[A]
95017700	Soda fountain/ice cream parlor, provided that soda fountains operated in connection with regularly taxed restaurants do not require an additional business tax receipt. This tax receipt is restricted to soda, frozen yogurt and ice cream products. Any other item such as sandwiches, hot dogs, pastry, etc., will require a restaurant business tax receipt. State license required.	199.00	[A]
95017900	Sound recording operator	298.00	[A]
95017905	Sound recording studio	512.00	[A]
95018300	Stockbrokers (full service); state license required:	2,107.00	[A]
	1. One to five employees	172.00	[A]
	2. Six to 15 employees	343.00	[A]
95018305	3. Sixteen to 20 employees	512.00	[A]
	4. Stockbroker salesman (each)	129.00	[A]
95021101	Storage yard	512.00	[A]
95018550	Swimming pools (concessions)	343.00	[A]
	T		
95018405	Tailor/alterations (each shop):	261.00	[A]

	1. As an accessory to main occupation	129.00	[A]
95000659	Talent/modeling agency; state license required	298.00	[A]
95017800	Tanning salon/solarium	343.00	[A]
	Tattoo:		
95006250	1. Tattoo establishment; state license required	343.00	[A]
95006250	2. Tattoo artist/body piercing (each person); state license required	343.00	[A]
95018500	Tag collection agencies, includes auto tags, driver's license, hunting and fishing licenses, boat registration, etc.):	343.00	[A]
95018510	1. As an accessory to main occupation	129.00	[A]
95000201	Tax service	343.00	[A]
95018700	Telegraph companies, money wire	298.00	[A]
	Telephone:		
	1. Reserved		
	2. Reserved		
95019000	3. Sales office	298.00	[A]
	All persons engaged in the business of selling merchandise of any kind, sort or description, except as otherwise specifically provided by this section, shall also be required to pay a merchants business tax.		

95019100	Television rental	298.00	[A]
	Tennis:		
95019500	1. Tennis court	298.00	[A]
95019300	2. Tennis pro	298.00	[A]
95012902	Theaters; live shows:		
	1. Zero to 49 seats	808.00	[A]
	2. Fifty seats and over	1,684.00	[A]
	Theatrical:		
	1. Theatrical performances (charity)	N/A	N/A
95000614	2. Theatrical agency	298.00	[A]
95000616	3. Theatrical producer	298.00	[A]
95006203	Therapist; state license required	343.00	[A]
95019900	Ticket office	298.00	[A]
95020000	Towel and linen supply service	343.00	[A]
95021400	Tow truck/wrecker service, each truck, insurance required	272.00	[A]
95020100	Tow truck, wrecker associated with a service station (each truck), insurance required	272.00	[A]
95020105	Transitional living facility	1,339.00	[A]

95020201	Transportation service (each vehicle), including, but not limited to, vans, cars, etc.; insurance required	343.00	[A]
95020300	Travel bureau; state certificate required	298.00	[A]
	Tour:		
95020302	1. Agency; state certificate required	298.00	[A]
95020301	2. Operator; state certificate required	298.00	[A]
95020304	3. Service and information (sold elsewhere)	298.00	[A]
95015702	Tutorial service	424.00	[A]
95020400	Typing, word processing, resume, letter writing service	298.00	[A]
95020410	1. Agency (done off-premises)	101.00	[A]
	U		
95020500	Urgent care facility	430.00	[A]
	V		
99020700	Valet parking (see parking)	396.00	[A]
95300000	Veterinarian or veterinarian surgeon	343.00	[A]
95021000	Video rental (each location), includes accessory rental of tape players and camcorders:	361.00	[A]
95021005	1. As an accessory to main occupation	101.00	[A]
	W		

95021100	Warehouse or storage yard	512.00	[A]
95021200	Wholesale dealers	512.00	[A]
95021300	Window cleaning and janitorial service; bond required	343.00	[A]
95021320	Women's health clinic	430.00	[A]
	X		
	Y		
	Z		
102-380	City business tax for businesses not otherwise named or enumerated:		
	General business/office uses	252.00	[A]
	Heavy/industrial uses	429.00	[A]
102-384	Fee for hearing when licensee or permittee fails to comply with notice of violation or when requested by aggrieved applicant/licensee	75.00	N/A
	Chapter 106. Traffic and Vehicles		
	Article II. Metered Parking		
106-55(a)(1)	Parking meter rates for Entertainment District Parking Zone:		
	Per hour for on-street - 24 hours a day, seven (7) days a week	4.00	[F]

	Per hour for off-street - 24 hours a day, seven (7) days a week	2.00	[F]
106-55(a)(2)	Parking meter rates for South Beach Parking Zone:		
	Per hour for on-street - 9:00 A.M. to 3:00 A.M.	4.00	[F]
	Per hour for off-street - 9:00 A.M. to 3:00 A.M.	2.00	[F]
106-55(a)(3)	Parking meter rates for East Middle Beach Zone:		
	Per hour for on-street - 9:00 A.M. to 3:00 A.M.	3.00	[F]
	Per hour for off-street - 9:00 A.M. to 3:00 A.M.	2.00	[F]
106-55(a)(4)	Parking meter rates for West Middle Beach Zone:		
	Per hour for on-street - 8:00 A.M. to 6:00 P.M.	1.00	[F]
	Per hour for off-street - 8:00 A.M. to 6:00 P.M.	1.00	[F]
106-55(a)(5)	Parking meter rates for North Beach Zone:		
	Per hour for on-street - 8:00 A.M. to 6:00 P.M.	1.00	[F]
	Per hour for off-street - 8:00 A.M. to 6:00 P.M.	1.00	[F]
106-55(b)(1)	7th Street Garage Rates and Charges:		
	Transient rate per hour and any portion thereof up to four hours	2.00	[F]

	Transient rate per hour from fourth hour up to 15 hours	1.00	[F]
	Maximum daily rate for any time exceeding 15 hours up to 24 hours	20.00	[F]
	Lost ticket charge (Maximum daily rate)	20.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Weekend/event flat rate per vehicle (Friday, Saturday and Sunday from 8:00 p.m. and 5:00 a.m.)	15.00	[F]
106-55(b)(2)	12th Street Garage Rates and Charges:		
	Transient rate per hour and any portion thereof up to four hours	2.00	[F]
	Transient rate per hour from fourth hour up to 15 hours	2.00	[F]
	Maximum daily rate for any time exceeding 15 hours up to 24 hours	20.00	[F]
	Lost ticket charge (Maximum daily rate)	20.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Weekend/event flat rate per vehicle (Friday, Saturday and Sunday from 8:00 p.m. and 5:00 a.m.)	15.00	[F]

106-55(b)(3)	13th Street Garage Rates and Charges:		
	Transient rate per hour and any portion thereof up to four hours	2.00	[F]
	Transient rate per hour from fourth hour up to 15 hours	1.00	[F]
	Maximum daily rate for any time exceeding 15 hours up to 24 hours	20.00	[F]
	Lost ticket charge (Maximum daily rate)	02.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Weekend/event flat rate per vehicle (Friday, Saturday and Sunday from 8:00 p.m. and 5:00 a.m.)	15.00	[F]
106-55(b)(4)	16th Street Garage Rates and Charges:		
	Transient rates:		
	0 to 1 hour	2.00	[F]
	1 to 2 hours	4.00	[F]
	2 to 3 hours	6.00	[F]
	3 to 6 hours	10.00	[F]
	6 to 24 hours	20.00	[F]

	Lost ticket charge (Maximum daily rate)	20.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Weekend/event flat rate per vehicle (Friday, Saturday and Sunday from 8:00 p.m. and 5:00 a.m.)	15.00	[F]
106-55(b)(5)	17th Street Garage Rates and Charges:		
	Transient rates:		
	0 to 1 hour	2.00	[F]
	1 to 2 hours	4.00	[F]
	2 to 3 hours	6.00	[F]
	3 to 4 hours	8.00	[F]
	4 to 5 hours	9.00	[F]
	5 to 6 hours	10.00	[F]
	6 to 7 hours	11.00	[F]
	7 to 8 hours	12.00	[F]
	8 to 15 hours	15.00	[F]
	15 to 24 hours	20.00	[F]
	Lost ticket charge (Maximum daily rate)	20.00	[F]

	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Event flat rate per vehicle	15.00	[F]
	Employee Value Coupon-Lincoln Road (EVC-LR) daily (17th Street Garage only)	8.00	[F]
106-55(b)(6)	City Hall Garage Rates and Charges:		
	Transient rates:		
	0 to 1 hour	2.00	[F]
	1 to 2 hours	4.00	[F]
	2 to 3 hours	6.00	[F]
	3 to 4 hours	8.00	[F]
	4 to 5 hours	9.00	[F]
	5 to 6 hours	10.00	[F]
	6 to 7 hours	11.00	[F]
	7 to 8 hours	12.00	[F]
	8 to 15 hours	15.00	[F]
	15 to 24 hours	20.00	[F]
	Lost ticket charge (Maximum daily rate)	20.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]

	Event flat rate per vehicle	15.00	[F]
106-55(b)(7)	Pennsylvania Avenue Garage Rates and Charges:		
	Transient rates:		
	0 to 1 hour	2.00	[F]
	1 to 2 hours	4.00	[F]
	2 to 3 hours	6.00	[F]
	3 to 4 hours	8.00	[F]
	4 to 5 hours	9.00	[F]
	5 to 6 hours	10.00	[F]
	6 to 7 hours	11.00	[F]
	7 to 8 hours	12.00	[F]
	8 to 15 hours	15.00	[F]
	15 to 24 hours	20.00	[F]
	Lost ticket charge (Maximum daily rate)	20.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Event flat rate per vehicle	15.00	[F]
106-55(b)(8)	Sunset Harbor Garage Rates and Charges:		

	Transient rates:		
	0 to 1 hour	2.00	[F]
	1 to 2 hours	4.00	[F]
	2 to 3 hours	6.00	[F]
	3 to 4 hours	8.00	[F]
	4 to 5 hours	9.00	[F]
	5 to 6 hours	10.00	[F]
	6 to 7 hours	11.00	[F]
	7 to 8 hours	12.00	[F]
	8 to 15 hours	15.00	[F]
	15 to 24 hours	20.00	[F]
	Lost ticket charge (Maximum daily rate)	20.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Event flat rate per vehicle	15.00	[F]
106-55(b)(9)	42nd Street Garage Rates and Charges:		
	Transient rate per hour and any portion thereof up to eight hours	1.00	[F]
	Maximum daily rate for any time exceeding 8 hours up to 24 hours	8.00	[F]

	Lost ticket charge (Maximum daily rate)	8.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	91.00	[A]
106-55(b)(10)	Convention Center Garage Rates and Charges:		
	Transient rates:		
	0 to 1 hour	2.00	[F]
	1 to 2 hours	4.00	[F]
	2 to 3 hours	6.00	[F]
	3 to 4 hours	8.00	[F]
	4 to 5 hours	9.00	[F]
	5 to 6 hours	10.00	[F]
	6 to 7 hours	11.00	[F]
	7 to 8 hours	12.00	[F]
	8 to 15 hours	13.00	[F]
	15 to 24 hours	20.00	[F]
	Lost ticket charge (Maximum daily rate)	20.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Event flat rate per vehicle	20.00	[F]

106-55(b)(11)	P71 - 46 th Street and Collins Avenue Municipal Parking Lot Rates and Charges:		
	Nonresident flat rate 24 hours daily	20.00	[F]
	Registered resident flat rate 24 hours daily	6.00	[F]
	Registered resident hourly rate	1.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	125.00	[A]
106-55(b)(12)	Collins Park Garage Rates and Charges:		
	Transient rates:		
	0 to 1 hour	2.00	[F]
	1 to 2 hours	4.00	[F]
	2 to 3 hours	6.00	[F]
	3 to 4 hours	8.00	[F]
	4 to 5 hours	9.00	[F]
	5 to 6 hours	10.00	[F]
	6 to 7 hours	11.00	[F]
	7 to 8 hours	12.00	[F]
	8 to 15 hours	15.00	[F]
	15 to 24 hours	20.00	[F]

	Lost ticket charge (Maximum daily rate)	20.00	[F]
	Monthly parking, per month, per permit (not including applicable sales tax)	128.00	[A]
	Event at rate per vehicle	15.00	[F]
106-55(c)(1)a.	Monthly permit rate for facility-specific monthly parking in municipal lots (not including applicable sales tax)	91.00	[A]
106-55(c)(1)b.	Rates for facility-specific monthly parking in municipal parking garages:		
	Monthly parking, per month, per permit (not including applicable sales tax)		
	Deposit required for each access card (permit)	10.00	N/A
	Lost access card replacement fee	33.00	[A]
106-55(c)(1)c	Rates for on-street area	91.00	[A]
106-55(d)	Special realtor permit, per permit placard per month (not including applicable sales tax)	10.00	[A]
106-55(e)	Monthly fee for reserved/restricted on-street spaces, per linear 20 feet of reserved space, per month	96.00	[A]
	Installation of new and replacement signs	40.00	[A]
106-55(f)	Fee for valet storage spaces, per day	40.00	[A]

106-55(g)(1)	Administrative service fees for all space rental requests:		
	Amount assessed for any space rental of five spaces or less	28.00	[A]
	Amount assessed for any space rental of six to ten spaces	33.00	[A]
	Amount assessed for any space rental of 11 spaces or more	40.00	[A]
106-55(g)(2)	Fee for valet ramp space rental, per day	42.00	[A]
106-55(g)(3)	Fee for construction space rental, per day	47.00	[A]
106-55(g)(4)	Fee for production and film space rental, per day	16.00	[A]
106-55(g)(4)	Fee for production company recreational vehicle (PCRV), per month (not including applicable sales tax)	83.00	[A]
106-55(g)(5)	Fee for special event space rental, per day	33.00	[A]
106-55(g)(5)	Fee for special event space rental, per day for non-profit organizations	16.00	[A]
106-55(h)(1)	Fees for temporary parking meter removal:		
	Removal of any post, per space	65.00	[A]

	Cost for reinstallation of the post, per space	65.00	[A]
	Removal and reinstallation amount to due pay to the parking department in advance, per space	128.00	[A]
106-55(h)(2)	Fee for the private removal of a parking space or loading zone shall be the greater of the rate as the fee in lieu of required parking or, per space	40,000.00	[F]
106-55(i)	Fee per hotel hang tag, per day	16.00	[A]
106-55(l)(3)	Miami Beach registered resident discounted hourly rate at on-street meters, off-street meters and garages, per hour	1.00	[F]
106-55(m)	Fee for each daily restricted residential parking visitor permit (valid for 24-hour period)	3.00	[F]
106-55(n)	Smartway city-wide decal per year	128.00	[A]
106-55(o)	Annual residential scooter and motorcycle parking permit, per scooter or motorcycle	128.00	[A]
106-55(p)	Freight loading zone (FLZ) permit:		
	Annual permit fee for each vehicle	458.00	[A]
	Semiannual permit fee for each vehicle	230.00	[A]
	Annual permit fee for up to five vehicle permits if fleet of over ten vehicles is operated	1,876.00	[A]
	Semiannual permit fee for up to five vehicle permits if fleet of over ten vehicles is operated	939.00	[A]
106-55(q)	Alley loading (AL) permit:		

	Annual permit fee for each vehicle	230.00	[A]
	Semiannual permit fee for each vehicle	116.00	[A]
	Annual permit fee for up to five vehicle permits if fleet of over ten vehicles is operated	939.00	[A]
	Semiannual permit fee for up to five vehicle permits if fleet of over ten vehicles is operated	471.00	[A]
106-55(r)	Hostel/Bed and Breakfast (B&B) in Restricted Residential Zones		
	Fee for each permit per vehicle per day (valid for 24-hour period)	3.00	[F]
106-101(2)	Construction parking management plan fee	171.00	[A]
	Chapter 110. Utilities		
	Article II. Water		
	Division 1. Generally		
110-39(e)	Meter test fees: (if meter found to be working properly)		
	Up to 1 inch	65.00	[A]
	1.5 to 2 inches	128.00	[A]
	3 inches and greater	346.00	[A]
	2nd Request within a 12-month period		
	Up to 1 inch	96.00	[A]

	1.5 to 2 inches	159.00	[A]
	3 inches and greater	377.00	[A]
110-39(g)	Unauthorized use of city water/meter tampering	100.00	N/A
	Unauthorized use of city water/meter tampering (2nd occurrence)	200.00	N/A
	Unauthorized use of city water/meter tampering (3rd occurrence and each subsequent occurrence). (In addition, the owner and/or consumer shall pay all costs associated with keeping the service off, including, but not limited to, all utility expenses, materials, cost of equipment, and reasonable attorney fees)	300.00	N/A
110-42(b)	Unauthorized turn-on of service	100.00	N/A
	Unauthorized turn-on of service (2nd occurrence)	200.00	N/A
	Unauthorized turn-on of service (3rd occurrence and each subsequent occurrence). (In addition, the owner and/or consumer shall pay all costs associated with keeping the service off, including, but not limited to, all utility expenses, materials, cost of equipment, city labor costs, and reasonable attorney's fees and costs)	300.00	N/A
110-43(c)	Turn-on fee	33.00	N/A
	Article III. Stormwater Utility		

110-109(c)	Stormwater utility service charge per equivalent residential unit (ERU) effective with billings on or after the following dates shall be as follows:†††		
	October 1, 2019	30.14	[B]
	† The FY 2024 Stormwater rate has been adjusted by CPI		
	Article IV. Fees, Charges, Rates and Billing Procedure		
	Division 2. Rates, Fees and Charges		
110-166(a)	Minimum service charge:		
110-166(a)(1)	Individual Metered Residential Service		
	Base Facility Charge (per meter size)		
*	¾-inch	9.06	[C]
*	1-inch	9.45	[C]
*	1½-inch	10.38	[C]
*	2-inch	11.31	[C]
*	3-inch	11.87	[C]
*	4-inch	13.67	[C]
	Water Consumption Charge (per 1,000 gallons)		
*	0 to 8,000 Gallons	1.04	[C]

*	8,001 to 16,000 Gallons	2.88	[C]
*	16,001 to 24,000 Gallons	4.27	[C]
*	Above 24,000 Gallons	5.83	[C]
	Purchased Water Pass-Through Rate (per 1,000 gallons)		
*	All Water Use	2.16	[C]
110-166(a)(2)	Master-Metered Multifamily Residential Service		
	Base Facility Charge (per meter size)		
*	¾-inch	9.06	[C]
*	1-inch	19.56	[C]
*	1½-inch	37.30	[C]
*	2-inch	58.42	[C]
*	3-inch	112.82	[C]
*	4-inch	175.20	[C]
*	6-inch	350.99	[C]
*	8-inch	554.28	[C]
*	10-inch	795.67	[C]
*	12-inch	1,470.86	[C]
	Water Consumption Charge (per 1,000 gallons) [*]		

*	Block 1	1.84	[C]
*	Block 2	3.13	[C]
*	Block 3	4.17	[C]
	Purchased Water Pass-Through Rate (per 1,000 gallons)		
*	All Water Use	2.16	[C]
	[*] Usage blocks by meter size:		
Size of Meter	Block 1 (gallons)		
¾-inch	0 to 16,000		
1-inch	0 to 40,000		
1.5-inch	0 to 80,000		
2-inch	0 to 128,000		
3-inch	0 to 256,000		
4-inch	0 to 400,000		
6-inch	0 to 800,000		
8-inch	0 to 1,280,000		
10-inch	0 to 1,840,000		
12-inch	0 to 3,400,000		

110-166(a)(3)	Nonresidential Service		
	Base Facility Charge (per meter size)		
*	¾-inch	9.06	[C]
*	1-inch	19.56	[C]
*	1½-inch	37.30	[C]
*	2-inch	58.42	[C]
*	3-inch	112.82	[C]
*	4-inch	175.20	[C]
*	6-inch	350.99	[C]
*	8-inch	554.28	[C]
*	10-inch	795.67	[C]
*	12-inch	1,470.86	[C]
	Water Consumption Charge (per 1,000 gallons) [*]		
*	Block 1	1.84	[C]
*	Block 2	3.13	[C]
*	Block 3	4.17	[C]
	Purchased Water Pass-Through Rate (per 1,000 gallons)		
*	All Water Use	2.16	[C]

	[*] Usage blocks by meter size:		
Size of Meter	Block 1 (gallons)		
¾-inch	0 to 16,000		
1-inch	0 to 40,000		
1.5-inch	0 to 80,000		
2-inch	0 to 128,000		
3-inch	0 to 256,000		
4-inch	0 to 400,000		
6-inch	0 to 800,000		
8-inch	0 to 1,280,000		
10-inch	0 to 1,840,000		
12-inch	0 to 3,400,000		
110-166(a)(4)	Individual Metered Residential Irrigation Service		
	Base Facility Charge (per meter size)		
*	¾-inch	9.06	[C]
*	1-inch	9.45	[C]
*	1½-inch	10.38	[C]
*	2-inch	11.31	[C]

*	3-inch	11.87	[C]
*	4-inch	13.67	[C]
	Water Consumption Charge (per 1,000 gallons)		
*	0 to 16,000 Gallons	2.87	[C]
*	Above 16,000 Gallons	5.83	[C]
	Purchased Water Pass-Through Rate (per 1,000 gallons)		
*	All Water Use	2.16	[C]
110-166(a)(5)	Master-Metered Multifamily Residential Irrigation Service		
	Base Facility Charge (per meter size)		
*	¾-inch	9.06	[C]
*	1-inch	19.56	[C]
*	1½-inch	37.30	[C]
*	2-inch	58.42	[C]
*	3-inch	112.82	[C]
*	4-inch	175.20	[C]
*	6-inch	350.99	[C]
*	8-inch	554.28	[C]
*	10-inch	795.67	[C]

*	12-inch	1,470.86	[C]
	Water Consumption Charge (per 1,000 gallons) [*]		
*	Block 1	2.87	[C]
*	Block 2	5.83	[C]
	Purchased Water Pass-Through Rate (per 1,000 gallons)		
*	All Water Use	2.16	[C]
	[*] Usage blocks by meter size:		
Size of Meter	Block 1 (gallons)		
¾-inch	0 to 32,000		
1-inch	0 to 80,000		
1.5-inch	0 to 160,000		
2-inch	0 to 256,000		
3-inch	0 to 512,000		
4-inch	0 to 800,000		
6-inch	0 to 1,600,000		
8-inch	0 to 2,560,000		
10-inch	0 to 3,680,000		
12-inch	0 to 6,880,000		

110-166(a)(6)	Nonresidential Irrigation Service		
	Base Facility Charge (per meter size)		
*	¾-inch	9.06	[C]
*	1-inch	19.56	[C]
*	1½-inch	37.30	[C]
*	2-inch	58.42	[C]
*	3-inch	112.82	[C]
*	4-inch	175.20	[C]
*	6-inch	350.99	[C]
*	8-inch	554.28	[C]
*	10-inch	795.67	[C]
*	12-inch	1,470.86	[C]
	Water Consumption Charge (per 1,000 gallons) [*]		
*	Block 1	2.87	[C]
*	Block 2	5.83	[C]
	Purchased Water Pass-Through Rate (per 1,000 gallons)		
*	All Water Use	2.16	[C]
	[*] Usage blocks by meter size:		

Size of Meter	Block 1 (gallons)		
¾-inch	0 to 32,000		
1-inch	0 to 80,000		
1.5-inch	0 to 160,000		
2-inch	0 to 256,000		
3-inch	0 to 512,000		
4-inch	0 to 800,000		
6-inch	0 to 1,600,000		
8-inch	0 to 2,560,000		
10-inch	0 to 3,680,000		
12-inch	0 to 6,880,000		
110-166(f)	Fire sprinkler system		
	Base Facility Charge (per meter size)		
	2-inch	11.70	[B]
	3-inch	21.48	[B]
	4-inch	32.51	[B]
	6-inch	63.10	[B]
	8-inch	99.83	[B]

	10-inch	142.67	[B]
110-166(g)	Tapping fee, per size of tap in inches:		
	¾-inch	5,830.00	[A]
	1-inch	5,907.00	[A]
	1½-inch	6,380.00	[A]
	2-inch	6,393.00	[A]
	3-inch	7,031.00	[A]
	4-inch	7,733.00	[A]
	6-inch	8,507.00	[A]
110-166(g)	Tapping fee, per size of tap in inches:		
	¾	5,830.00	[A]
	1	5,907.00	[A]
	1½	6,380.00	[A]
	2	6,393.00	[A]
	3	7,031.00	[A]
	4	7,733.00	[A]
	6	8,507.00	[A]
110-166(h)	Guarantee of payment deposit, per service in inches:		

	¾	40.00	N/A
	1	50.00	N/A
	1½	60.00	N/A
	2	100.00	N/A
	3	500.00	N/A
	4	600.00	N/A
	6	1,000.00	N/A
	8	1,500.00	N/A
110-166(i)	Re-read fee (Charged if meter found to be working properly)	33.00	[A]
110-166(j)	Special read fee	33.00	[A]
110-166(k)	Servicing a meter found damaged, destroyed or missing will require actual replacement cost plus all costs associated with replacement of meter		
110-166(l)	Field visit fee:		
	Normal business hours	33.00	[A]
	After normal business hours	65.00	[A]
	Hydrant Administrative Fee	33.00	[A]
110-167(a)	Water impact fee, per meter size in inches:		
	⅝	155.00	N/A

	¾	230.00	N/A
	1	385.00	N/A
	1½	775.00	N/A
	2	1,240.00	N/A
	3	2,480.00	N/A
	4	3,875.00	N/A
	6	7,750.00	N/A
	8	12,400.00	N/A
	Larger than 8 inches, based on relative meter capacities		
110-168(a)(1)	Individual metered residential service:		
	Base facility charge (all meter sizes)		
*	All meter sizes	9.50	[D]
	Sewer consumption charge (per 1,000 gallons)		
*	All gallons (based on metered water consumption)	4.79	[D]
	Purchased sanitary sewer pass-through rate (per 1,000 gallons)		
*	All gallons (based on metered water consumption	6.52	[D]
110-168(a)(2)	Master-metered multifamily residential service:		

	Base facility charge (per meter size)		
*	¾-inch	9.50	[D]
*	1-inch	21.22	[D]
*	1½-inch	40.74	[D]
*	2-inch	64.18	[D]
*	3-inch	126.69	[D]
*	4-inch	197.00	[D]
*	6-inch	392.31	[D]
*	8-inch	626.66	[D]
*	10-inch	900.10	[D]
*	12-inch	1,681.31	[D]
	Sewer consumption charge (per 1,000 gallons):		
*	All gallons (based on metered water consumption)	4.79	[D]
	Purchased sanitary sewer pass-through rate (per 1,000 gallons):		
*	All gallons (based on metered water consumption)	6.52	[D]
110-168(a)(3)	Nonresidential service:		
	Base facility charge (per meter size)		
*	¾-inch	9.50	[D]

*	1-inch	21.22	[D]
*	1½-inch	40.74	[D]
*	2-inch	64.18	[D]
*	3-inch	126.69	[D]
*	4-inch	197.00	[D]
*	6-inch	392.31	[D]
*	8-inch	626.66	[D]
*	10-inch	900.10	[D]
*	12-inch	1,681.31	[D]
	Sewer consumption charge (per 1,000 gallons):		
*	All gallons (based on metered water consumption)	4.79	[D]
	Purchased sanitary sewer pass-through rate (per 1,000 gallons):		
*	All gallons (based on metered water consumption)	6.52	[D]
110-169(a)	Sewer impact fee, per meter size in inches:		
	⅝	235.00	N/A
	¾	350.00	N/A
	1	585.00	N/A
	1½	1,175.00	N/A

	2	1,880.00	N/A
	3	3,760.00	N/A
	4	5,875.00	N/A
	6	11,750.00	N/A
	8	18,800.00	N/A
	Larger than 8 inches, based on relative meter capacities		
110-170(a)	Submeter service inspection	65.00	[A]
	Sanitary sewer lateral cap and sealing	883.00	[A]
	Division 3. Billing Procedure		
110-191(f)	Dishonored checks (consistent with Florida Statute 68.065)		
	Bank fees actually incurred by the City plus a service charge of:		
	If face value does not exceed $50	25.00	N/A
	If face value exceeds $50 but does not exceed $300	30.00	N/A
	If face value exceeds $300	40.00 or 5% of face value, whichever is greater	N/A

110-192(b)	Disconnect charge (includes connecting after payment) (If disconnected for nonpayment all future payments must be made by ACH bank transfers or by a city accepted credit/debit card)	53.00	[A]
110-192(e)	Unauthorized turn-on after disconnect	100.00	N/A
	Unauthorized turn-on after disconnect (2nd occurrence)	200.00	N/A
	Unauthorized turn-on after disconnect for cause (3rd occurrence and each subsequent occurrence) (In addition, the owner and/or consumer shall pay all costs associated with keeping the service off including, but not limited to, all utility expenses, materials, cost of equipment, city labor costs, and reasonable attorney's fees costs)	300.00	N/A
	Subpart B. Land Development Regulations		
	Chapter 2. Administration and Review Procedures		
2.2.3.6 RC	Cost recovery		
	Review and Report by outside source	N/A	N/A
2.2.3.5 RC	Fees for the administration of land development regulations		
	General Fees for Public Hearing		
	Application for preliminary evaluation for public hearing	627.00	[A]

	Application for public hearing. See Sec. 2.2.3.5 for applicable waivers	3,125.00	[A]
	Fees for design review board or historic preservation board - For nonprofits proposing art in public places and/or non-commercial artistic murals, graphics and images	Fee may be reduced by a 4/7th affirmative vote of the city commission via resolution*	N/A
	* The nonprofit corporation must be in operation for a minimum of one year, must maintain its tax-exempt status in good standing with the Internal Revenue Service (IRS) and must provide access of its financial statements to the city, in order to assist the city commission in determining the economic viability and/or necessity for the waiver of fees.		
	Application for clarification of previously approved board order	1,876.00	[A]
	Application for amendment to an approved board order	3,125.00	[A]
	Application for extensions of time of a previously approved board (nonadministrative)	1,876.00	[A]
	Application for after the fact approval	3 times original fee	N/A

	Advertisement (Additional fees may apply based on notice requirement for LDR. Comp. Plan and corresponding map amendments)	1,876.00	[A]
	Mail Notice (per address)	6.08	[B]
	Posting (per site)	128.00	[A]
	Withdrawal or continuance prior to public hearing	627.00	[A]
	Deferral of a public hearing	1,876.00	[A]
2.4; 2.5.1 RC	Amendment of the Land Development Regulations, Zoning Map, Comprehensive Plan, and Future Land Use Map		
	Amendment to the permitted, conditional or prohibited uses in a zoning category (per use)		
	Amendment to the permitted, conditional or prohibited uses in a zoning category (per use)	3,125.00	[A]
	Amendment to the permitted, conditional or prohibited uses in the comprehensive plan	3,125.00	[A]
	Amendment to the zoning map designation (per square foot of lot area) up to 5,000 sq. ft.	0.65	[B]
	Amendment to the zoning map designation (per square foot of lot area) 5,001 sq. ft. and greater	0.91	[B]
	Amendment of future land use map of the comprehensive plan (per square foot of lot area) up to 5,000 sq. ft.	0.65	[B]

	Amendment of future land use map of the comprehensive plan (per square foot of lot area) 5,001 sq. ft. and greater	0.91	[B]
	Amendment to the land development regulations (per section being amended)	12,492.00	[A]
	Amendment to the comprehensive plan (per goal, policy, or objective being amended)	12,492.00	[A]
2.5.2 RC	Conditional Use Permit		
	Application for conditional use permit for an assisted living facility (per bed)	128.00	[A]
2.5.3 RC	Design Review		
	Application for Design Review Board approval (per gross square foot)	0.33, up to a maximum of $40,000.00	[B]
2.5.4 RC	Land/Lot Split		
	See application fees under General Fees		
Chapter 2, Article I	Variances		
	Per variance requested—See section 118-7 for applicable waivers	939.00	[A]
2.13.7 RC	Certificate of Appropriateness		

	Application for COA (per gross square foot)	0.40, up to a maximum of $40,000.00	[B]
2.13.1 RC	Historic Designation		
	Application for district designation (per platted lot)	128.00	[A]
	Planning Director determination of architectural significance (2.2.3.5)	3,125.00	[A]
	Staff Review and Miscellaneous Fees:		
	Preliminary zoning review (Dry Run) up to 5,000 sq. ft.	3,125.00	[A]
	Preliminary zoning review (Dry Run) per square foot fee beyond 5,000 sq. ft.	0.40, up to a maximum of $40,000.00	[B]
	Board Order Recording up to 10 pages (11+ pages will be assessed a per page fee)	128.00	[A]
	Status Reports	1,251.00	[A]
	Progress Reports	3,125.00	[A]
	Failure to appear before a board for Status or Progress Report	3,125.00	[A]

	Zoning Verification letter (per address or folio - includes 1 hour of research) For abutting properties within the same zoning district, one fee shall apply for single or multiple letters with different addresses and/or folios, provided the same information being requested applies to all addresses and/or folios.	315.00	[A]
	Zoning Interpretation Letter (includes 4 hours of research)	1,251.00	[A]
	Research per hour fee	191.00	[A]
	Chapter 3. Concurrency and Mobility Fees		
3.3.4 RC	Mobility Fee Administration Fee	487.00	[A]
3.3.4 RC	Review of Estimate of Concurrency Mitigation	244.00	[A]
3.3.4 RC	MOBILITY FEE		
	Residential		
	Single-family with a unit size less than 3,500 sq. ft. [1] , per unit	2,240.69	[B]
	Single-family with a unit size between 3,500 and 7,000 sq. ft. [1] , per unit	2,985.55	[B]
	Single-family with a unit size greater than 7,000 sq. ft. [1] , per unit	3731.63	[B]
	Multifamily apartments, per unit	1,837.92	[B]

	Non-elderly and elderly low- and moderate-income housing, per unit	0.00	[B]
	Workforce housing, per unit	0.00	[B]
	Co-living/micro apartments, per unit	919.57	[B]
	Recreation and Entertainment		
	Marina (including dry storage), per berth	373.65	[B]
	Golf course, per hole	4,708.21	[B]
	Movie theater, per screen	27.687.51	[B]
	Outdoor commercial recreation (per acre) [2]	2,218.84	
	Community center/civic/gallery/lodge/museum, per sq. ft.	2.27	[B]
	Indoor commercial recreation/health club/fitness, per sq. ft.	5..52	[B]
	Institutional		
	Continuing care facility/nursing home/memory care/congregate care facility/assisted/independent living, per bed	897.73	[B]
	Private school (pre-K—12), per sq. ft.	2.54	[B]
	Place of worship, including ancillary and accessory buildings, per sq. ft.	2.16	[B]
	Day care center, per sq. ft.	4.71	[B]

	Industrial		
	Warehousing/manufacturing/industrial/production (under roof), per sq. ft.	1.87	[B]
	Mini-warehousing/boat/RVs and other outdoor storage [3], per sq. ft.	0.57	[B]
	Distribution/fulfillment center/package delivery hub, per sq. ft.	2.61	[B]
	Office		
	General office/research/higher education/financial/bank, per sq. ft.	4.05	[B]
	Medical/dental/clinic/veterinary/hospital, per sq. ft.	9.23	[B]
	Service/Retail/Nonresidential		
	Retail sales/personal and business services [4], per sq. ft.	12.27	[B]
	Pharmacy/dispensary/pain management clinic, per sq. ft.	18.69	[B]
	Supermarket, per sq. ft.	19.86	[B]
	Takeout restaurant with no seating [5], per sq. ft.	13.45	[B]
	Restaurant with seating [5], per seat	1,063.94	[B]
	Restaurant drive-thru [5], per drive-thru	11,051.72	[B]

	Bar/night club/pub without food service [4] , per sq. ft.	31.70	[B]
	Motor vehicle and boat sales/service/repair/cleaning/parts, per sq. ft.	7.60	[B]
	Hotel/lodging [6] , per room	2,087.82	[B]
	Convenience retail [7] , per sq. ft.	23.64	[B]
	Motor vehicle fueling, per fueling position	7,779.88	[B]
	Bank drive-thru lane, stand-alone ATM or ATM drive-thru lane [8] , per drive-thru lane and/or per ATM [8]	14,763.93	[B]
	Footnotes for mobility fees imposed pursuant to Section 3.3:		
	[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 a 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.		

	[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 ATMs. These rates are per drive-thru lane for the bank and per drive-thru lane with an ATM. The free-standing 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.		
	Chapter 5. Off-Street Parking		
	Article V. Parking Impact Fee Program		
5.4.1 RC	Fee in Lieu of Parking		
	One Time Fee	40,000.00	N/A
	Yearly Fee	800.00	N/A
	Article VII. Surplus and Under-Utilized Parking Spaces		
5.5.1 & 5.5.2 RC	Lease of under-utilized parking spaces, application fee	272.00	[A]
	Additional fee regarding application for lease of under-utilized parking spaces, per space	6.00	N/A

	Chapter 6. Signs		
	Article IV. Temporary Signs		
6.3.1 RC	Maximum amount of bond for temporary signs 6 square feet or larger	300.00	N/A
6.3 RC	Permit for real estate sign in single-family residential districts, non-online applications, per primary sign	16.00	[A]
6.3 RC	Permit fee for real estate signs for multifamily, commercial, industrial, vacant land (other than residential), non-online applications, per sign	33.00	[A]
6.3.6; 6.3.4 & 6.3.5 RC	Minimum bond amount for temporary balloon signs	500.00	N/A
	Chapter 7. Zoning Districts and Regulations		
	Article II. District Regulations		
	Chapter 7.2.15. PS Performance Standard District		
7.2.15 RC	In-lieu-of payment for open space requirement, per square foot of open space not provided	6.27	[B]
	Chapter 7.2.14.6. Town Center Central Core (TC-C) District		
7.2.14 RC	Public benefits, per unit identified in LDRs	3.77	[B]
	Article V (7.5.1). Supplementary District Regulations		
	Division 1. Generally		

7.5.1.5 RC	Sustainable roof fee, per square foot	3.77	[B]
	Special Events Fees		
	Application fee	315.00	[A]
	Late Application fee	315.00	[A]
	Permit Fee based on 1—1,499 attendees	315.00	[A]
	Permit Fee based on 1,500+ attendees	627.00	[A]
	Reinstatement Fee based on 1—1,499 attendees	315.00	[A]
	Reinstatement Fee based on 1,500+ attendees	627.00	[A]
	Security Deposit - up to 150 attendees	2,748.00	[A]
	Security Deposit - 151—1,499 attendees and up to 150 with City Services	5,495.00	[A]
	Security Deposit - 1500—5,000 attendees	10,990.00	[A]
	Security Deposit - 5,000+ attendees	21,980.00	[A]
	Security Deposit - Collins Parks	21,980.00	[A]
	Film - East Vehicle Beach Access Pass - June 1—September 30	90.00	[A]
	Film - East Vehicle Beach Access Pass - October 1—May 31	191.00	[A]
	Film - West Vehicle Beach Access Pass - June 1—September 30	90.00	[A]

	Film - West Vehicle Beach Access Pass - October 1 —May 31	191.00	[A]
	Special Events - East Access Pass (SE Vehicle Beach Access Pass)	191.00	[A]
	Special Events - West Access Pass (Non-Beach Vehicle Access Pass)	191.00	[A]
	Park Fees:		
	First 15 days	0.39 per square foot	[B]
	Each Additional Day	0.05 per square foot	[B]
	Convention Center Parks - First 15 days	0.50 per square foot	[B]
	Convention Center Parks - Each Additional Day	0.05 per square foot	[B]
	Pop-Up Venue Fees		
	Application Fee	315.00	[B]
	Beach Square Footage (East)	0.33 cents per square foot	[B]
	Non-beach Square Footage (West)	0.33 cents per square foot	[B]

	Lummus Park user fee	Charge = 25% of total cost of City services for the event	N/A
	Lincoln Road user fee	Charge = 25% of total cost of City services for the event	N/A
	1100 Blk Lincoln Road user fee	Charge = 25% of total cost of City services for the event	N/A
	Collins Park	Charge = 25% of total cost of City services for the event	N/A
	Soundscape Park	Charge = 25% of total cost of City services for the event	N/A

	Banner Admin Fee	$64.00 per light pole banner application	N/A
	Banner fee (For Profits)	$64.00 per light pole banner application	[A]
	Banner fee for (Non-Profits)	$33.00 per light pole banner	[A]
	Wedding Permit	$159.00 permit	[A]
	Teambuilding	$159.00 permit	[A]
	Sampling Permit	$2,501.00 permit	[A]
	Rue Vendome Permit Application Fee	65.00	[A]
	Rue Vendome Permit Fee	253.00	[A]
	Parks and Recreation Fees and Charges		
	Sports Field Fees:		
	Fairway Park - No Admission - Day - Resident	191.00	[A]
	Fairway Park - No Admission - Day - Nonresident	443.00	[A]

	Fairway Park - Admission - Day - Resident	315.00	[A]
	Fairway Park - Admission - Day - Nonresident	737.00	[A]
	Fairway Park - No Admission - Evening - Resident	315.00	[A]
	Fairway Park - No Admission - Evening - Nonresident	737.00	[A]
	Fairway Park - Admission - Evening - Resident	441.00	[A]
	Fairway Park - Admission - Evening - Nonresident	1,030.00	[A]
	Flamingo Park - Baseball Stadium - Day - Resident	441.00	[A]
	Flamingo Park - Baseball Stadium - Day - Nonresident	1,030937.00	[A]
	Flamingo Park - Baseball Stadium - Eve - Resident	752.00	[A]
	Flamingo Park - Baseball Stadium - Eve - Nonresident	1,471.00	[A]
	Flamingo Park - Memorial Field - Day - Resident	627.00	[A]
	Flamingo Park - Memorial Field - Day - Nonresident	1,251.00	[A]
	Flamingo Park - Memorial Field - Eve - Resident	939.00	[A]
	Flamingo Park - Memorial Field - Eve - Nonresident	1,876.00	[A]
	Flamingo Park - Memorial Field - Day - Resident - Entire Facility	1,251.00	[A]
	Flamingo Park - Memorial Field - Day - Nonresident - Entire Facility	2,501.00	[A]

	Flamingo Park - Memorial Field - Eve - Resident - Entire Facility	1,876.00	[A]
	Flamingo Park - Memorial Field - Eve - Nonresident - Entire Facility	3,749.00	[A]
	Flamingo Park - Softball - Day - Resident	191.00	[A]
	Flamingo Park - Softball - Day - Nonresident	443.00	[A]
	Flamingo Park - Softball - Eve - Resident	377.00	[A]
	Flamingo Park - Softball - Eve - Nonresident	738.00	[A]
	Flamingo Pool - Water Aerobics - Residents	No Fee	[A]
	Flamingo Pool - Water Aerobics - Nonresidents	19.00	[A]
	North Beach Oceanside - Pavilion - Resident	159.00	[A]
	North Beach Oceanside - Pavilion - Nonresident	371.00	[A]
	North Beach Oceanside - Janitorial Fee - Resident	96.00	[A]
	North Beach Oceanside - Janitorial Fee - Nonresident	96.00	[A]
	Normandy Isle Park - Pavilion - Resident	159.00	[A]
	Normandy Isle Park - Pavilion - Nonresident	371.00	[A]
	Normandy Isle Pool - Water Aerobics - Residents	No Fee	[A]
	Normandy Isle Pool - Water Aerobics - Nonresidents	19.00	[A}
	North Shore Park - Resident	191.00	[A]

	North Shore Park - Nonresident	443.00	[A]
	Polo Park - No Admission - Day - Resident	191.00	[A]
	Polo Park - No Admission - Day - Nonresident	443.00	[A]
	Flamingo Park - Gated Field (Soccer) - No Admission - Day - Resident	11.00	[A]
	Flamingo Park - Gated Field (Soccer) - No Admission - Day - Nonresident	433.00	[A]
	Flamingo Park - Gated Field (Soccer) - Admission - Eve - Resident	377.00	[A]
	Flamingo Park - Gated Practice Field - Admission - Eve - Nonresident	738.00	[A]
	Building Rental Fees:		
	Muss Park Pavilion Rental - Resident	222.00	[A]
	Muss Park Pavilion Rental - Nonresident	516.00	[A]
	North Shore Park - Multipurpose/Auditorium - No Admission Charge - Resident	627.00	[A]
	North Shore Park - Multipurpose/Auditorium - No Admission Charge - Nonresident	1,471.00	[A]
	North Shore Park - Multipurpose/Auditorium - Admission Charge - Resident	878.00	[A]
	North Shore Park - Multipurpose/Auditorium - Admission Charge - Nonresident	2,205.00	[A]

	North Shore Park - Gameroom - No Admission - Resident	377.00	[A]
	North Shore Park Youth Center - Arts and Craft - No Admission - Resident	315.00	[A]
	North Shore Park Youth Center - Arts and Craft - No Admission - Nonresident	738.00	[A]
	North Shore Park Youth Center - Arts and Craft - Admission - Resident	377.00	[A]
	North Shore Park Youth Center - Arts and Craft - Admission - Nonresident	1,104.00	[A]
	North Shore Park Youth Center - Gameroom - No Admission - Resident	315.00	[A]
	North Shore Park - Gameroom - No Admission - Nonresident	738.00	[A]
	North Shore Park - Gameroom - Admission - Resident	441.00	[A]
	North Shore Park - Gameroom - Admission - Nonresident	1,104.00	[A]
	North Shore Park - Danceroom - No Admission - Resident	315.00	[A]
	North Shore Park - Dance room - No Admission - Nonresident	738.00	[A]
	North Shore Park - Dance room - Admission - Resident	377.00	[A]

	North Shore Park - Dance room - Admission - Nonresident	1,104.00	[A]
	North Shore Park - Gymnasium - No Admission - Resident	627.00	[A]
	North Shore Park - Gymnasium - No Admission - Nonresident	1,471.00	[A]
	North Shore Park - Gymnasium - Admission - Resident	878.00	[A]
	North Shore Park - Gymnasium - Admission - Nonresident	2,205.00	[A]
	Open Space Rentals at Fisher, Flamingo, North Beach Open Space and Palm Island Parks Residents	128.00	[A]
	Open Space Rentals at Fisher, Flamingo, North Beach Open Space and Palm Island Parks Nonresidents	295.00	[A]
	Pavilion Rentals at Fairway, Crespi, Tatum and Stillwater Parks - Resident	159.00	[A]
	Pavilion Rentals at Fairway, Crespi, Tatum and Stillwater Parks - Nonresident	371.00	[A]
	Scott Rakow Youth Center - Arts and Craft - No Admission - Resident	315.00	[A]
	Scott Rakow Youth Center - Arts and Craft - No Admission - Nonresident	738.00	[A]

	Scott Rakow Youth Center - Arts and Craft - Admission - Resident	377.00	[A]
	Scott Rakow Youth Center - Arts and Craft - Admission - Nonresident	1,104.00	[A]
	Scott Rakow Youth Center - Game room - Resident	315.00	[A]
	Scott Rakow Youth Center - Game room - Nonresident	738.00	[A]
	Scott Rakow Youth Center - Gymnasium - Resident	627.00	[A]
	Scott Rakow Youth Center - Gymnasium Nonresident	1,471.00	[A]
	Scott Rakow Youth Center - Ice Rink Party Rental - Non-Groups - Nonresident	590.00	[A]
	Scott Rakow Youth Center - Ice Rink Party Rental - Groups - Resident	627.00	[A]
	Scott Rakow Youth Center - Ice Rink Party Rental - Groups - Nonresident	1,471.00	[A]
	Scott Rakow Youth Center - Ice Rink Party Rental - ice time + patio + set-up - Resident	315.00	[A]
	Scott Rakow Youth Center - Ice Rink Party Rental - ice time + patio + set-up - Nonresident	738.00	[A]
	Scott Rakow Youth Center - Bowling Party Rental - bowling + patio + set-up - Resident	338.00	[A]

	Scott Rakow Youth Center - Bowling Party Rental - bowling + patio + set-up - Nonresident	516.00	[A]
	Scott Rakow Youth Center - Adult - Weekday - Learn to Swim - Resident	105.00	[A]
	Scott Rakow Youth Center - Adult - Weekday - Learn to Swim - Nonresident	187.00	[A]
	South Pointe Park - Field Rental - Resident	315.00	[A]
	South Pointe Park - Field Rental - Nonresident	738.00	[A]
	Miscellaneous - Room Rental - No Admission - Resident	315.00	[A]
	Miscellaneous - Room Rental - No Admission - Nonresident	738.00	[A]
	Miscellaneous - Room Rental - Admission - Resident	441.00	[A]
	Miscellaneous - Room Rental - Admission - Nonresident	1,104.00	[A]
	Pool Rental Fees:		
	Rental - Staffing Fee - Hourly	47.00	[A]
	Additional Hour Fee - Pavilions (Fairway, NIP, Crespi, Tatum, Stillwater)	33.00	[A]
	Additional Hour Fee - Open Spaces and courts (Fisher, Palm Island, Flamingo)	33.00	[A]

	Additional Hour Fee - Fields (NSYPC, Fairway, NIP, Polo)	47.00	[A]
	Additional Hour Fee - Auditorium	96.00	[A]
	Additional Hour Fee - Gymnasium (NSPYC and SRYC)	65.00	[A]
	Additional Hour Fee - Indoor Room	65.00	[A]
	Additional Hour Fee - Flamingo Fields (Memorial, Baseball, Softball, Soccer Cage)	65.00	[A]
	Flamingo and Normandy Isle Pool - Party Rental up to 25 guests - Resident	65.00	[A]
	Flamingo and Normandy Isle Pool - Party Rental up to 25 guests - Nonresident	371.00	[A]
	Flamingo and Normandy Isle Pool - additional guest 26 to 40 - Resident	5.03	[B]
	Flamingo and Normandy Isle Pool - additional guest 26 to 40 - Nonresident	5.90	[B]
	After School Program Fees:		
	After School Program Resident	752.00	[A]
	After School Program Nonresident	1,617.00	[A]
	After School Program Resident Sibling	377.00	[A]
	After School Program Tier 3 Financial Aid - Resident	377.00	[A]

	After School Program Tier 3 Financial Aid Sibling - Resident	191.00	[A]
	After School Program Tier 2 Financial Aid - Resident	191.00	[A]
	After School Program Tier 2 Financial Aid Sibling - Resident	96.00	[A]
	After School Program Tier 1 Financial Aid - Resident	128.00	[A]
	After School Program Tier 1 Financial Aid Sibling - Resident	65.00	[A]
	Teen Club - Resident	0.00	[A]
	Teen Club - Nonresident	1,617.00	[A]
	Summer Camp Program Fees:		
	Summer Camp Program Resident	803.00	[A]
	Summer Camp Program Nonresident	1,339.00	[A]
	Summer Camp Program Resident Sibling	403.00	[A]
	Summer Camp Program Tier 3 Financial Aid - Resident	403.00	[A]
	Summer Camp Program Tier 3 Financial Aid Sibling - Resident	203.00	[A]
	Summer Camp Program Tier 2 Financial Aid - Resident	203.00	[A]

	Summer Camp Program Tier 2 Financial Aid Sibling - Resident	103.00	[A]
	Summer Camp Program Tier 1 Financial Aid - Resident	128.00	[A]
	Summer Camp Program Tier 1 Financial Aid Sibling — Resident	65.00	[A]
	Summer Camp Program Weekly Camp - Resident	128.00	[A]
	Summer Camp Program Weekly Camp - Nonresident	295.00	[A]
	Summer Camp Program - Pay In Full Discount - Resident Only	72.00	[A]
	Summer Camp Program - Pay In Full Discount - Sibling Resident Only	361.00	[A]
	Counselor in Training Program - Resident	128.00	[A]
	Specialty Camp Program Fees:		
	Coding Camp - Resident	366.00	[A]
	Coding Camp - Nonresident	796.00	[A]
	Ice Hockey Camp - Resident	275.00	[A]
	Ice Hockey Camp - Nonresident	663.00	[A]
	Sports Camp - Baseball - Resident	191.00	[A]
	Sports Camp - Baseball - Nonresident	398.00	[A]

	Sports Camp - Basketball - Resident	191.00	[A]
	Sports Camp - Basketball - Nonresident	398.00	[A]
	Sports Camp - Beach Adventures - Resident	153.00	[A]
	Sports Camp - Beach Adventures - Nonresident	321.00	[A]
	Sports Camp - Flag Football - Resident	91.00	[A]
	Sports Camp - Flag Football - Nonresident	398.00	[A]
	Sports Camp - Soccer - Resident	191.00	[A]
	Sports Camp - Soccer - Nonresident	398.00	[A]
	Sports Camp - Tennis - Resident	191.00	[A]
	Sports Camp - Tennis - Nonresident	398.00	[A]
	Theater Camp - Resident	191.00	[A]
	Theater Camp - Nonresident	398.00	[A]
	Yoga and Zumba Camp - Resident	244.00	[A]
	Yoga and Zumba Camp - Nonresident	590.00	[A]
	Culinary Kids Camp - Resident	315.00	[A]
	Culinary Kids Camp - Nonresident	738.00	[A]
	Dance Camp - Resident	214.00	[A]
	Dance Camp - Nonresident	516.00	[A]
	Fine Arts Camp - Resident	244.00	[A]

	Fine Arts Camp - Nonresident	590.00	[A]
	Ice Skating Camp - Resident	275.00	[A]
	Ice Skating Camp - Nonresident	663.00	[A]
	Junior Guard Start Camp - Resident	222.00	[A]
	Junior Guard Start Camp - Nonresident	516.00	[A]
	Junior Police Camp - Resident	191.00	[A]
	Junior Police Camp - Nonresident	398.00	[A]
	Mad Scientists Camp - Resident	191.00	[A]
	Mad Scientists Camp - Nonresident	398.00	[A]
	SoBe Great Adventures Camp - Resident	284.00	[A]
	SoBe Great Adventures Camp - Nonresident	663.00	[A]
	Water Sports Camp - Resident	315.00	[A]
	Water Sports Camp - Nonresident	738.00	[A]
	Get Fit Camp - Resident	184.00	[A]
	Get Fit Camp - Nonresident	398.00	[A]
	Camp for Tots - Resident	471.00	[A]
	Camp for Tots - Nonresident	995.00	[A]
	Spring Break Camp - Resident	128.00	[A]
	Spring Break Camp - Nonresident	295.00	[A]

	Winter Break Camp - Resident	203.00	[A]
	Winter Break Camp - Nonresident	472.00	[A]
	No School Day Package (School Year) - Resident	503.00	[A]
	No School Day Package (School Year) - Nonresident	1,176.00	[A]
	Sports Spring Break Camp - Resident	191.00	[A]
	Sports Spring Break Camp - Nonresident	398.00	[A]
	Class Fees:		
	Playtime - School Year - Resident	610.00	[A]
	Playtime - School Year - Nonresident	1,430.00	[A]
	Adult Ceramics - Monthly - Resident	40.00	[A]
	Adult Ceramics - Monthly - Nonresident	70.00	[A]
	Zumba, per class - Resident	9.00	[A]
	Zumba, per class - Nonresident	15.00	[A]
	Yoga, per class - Resident	9.00	[A]
	Yoga, per class - Nonresident	15.00	[A]
	Miscellaneous Class - Resident, Per Hour	15.00	[A]
	Miscellaneous Class - Nonresident, Per Hour	26.00	[A]
	Special Populations - Resident	0.00	[A]

	Special Populations - Nonresident	76.00	[A]
	Public Skating Sessions Child - Resident	8.00	[A]
	Public Skating Sessions Child - Nonresident	13.00	[A]
	Public Skating Sessions Adult - Resident	8.00	[A]
	Public Skating Sessions Adult - Nonresident	17.00	[A]
	Freestyle Skating - Resident	16.00	[A]
	Freestyle Skating - Nonresident	22.00	[A]
	Freestyle Skating - 10 sessions pack - Residents Only	103.00	[A]
	Private Ice Lesson Fee - Resident	10.00	[A]
	Private Ice Lesson Fee - Nonresident	19.00	[A]
	Ice Skate Rental Fee - Resident	7.00	[A]
	Ice Skate Rental Fee - Nonresident	10.00	[A]
	Group Lessons - Resident	93.00	[A]
	Group Lessons - Nonresident	168.00	[A]
	Youth Ice Hockey - Resident	21.00	[A]
	Youth Ice Hockey - Nonresident	36.00	[A]
	Stick and Puck - Resident	15.00	[A]
	Stick and Puck - Nonresident	26.00	[A]

	Adult Ice Hockey - Resident	15.00	[A]
	Adult Ice Hockey - Nonresident	26.00	[A]
	Senior Scenes - Resident	0.00	[A]
	Senior Scenes - Nonresident	0.00	[A]
	Entrance Fees:		
	Pool Entrance Adult - Resident	0.00	[A]
	Pool Entrance Adult - Nonresident	19.00	[A]
	Pool Entrance Youth - Resident	0.00	[A]
	Pool Entrance Youth - Nonresident	13.00	[A]
	Youth Center Day Pass - Resident	0.00	[A]
	Youth Center Day Pass - Nonresident	11.00	[A]
	Fitness Center - Monthly - Resident	28.00	[A]
	Fitness Center - Monthly - Nonresident	47.00	[A]
	Open Gym/Volleyball - Resident	0.00	[A]
	Open Gym/Volleyball - Nonresident	11.00	[A]
	Athletics Fees:		
	Soccer-4-Tots - Resident	142.00	[A]
	Soccer-4-Tots - Nonresident	319.00	[A]
	Pee Wee Soccer Season - Resident	33.00	

	Pee Wee Soccer Season - Nonresident	295.00	[A]
	Primer Soccer Season - Resident	33.00	[A]
	Primer Soccer Season - Nonresident	295.00	[A]
	Juniors Flag Football - Resident	33.00	[A]
	Juniors Flag Football - Nonresident	295.00	[A]
	Middle School Flag Football - Resident	33.00	[A]
	Middle School Flag Football - Nonresident	295.00	[A]
	Primers Basketball Clinics - Resident	33.00	[A]
	Primers Basketball Clinics - Nonresident	295.00	[A]
	Juniors Basketball Clinics - Resident	33.00	[A]
	Juniors Basketball Clinics - Nonresident	295.00	[A]
	Middle School Basketball Season - Resident	33.00	[A]
	Middle School Basketball Season - Nonresident	295.00	[A]
	Mini Soccer Clinics - Resident	33.00	[A]
	Mini Soccer Clinics - Nonresident	295.00	[A]
	Travel Soccer Development - Resident	154.00	[A]
	Travel Soccer Development - Nonresident	319.00	[A]
	Primer Basketball League - Resident	33.00	[A]
	Primer Basketball League - Nonresident	295.00	[A]

	Junior Basketball League - Resident	33.00	[A]
	Junior Basketball League - Nonresident	295.00	[A]
	Travel Soccer - Resident	566.00	[A]
	Travel Soccer - Nonresident	663.00	[A]
	Aquatics Fees:		
	Little Ballers - Resident	33.00	[A]
	Little Ballers - Nonresident	295.00	[A]
	PeeWee Basketball - Resident	33.00	[A]
	PeeWee Basketball - Nonresident	295.00	[A]
	Scott Rakow Youth Center - Infant/Toddler - Weekend - Resident	72.00	[A]
	Scott Rakow Youth Center - Infant/Toddler - Weekend - Nonresident	120.00	[A]
	Scott Rakow Youth Center - Pre-School - Weekend - Resident	72.00	[A]
	Scott Rakow Youth Center - Pre-School - Weekend - Nonresident	120.00	[A]
	Scott Rakow Youth Center - Level 1 - Weekend - Resident	72.00	[A]
	Scott Rakow Youth Center - Level 1 - Weekend - Nonresident	120.00	[A]

	Scott Rakow Youth Center - Level 2 - Weekend - Resident	72.00	[A]
	Scott Rakow Youth Center - Level 2 - Weekend - Nonresident	12.00	[A]
	Scott Rakow Youth Center - Level 3/4 - Weekend - Resident	77.00	[A]
	Scott Rakow Youth Center - Level 3/4 - Weekend - Nonresident	137.00	[A]
	Scott Rakow Youth Center - Teen/Adult - Weekend - Resident	77.00	[A]
	Scott Rakow Youth Center - Teen/Adult - Weekend - Nonresident	137.00	[A]
	Scott Rakow Youth Center - Infant/Toddler - Weekday - Resident	208.00	[A]
	Scott Rakow Youth Center - Infant/Toddler - Weekday - Nonresident	355.00	[A]
	Scott Rakow Youth Center - Pre-School - Weekday - Resident	208.00	[A]
	Scott Rakow Youth Center - Pre-School - Weekday - Nonresident	355.00	[A]
	Scott Rakow Youth Center - Level 1 - Weekday - Resident	208.00	[A]
	Scott Rakow Youth Center - Level 1 - Weekday - Nonresident	355.00	[A]

	Scott Rakow Youth Center - Level 2 - Weekday - Resident	208.00	[A]
	Scott Rakow Youth Center - Level 2 - Weekday - Nonresident	355.00	[A]
	Scott Rakow Youth Center - Level 3 - Weekday - Resident	221.00	[A]
	Scott Rakow Youth Center - Level 3 - Weekday - Nonresident	398.00	[A]
	Scott Rakow Youth Center - Adult- Weekday - Learn to Swim - Resident	105.00	[A]
	Scott Rakow Youth Center - Adult- Weekday - Learn to Swim - Nonresident	187.00	[A]
	Seahawks - Pre-Swim Team -Resident	228.00	[A]
	Seahawks - Pre-Swim Team — Nonresident	398.00	[A]
	Seahawks - Int-Swim Team - Resident	239.00	[A]
	Seahawks - Int-Swim Team - Nonresident	438.00	[A]
	Seahawks - Adv-Swim Team - Resident	258.00	[A]
	Seahawks - Adv-Swim Team - Nonresident	464.00	[A]
	Scott Rakow Youth Center - Water Polo - Resident	244.00	[A]
	Scott Rakow Youth Center - Water Polo - Nonresident	444.00	[A]

	Flamingo/Normandy Isle Pool - Infant/Toddler - Resident	47.00	[A]
	Flamingo/Normandy Isle Pool - Infant/Toddler - Nonresident	76.00	[A]
	Flamingo/Normandy Isle Pool - Aqua Babies I - Resident	0.00	[A]
	Flamingo/Normandy Isle Pool - Aqua Babies II - Resident	47.00	[A]
	Flamingo/Normandy Isle Pool - Aqua Babies II - Nonresident	76.00	[A]
	Flamingo/Normandy Isle Pool - Level 1 and 2 - Resident	47.00	[A]
	Flamingo/Normandy Isle Pool - Level 1 and 2 - Nonresident	76.00	[A]
	Flamingo/Normandy Isle Pool - Level 3 and 4 - Resident	47.00	[A]
	Flamingo/Normandy Isle Pool - Level 3 and 4 - Nonresident	76.00	[A]
	Flamingo/Normandy Isle Pool - Teen and Adults - Resident	47.00	[A]
	Flamingo/Normandy Isle Pool - Teen and Adults - Nonresident	76.00	[A]
	Tennis Fees:		

	Flamingo/Normandy Pool - Water Aerobics - Residents	0.00	[A]
	Flamingo/Normandy Pool - Water Aerobics - Nonresidents	19.00	[A]
	Tennis Fees:		
	Court Fees - Resident	10.00	[A]
	Court Fees - Nonresident	17.00	[A]
	Annual Memberships - Adult Resident - Light Fee Included	327.00	[A]
	Annual Memberships - Adult Nonresident - Light Fee Included	769.00	[A]
	Annual Memberships - Senior (65+) Resident - Light Fee Included	229.00	[A]
	Annual Memberships - Senior (65+) Nonresident - Light Fee Included	606.00	[A]
	Annual Memberships - Youth Resident (under 18) - Light Fee Included	98.00	[A]
	Annual Memberships - Youth Nonresident (under 18) - Light Fee Included	379.00	[A]
	Annual Memberships - Family Resident - Light Fee Included	704.00	[A]
	Annual Memberships - Family Nonresident - Light Fee Included	1,678.00	[A]

	Light Fee - Non-Member - Resident	6.00	[A]
	Light Fee - Non-Member - Nonresident	6.00	[A]
	Swim Pass:		
	Youth - Nonresident (pool pass)	53.00	[A]
	Adult - Nonresident (pool pass)	96.00	[A]
	Golf Fees - Miami Beach Golf Club:		
	Summer (5/1—10/31):		
	MBGC Summer Rack Rate (5/1—10/31)	149.00	[A]
	MBGC Summer Weekday (South Florida Resident)	99.00	[A]
	MBGC Summer Weekend (South Florida Resident)	119.00	[A]
	MBGC Summer Weekday (Miami Beach Resident)	72.00	[A]
	MBGC Summer Weekend (Miami Beach Resident)	91.00	[A]
	Shoulder (11/1—12/15):		
	MBGC Shoulder Rack Rate (11/1—12/15)	161.00	[A]
	MBGC Shoulder South Florida Resident	125.00	[A]
	MBGC Shoulder Miami Beach Resident	91.00	[A]
	Peak (12/16—4/30):		
	MBGC Peak Rack Rate (12/16—4/30)	264.00	[A]
	MBGC Peak South Florida Resident	149.00	[A]

	MBGC Peak Miami Beach Resident	115.00	[A]
	Cart Rates:		
	MBGC Cart Rate 18 Holes	32.00	[A]
	MBGC Cart Rate 9 Holes	21.00	[A]
	Membership Dues - Miami Beach Golf Club:		
	Resident:		
	MBGC Resident Single	4,749.00	[A]
	MBGC Resident Husband and Wife	6,123.00	[A]
	MBGC Resident Each Dependent Under 18 Years of Age	627.00	[A]
	Nonresident:		
	MBGC Nonresident Single	7,497.00	[A]
	MBGC Nonresident Husband and Wife	9,371.00	[A]
	MBGC Nonresident Each Dependent Under 18 Years of Age	939.00	[A]
	Driving Range:		
	MBGC Small Bucket	15.00	[A]
	MBGC Large Bucket	21.00	[A]
	Golf Fees - Normandy Shores Golf Club:		
	Summer (5/1—10/31):		

	NSGC Summer Rack Rate (5/1—10/31)	103.00	[A]
	NSGC Summer Weekday (South Florida Resident)	73.00	[A]
	NSGC Summer Weekend (South Florida Resident)	85.00	[A]
	NSGC Summer Weekday (Miami Beach Resident)	62.00	[A]
	NSGC Summer Weekend (Miami Beach Resident)	75.00	[A]
	NSGC Miami Beach Resident Junior	9.00	[A]
	Shoulder (11/1—12/15):		
	NSGC Shoulder Rack Rate (11/1—12/15)	115.00	[A]
	NSGC Shoulder South Florida Resident	85.00	[A]
	NSGC Shoulder Miami Beach Resident	75.00	[A]
	NSGC Miami Beach Resident Junior	9.00	[A]
	Peak (12/16—4/30):		
	NSGC Peak Rack Rate (12/16—4/30)	151.00	[A]
	NSGC Peak South Florida Resident	96.00	[A]
	NSGC Peak Miami Beach Resident	81.00	[A]
	NSGC Peak Miami Beach Resident Junior	9.00	[A]
	Cart Rates:		
	NSGC Cart Rate 18 Holes	32.00	[A]
	NSGC Cart Rate 9 Holes	21.00	[A]

	Membership Dues - Miami Beach Golf Club:		
	Resident:		
	NSGC Resident Single	2,679.00	[A]
	NSGC Resident Husband and Wife	4,018.00	[A]
	NSGC Resident Each Dependent Under 18 Years of Age	487.00	[A]
	Nonresident:		
	NSGC Nonresident Single	4,018.00	[A]
	NSGC Nonresident Husband and Wife	5,827.00	[A]
	NSGC Nonresident Each Dependent Under 18 Years of Age	729.00	[A]
	NSGC Junior	1,216.00	[A]

NOTES ON ANNUAL ADJUSTMENTS

[A] Indexed to CPI - Rounded up to the nearest dollar

[B] Indexed to CPI - Rounded up to the nearest cent

[C] Pass through of purchased wholesale water charges - Rounded to the nearest cent

[D] Pass through of purchased wholesale sanitary sewer charges - Rounded to the nearest cent

[E] Solid waste collection rate. Indexed to CPI - No specified rounding

[F] Indexed to CPI - Rounded up to nearest dollar, every 5 years (beginning in FY 2025)

N/A CPI not applicable

(Ord. No. 98-3136, § 1, 9-23-98; Ord. No. 98-3155, § 3, 11-18-98; Ord. No. 99-3205, § 1, 9-17-99; Ord. No. 99-3207, 9-22-99; Ord. No. 2000-3261, § 1, 7-26-00; Ord. No. 2000-3262, § 6, 7-26-00; Ord. No. 2000-3274, § 1, 10-18-00; Ord. No. 2000-3279, § 1, 11-8-00; Ord. No. 2001-3325, § 3, 10-17-01; Ord. No. 2001-3342, § 1, 12-19-01; Ord. No. 2002-3360, § 2, 4-10-02; Ord. No. 2002-3382, § 1, 9-26-02; Ord. No. 2002-3387, § 3, 12-11-02; Ord. No. 2003-3420, 7-30-03; Ord. No. 2003-3421, § 2, 7-30-03; Ord. No. 2003-3422, § 2, 7-30-03; Ord. No.

2003-3423, § 2, 7-30-03; Ord. No. 2003-3425, § 2, 9-18-03; Ord. No. 2003-3426, § 2, 9-18-03; Ord. No. 2003-3427, § 1, 9-18-03; Ord. No. 2006-3538, § 1, 10-11-06; Ord. No. 2007-3580, § 2, 10-17-07; Ord. No. 3581, § 1, 10-17-07; Ord. No. 2008-36-14, § 2, 9-17-08; Ord. No. 2008-3615, § 1, 9-17-08; Ord. No. 2009-3652, § 1, 9-24-09; Ord. No. 2009-3653, § 3, 9-24-09; Ord. No. 2010-3670, § 3, 1-13-10; Ord. No. 2010-3671, § 2, 1-13-10; Ord. No. 2010-3672, § 3, 1-13-10; Ord. No. 2010-3673, § 2, 1-13-10; Ord. No. 2010-3698, § 1, 9-20-10; Ord. No. 2010-3699, § 1, 10-27-10; Ord. No. 2011-3732, § 8, 9-14-11; Ord. No. 2011-3733, § 2, 9-14-11; Ord. No. 2011-3734, § 2, 9-14-11; Ord. No. 2011-3735, § 2, 9-14-11; Ord. No. 2012-3776, § 3, 9-27-12; Ord. No. 2012-3777, § 2, 9-27-12; Ord. No. 2012-3778, § 3, 9-27-12; Ord. No. 2012-3779, § 2, 9-27-12; Ord. No. 2013-3816, § 1, 9-30-13; Ord. No. 2014-3845, § 3, 3-5-14; Ord. No. 2014-3846, § 1, 3-5-14; Ord. No. 2014-3894, § 1, 9-10-14; Ord. No. 2014-3898, § 2, 9-30-14; Ord. No. 2015-3967, § 1, 9-30-15; Ord. No. 2015-3979, § 1(Exh. A), 12-9-15; Ord. No. 2016-4039, § 2, 9-27-16; Ord. No. 2016-4040, § 1, 9-27-16; Memo of 10-26-16; Ord. No. 2016-4065, § 1, 12-14-16; Ord. No. 2017-4130, § 3, 9-25-17; Ord. No. 2017-4145, § 2, 10-18-17; Ord. No. 2017-4145, 12-13-17; Ord. No. 2018-4175, § 2, 3-7-18; Ord. No. 2018-4176, § 1, 3-7-18; Ord. No. 2018-4214, § 2, 9-26-18; Ord. No. 2018-4215, § 2, 9-26-18; Ord. o. 2018-4224, § 4, 11-14-18; Ord. No. 2019-4240, § 2, 2-13-19; Ord. No. 2019-4252, § 9, 3-13-19; Ord. No. 2019-4260, § 1, 5-8-19; Ord. No. 2019-4263, § 2, 5-8-19; Ord. No. 2019-4297, § 1, 9-11-19; Ord. No. 2019-4299, § 2, 9-25-19; Ord. No. 2019-4306, § 5, 10-16-19; Ord. No. 2020-4340, § 2, 6-24-20; Amend. of 10-1-20; Ord. No. 2020-4384, § 2, 12-9-20; Ord. No. 2020-4385, § 1, 12-9-20; Ord. No. 2021-4402, § 1(exh. A), 3-17-21; Ord. No. 2021-4017, § 1(exh. A), 5-12-21; Ord. No. 2021-4418, § 1(exh. 1), 5-12-21; Ord. No. 2021-4435, § 3, 1-28-21; Ord. No. 2021-4440, § 1(exh. A), 9-17-21; Ord. No. 2021-4445, § 1(exh. A), 9-30-21; Amend. of 10-1-21; Ord. No. 2022-4473, § 1(exh. A), 3-9-22; Ord. No. 2022-4475, § 1(exh. A), 3-9-22; Ord. No. 2022-4510, § 2, 9-14-22; Ord. No. 2022-4513, § 6, 9-28-22; Amend. of 10-1-22; Ord. No. 2022-4530, § 1, 12-14-22; Amend. of 10-1-23)