



**TOWN OF CUTLER BAY  
PUBLIC ZONING WORKSHOP  
CUTLER RIDGE PARK  
10100 SW 200 ST  
WEDNESDAY, FEBRUARY 11, 2009  
7:00 P.M.**

- I. 7:00 p.m. Call to Order**
- II. 7:00 p.m.- 7:30 p.m. Public Participation**
- III. 7:30 p.m. Council Participation**
- IV. Workshop Item:**
  - Land Development Regulations**
  - Presentation by The Corradino Group**
- V. Adjournment**



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## MEMORANDUM

To: Steven Alexander, Town Manager

From: David Hennis, Community Development Director

Date: February 2, 2009

Re: Proposed Land Development Regulations Workshop

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Since incorporation in 2005, drafting new land development regulations has been a priority of the council and local land use planning strategies. With adoption of a growth management plan last year, interest and need for developing new regulations began in earnest in November of 2008. The intent has been to draft new requirements which retool the current Miami-Dade regulations in place since incorporation.

Public input has been a priority for developing new requirements with input collected through a series of workshop meetings held in July of 2008. Since this time 4 articles of the proposed code have been written and are ready for zoning workshop and input. The attached materials will assist council in the review and understanding of the process and code areas undertaken in writing a new code and the parameters followed for future adoption.

Several exhibits are attached to this cover and relate to [1] an explanation of the background and how we have arrived at this point in determining the need for the rewrite; [2] the workshop and review schedule addressing the code areas by date to be heard; [3] a detail of each code article with an explanation of what each chapter entails along with a brief overview of proposed section headings; and [4] copy of Articles 1 – 4 of the draft code, which will be the intent of the first zoning workshop on February 11<sup>th</sup>.

### **EXHIBITS**

Cutler Bay Land Development Regulations Overview  
Council workshop Schedule  
February 11, 2009 Workshop and Subsequent Workshop Review Areas  
Articles 1 – 4 of the Draft Code

# Cutler Bay Land Development Regulations

## Introduction

Planning consists of two components, land use and zoning. The Growth Management Plan deals with land use, and the Land Development Regulations (LDR's) are zoning. Zoning regulates building size, bulk, density and the way land is used, it sets guidelines for parking requirements; setbacks; floor area ratio; dwelling units per acre; open space requirements. The land development regulations will be comprised of two components: **zoning text**: establishes zoning districts and sets forth development regulations governing land use and development and **zoning maps**: shows the locations of the zoning districts.

## Public Input

Engaging the public and incorporating community input is a multi-level process that takes place consistently throughout the duration of the project. Community input has been collected through a series community workshop meetings held in July 2008. The following table outlines the schedule of the meetings that were held:

Meeting	Date
Community Workshop #1	July 10, 2008
Community Workshop #2	July 17, 2008
Community Workshop #3	July 21, 2008
Community Workshop #4	July 22, 2008

## Council Workshops to review Draft LDRs

The next phase of the project is to draft the new regulations and retool the old. The Town Council's input will be a valuable aspect of this phase. The council will provide input and comments in a series of workshops which will consist of the reviewing the draft LDRs as part of the process of generating the proposed LDRs for public review. The draft LDRs will include all information gathered through the public input process and data analysis review including:

- Confirmation of the Town's future planning vision
- Assessment of current community conditions
- Evaluation of the existing code regulations
- Analysis of the Growth Management Plan goals, objectives and policies
- Discussion of alternatives

## Council Workshop Schedule

Workshop Date	Topic
February 11, 2009	Article I. Definitions Article II. General Provisions Article III. Decision Making and Administrative Responsibilities Article IV. Review Requirements and Notice Procedures
March 11, 2009	Article V. Zoning District Uses and Development Standards
April 8, 2009	Article VI. Architectural and Development Standards Article VII. Parking and Loading Standards
May 13, 2009	Article VIII. Landscape and Tree Preservation Article IX. Sign Regulations Article X. Supplemental Regulations Article XI. Communication Towers and Antennas Article XII. Platting

# February 11, 2009 Workshop

Topics:

Definitions

General Provisions

Decision Making and Administrative Responsibilities

Review Requirements and Notice Procedures

## Article I. Definitions

Section 1. Purpose

Section 2. Definitions

Summary:

The *Definitions* chapter amended, deleted and added new definitions that are relevant to these Land Development Regulations.

## Article II. General Provisions

Section 1. Title

Section 2. Purpose and Authority

Section 3. Intent of Land Development Regulations

Section 4. Applicability to Development

Section 5. Rules of Interpretation

Section 6. Relationship to Growth Management Plan

Section 7. Official Zoning District Map

Section 8. Changes, Amendments, or Supplements

Section 9. Nonconforming Development

Section 10. Vested Rights and Previously Issued Development Permits or Approved Plans

Summary:

The *General Provisions* create the Town's Official Zoning District Map; address existing non-conforming development; clarify vested rights and previously issued development permits; and establish impact fee requirements.

## Article III. Decision Making and Administrative Responsibilities

Section 1. Purpose and Authority

Section 2. Town Council

Section 3. Local Planning Agency

Section 4. Department of Community Development

Summary:

The *Decision Making and Administrative Responsibilities* chapter succinctly lays out the duties and responsibilities of the Town Council and Local Planning Agency. It further outlines the procedures when the Town acts as a petitioner for land use (Growth Management Plan Amendment) and zoning changes (rezones).

## Article IV. Review Requirements and Notice Procedures

- Section 1. Purpose
- Section 2. Generally
- Section 3. Authorization by Development Permit Required Prior to Undertaking Development Activity
- Section 4. Pre-application Review
- Section 5. Cost Recovery
- Section 6. Requirements and Procedures for Site Plan Review
  - Sub-Section:
    - 6-1. Modification to Final Development Orders
    - 6-2. Substantial Compliance Determinations
    - 6-3. Commencement of Development
    - 6-4. Requirements and Procedures for Administrative Site Plan Review
- Section 7. Requirements and Procedures for Variances and Administrative Adjustments
- Section 8. Requirements and Procedures for Conditional Uses
- Section 9. Requirements and Procedures for Growth Management Plan Amendments
- Section 10. Requirements and Procedures for Re-zoning of Property
- Section 11. Requirements for Zoning Workshop
- Section 12. Requirements and Procedures for Appeals
- Section 13. Withdraw of Development Applications
- Section 14. Advertising and Notice Requirements

Summary:

The *Review Requirements and Notice Procedures* chapter provides the details of the requirements and process for all types of development applications. It also creates requirements for modifications to final development orders. Further, it sets out substantial compliance determinations including the definitions of the data requirements in order to make such a determination. Additionally, the chapter allows for a Conditional Use process. And finally, it creates notice requirements, which consolidates development application types, the corresponding notice types and notice dates in one location.

March 11, 2009 Workshop

Topic: Zoning District Uses and Development Standards

## Article V. Zoning District Uses and Development Standards

Section 1.	Purpose
Section 2.	Schedule of Districts
Section 3.	Relationship of Zoning Districts to Land Use Categories
Section 4.	Interpretation of District Boundaries
Section 5.	Application of District Regulations
Section 6.	Zoning District Cross Reference
Section 7.	Permitted, Permitted Similar, Accessory and Special Exception Uses - Generally
Section 8.	Estate Single-Family Residential District Uses
Section 9.	Single-Family Residential District Uses
Section 10.	Townhouse District Uses
Section 11.	Multi-Family Residential District Uses
Section 12.	Mixed-Use Old Cutler Road District Uses
Section 13.	Mixed-Use Town Center District Uses
Section 14.	Mixed-Use Dixie Highway District Uses
Section 15.	Mixed-Use Buffer District Uses
Section 16.	Institutional District Uses
Section 17.	Parks District Uses
Section 18.	Right-of-Way District Uses
Section 19.	Conservation District Uses
Section 20.	Water District Uses
Section 21.	General Development Standards
Section 22.	General Development Standards
Section 23.	General Development Standards
Section 24.	General Development Standards
Section 25.	Specific Use Requirements
Section 26.	Unity of Title or Covenant in Lieu Thereof Required in Business and Industrial Zoning Districts for Multiple Buildings on One Parcel

Summary:

The *Zoning District Uses and Development Standards* chapter creates the new Zoning Districts that more accurately reflect the existing neighborhoods and the new land use designations from the Growth Management Plan. It also provides for the relationship of Zoning Districts to Land Use categories and creates a Zoning District Cross Reference Chart which depicts, by zoning district, other districts where permitted uses are generally allowed. Further, it provides permitted, permitted similar, accessory and conditional uses for each zoning district.

April 8, 2009 Workshop

Topics:  
Architectural and Development Standards  
Parking and Loading Standards

## Article VI. Architectural and Development Standards

### Division 1 General Provisions

- Section 1. Purpose
- Section 2. Responsibility for Improvements
- Section 3. Principles of Architectural and Development Design
- Section 4. Lot, Yard and Bulk Requirements
- Section 5. Roof Materials
- Section 6. Impervious Surface Coverage
- Section 7. Buffer and Screening Requirements
- Section 8. Stormwater Management
- Section 9. Utilities
- Section 10. Architectural Styles

### Division 2 Green Building Standards

- Section 1. To be developed
- Section 2.
- Section 3.
- Section 4.
- Section 5.
- Section 6.
- Section 7.
- Section 8.
- Section 9.
- Section 10.
- Section 11.
- Section 12.
- Section 13.

### Summary:

The *Architectural and Development Standards* chapter adds principles of Architectural and Development to the Land Development Regulations. This also includes Architectural Styles and addresses impervious and pervious surfaces and methods for calculating lot coverage. This chapter also includes the new Green Building Standards, including Green Building Certification requirements and incentives.

## Article VII. Parking and Loading Standards

Section 1.	Transportation System Design
Section 2.	Off-street Parking Requirements
Section 3.	On-street Parking Requirements
Section 4.	Off-street loading
Section 5.	Shared Parking Requirements
Section 6.	Bicycle Parking

### Summary:

The *Parking and Loading Standards* chapter creates one central table for off-street parking requirements for all zoning districts. It amends the parking requirements based on “real world” built-out conditions in the Town. This chapter also includes requirements for bicycle parking; shared parking; and of parking rights via payment into a central fund.

May 13, 2009 Workshop

Topics:

Landscape & Tree Preservation  
Sign Regulations  
Supplemental Regulations  
Communications Towers and Antennas  
Platting

## Article VIII. Landscape & Tree Preservation

- Section 1. Landscaping
- Section 2. Irrigation
- Section 3. Landscaping and Irrigation Certification and Recertification for Residential, Commercial and Industrial Properties
- Section 4. Renovation and Remodeling of Commercial and Industrial Developments; Supplemental Landscaping
- Section 5. Tree Preservation
- Section 6. Florida Friendly Yards

### Summary:

The *Landscape and Tree Preservation* chapter references Chapter 18A, which is the Miami-Dade County Landscape Ordinance, as the minimum standards. It creates standards on irrigation to include requirements for installation and maintenance of the systems. It creates a Landscaping and Irrigation Certification process and landscape maintenance standards for renovations and remodeling of commercial developments. It also creates and reinforces tree preservation standards and fosters Florida Friendly principles as described in Florida Green Building Coalition "Green Home Standards".

## Article IX. Sign Regulations

- Section 1. Purpose
- Section 2. Compliance Required
- Section 3. General Regulations
- Section 4. Exempt Signs
- Section 5. Prohibited Signs
- Section 6. Sign Permit Process
- Section 7. Sign Standards and Regulations

### Summary:

The *Sign Regulations* chapter amends the exempt and prohibited signs chart; outlines the sign permit process; and provides sign standards and regulations that are appropriate to the Town.

## Article X. Supplemental Regulations

- Section 1. Concurrency
- Section 2. Transfer of Development Rights
- Section 3. Siting water related uses
- Section 4. Development Agreements
- Section 5. Existing Nonconforming Development
- Section 6. Flood Regulations

## Article XI. Communication Towers and Antennas

- Section 1. Purpose and Intent
- Section 2. General Provisions
- Section 3. Where permitted
- Section 4. Antenna Standards and Requirements
- Section 5. Telecommunications Facilities and Towers Standards and Requirements
- Section 6. Unattended Telecommunications Buildings
- Section 7. Permit Required for Telecommunications Facilities
- Section 8. Construction, Installation and Inspection of Telecommunications Facilities
- Section 9. Appeals of Building or Zoning Department Decision
- Section 10. Municipal Property
- Section 11. Variances from Requirements

### Summary:

The *Communication Towers and Antennas* chapter creates general provisions which outline local, state or federal requirements for towers and antennas. It also outlines the requirements for Town approvals including site plan review and co-location provisions. It requires consistency with the Growth Management Plan and allows for variances from the requirements.

## Article XII. Platting

- Section 1.
- Section 2.
- Section 3.

Summary:

The *Platting chapter* will essentially be the same as the current code.

## ARTICLE I. DEFINITIONS

### Section 1. Purpose

Words and terms used in this code shall be given the meanings set forth in this section. All words and terms not specifically defined in this section shall be given their common, ordinary meanings, as the context may reasonably suggest. The reference for common ordinary meanings shall be the latest edition of *Webster's New World Dictionary of the American Language*.

### Section 2. Definitions

#### A

##### **Abandonment/Abandoned**

To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of sewer, water, and other public utilities, or other outside proof of continuance such as bills of lading, delivery records, etc.

##### **Abut**

To physically touch, or having property or district lines in common.

##### **Access**

A means of ingress and egress to a lot from either a public street, alley or private way.

##### **Accessory dwelling unit**

An ancillary or secondary living unit (that has a separate kitchen, bathroom, and sleeping area) existing either within the same structure, or on the same lot, as the primary dwelling unit.

##### **Accessory building or structure**

A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and subordinate to that of the principal structure. Where there is no principal structure on the lot, the accessory structure shall be considered as a principal structure for the purpose of the height, area and bulk regulations.

##### **Accessory use**

A use or a structure subordinate to the principal use of a lot, or of a principal building on the same lot, and serving a purpose clearly incidental to a permitted principal use of the lot or of the building and which accessory use or structure is compatible with the principal permitted uses or structures authorized under zoning regulations applicable to the property.

**Addition to existing building**

Any construction or alteration which increases the size of a building.

**Adjacent property**

Property that touches or is directly across a street, private street or access easement, or right-of-way (other than a freeway or principal arterial) from the subject property.

**Administrative variance**

An administrative adjustment from the strict application of the Land Development Regulations but only in accordance with certain procedures, regulations and requirements.

**Adult (Assisted ) living facility**

Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

**Adult use or adult business**

An adult theater, bookstore/adult novelty store/adult video store, adult modeling studio, special cabaret, adult theater, adult photographic studio, or other establishment or business operated for commercial gain where an employee, operator, or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to F.S. Ch. 480, tanning salons, modeling studios, or lingerie studios. An establishment that possesses an adult entertainment license is presumed to be an adult entertainment establishment.

**Alley**

A through right-of-way (public or private), of less than 25 feet in width, that offers only secondary access to abutting properties which is not used for general traffic.

**Alterations**

Any change in the size, shape or character of construction of a building, structure or sign. Superficial enhancement of the exterior of an existing building for the purpose of beautifying and modernizing shall not be considered a structural alteration.

**Arcade**

A walkway adjacent to a building, covered by a roof, yet not fully enclosed.

**Amusement center facility**

A permanent building housing mechanical amusement devices, automatic merchandise vending machines, and/or juke boxes without respect to number, provided all other laws, ordinances, or regulations of the town are complied with.

**Antenna**

A transmitting and/or receiving device used in telecommunications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communications signals and other communication signals, including directional antennas, such as panel and microwave dish antennas, and omni-directional antennas, such as whips, but excluding radar antennas, amateur radio antennas and satellite earth stations.

**Apartment**

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

**Assembly**

A group of persons organized and united for some common purpose.

**Automobile service center**

A structure designed or used for the retail sale of fuels, lubricants, air, water and other operating commodities for motor vehicles and including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including space or facilities for the storage, painting, repair, refinishing, body work or other servicing of motor vehicles, or the use of the space or facilities therefore.

**B**

**Balcony**

A platform enclosed by a parapet or railing that projects from the wall of a building and is not within the general outline or profile of the building.

**Banner** A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentation applied to paper, plastic, fabric or other non-rigid material, excluding flags and insignias of any government entity.

**Bar or saloon**

An area devoted primarily to the selling or dispensing of alcoholic beverages or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises and in which the service of food is only incidental to the consumption of such beverages.

**Base flood**

A flood having a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood and the “regulatory flood”).

**Base flood elevation**

The water-surface elevation associated with the base flood.

**Basement**

That portion of a building having its floor sub-grade (below ground level) on all sides.

**Best management practices**

Any activities, prohibitions, practices, procedures, programs, or other measures designed to prevent or reduce the discharge of pollutants directly or indirectly into waters of the United States. Shall include but are not limited to those measures specified in the [state authority] stormwater best management practice handbooks for municipal, industrial/commercial, and construction activity and those measures identified by the Town.

**Billboard**

A sign that directs attention to a commercial business, commodity, service, product, or activity not conducted, sold, offered, or available on the premises where such sign is located, the copy (face) of which may be intended to be changed periodically. A billboard is the principal use of the property on which it is located.

**Block**

A parcel of land entirely surrounded by streets, streams, railroad rights-of-way, parks or other public space or combinations thereof.

**Buffer area (see also screening)**

A landscaped area or green space intended to separate two adjacent land uses or properties from one another.

**Boundary**

A line indicating the bounds or limits of any tract or parcel of land, or the various use districts of an urban area.

**Build to line**

An alignment established a certain distance from the curb line to a line along which the building shall be built. Front porches and handicap ramps shall be exempt from build-to line requirements, and must occur behind the property line.

**Buildable area**

The area of a lot remaining after the minimum yard and open space requirements of the zoning ordinance have been met.

**Building**

Any structure used or intended for supporting or sheltering any use or occupancy.

**Building footprint**

The area of a lot or site included within the surrounding exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.

**Building line**

The line established by law, beyond which a building shall not extend, except as specifically provided by law.

**Building permit**

An official document or certification that is issued by the building official and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure.

**Building setback**

The distance as measured perpendicularly from the front, side, or rear property line to the building.

**Built upon area**

A portion of a development that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads and parking areas, recreation facilities, etc.

**Buildout**

Development of land to its full potential or theoretical capacity as permitted under current or proposed planning or zoning designations.

**Business tax receipt**

A license issued by the Town as a prerequisite to the maintaining and conducting of a business, service or profession.

**Busway corridor**

Path of the Miami-Dade County express busway through the town, and property abutting or fronting that path in all directions.

## **C**

### **Canopy**

Any fixed roof-like structure, not movable like an awning, and which is cantilevered in whole or in part self-supporting, but having no side walls or curtains other than valances not more than 18 inches (457 mm) deep. Lean-to canopies, fixed umbrellas and similar structures are included in this classification. Structures having side walls or valances more than 18 inches (457 mm) deep shall be classified as a tent as set forth herein.

### **Carport**

A private automobile shelter not completely enclosed by walls and doors.

### **Child care facility**

Any facility where care, protection, and supervision for a minimum of six children are regularly provided, for a fee or grant and as further enumerated in Section 402.302(2), F.S.

### **Child day care family home**

An occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit.

### **Club, private**

An organization or association of persons 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. Such organizations and associations must be incorporated under the Laws of Florida as a non-profit corporation and such corporation's major purpose shall not be for the purpose of serving alcoholic beverages to its members or others.

### **Cluster development**

A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

### **Colonnade**

A series of columns set at regular intervals and usually supporting the base of a roof structure.

### **Commercial uses**

Activities within land areas which are predominantly connected with the sale, rental and distribution of products, or performance of services.

**Common area recreational facility**

Recreational structures or areas in a particular development such as: community buildings; pools; cabañas; tennis, basketball or racquetball courts; solariums and play lots for the use and enjoyment of the residents and guests.

**Communication tower**

A mono pole, self-supporting/lattice tower or guyed tower, constructed as a free-standing structure, containing one or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication, excluding radar towers, amateur radio support structures and satellite earth stations.

**Concurrency**

The necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

**Conditional use**

A use not permitted by right but may provide for an individual or community serving need and which, subject to conditions, would not impact the integrity of the zoning district.

**Contiguous**

Lands are contiguous if they abut each other, or if separated by streets, ways, easements, pipelines, power lines, conduits, or rights-of-way under single ownership of the petitioner, a governmental agency, a subdivision or a public or private utility. Lands shall not be considered contiguous unless they can be developed with internal vehicular and pedestrian connectivity.

**Convenience store**

A neighborhood retail establishment offering for sale prepackaged food products, household items, and other goods and having a gross floor area of less than 5,000 square feet.

**D**

**Density**

An objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

**Density, gross**

The number of dwelling units per gross area devoted to residential development.

**Density, net**

The number of dwellings or principal buildings or uses permitted per net acre of land. Net acre of land shall not include land required for public streets.

**Developer**

Any person, including a government agency, undertaking any development as defined herein.

**Development**

The carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels and that which is further defined in Section 380.04, F.S.

**Development order**

Any order granting, denying, or granting with conditions an application for a development permit.

**Development permit**

Any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

**Demolition**

The complete constructive removal of a building or structure on any site.

**Director**

The Community Development Director or his or her qualified designee.

**District**

Any district delineated on the official zoning district map under the terms and provisions of this code or which may hereinafter be created subsequent to the enactment of this code for which regulations governing the area, height, use of buildings, or use of land, and other regulations relating to development or maintenance of existing uses or structures, are uniform.

**Drive-through facility**

A term used to describe an establishment designed or operated to serve a patron who is seated in an automobile.

**Driveway**

A vehicular access or a private road that enables vehicles to travel from a public or private road to the entrance of a public or private property.

**Drive-thru/Drive-in (non-restaurant)**

A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

**Duplex**

A building with or without resident supervision occupied or intended to be occupied by two families living separately with separate cooking and sleeping facilities in each unit.

**Dwelling or residence**

Any building or part thereof, occupied in whole or in part, as the residence or living quarters of one or more persons, permanently, or temporarily, continuously or transiently.

**Dwelling, multifamily**

A building or portion thereof used for occupancy of three or more families living independently of each other and containing three or more dwellings including, but not limited to, what is commonly known as an apartment building.

**Dwelling, single-family attached (group, row, duplex, and townhouses)**

One or more dwellings having a common or party wall.

**Dwelling, single-family detached**

A dwelling not occupied by more than one family; a dwelling comprised of only one unit.

**E**

**Easement**

An interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose.

**Encroachment**

Any portion of a primary structure that extends beyond the required setback or build-to line.

**Entrance features**

Any combination of decorative structures and landscape elements located at the entrance to a development, which identifies or draws attention to the development and/or exercises control of ingress and egress to the development. An entrance feature may include, although not necessarily be limited to, ornamental walls, fences, identifying lettering, logos, works of art, and other decorative structures, earthworks, water bodies, fountains, trees, plantings, and

other landscape elements, as well as gatehouses, either singly or in any combination thereof.

**Essential service**

Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam, or water, the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services, provided no transmitter or antenna tower exceed 180 ft in height. Essential Services are divided into 3 classes:

- a. Class 1 - Transmission lines [above and below ground] including electrical, natural gas, and water distribution lines; pumping stations, lift stations, and telephone switching facilities [up to 200 square feet].
- b. Class 2 - Elevated water storage tanks; package treatment plants, telephone switching facilities [over 200 square feet], substations, or other similar facilities in connection with telephone, electric, steam, and water facilities.
- c. Class 3 - Generation, production, or treatment facilities such as power plants, water and sewage plants, and landfills.

**Existing development**

The use of a lot, parcel or structure at the time of the enactment of the code or any section thereof.

**Existing urban service area**

Built-up areas where public facilities and services such as sewage treatment systems, roads, schools, and recreation areas are already in place.

**F**

**Façade**

That exterior side of a building which faces, and is most nearly parallel to, a public or private street. The facade shall include the entire building walls, including wall faces, parapets, fascia, windows, doors, canopies, and visible roof structures of one complete elevation.

**Family**

One or more persons living together as a single housekeeping unit. No more than four unrelated persons shall be allowed to live within a single dwelling.

**Fence**

A barrier used to enclose a property as a means of protection or confinement.

**Financial Feasibility**

Shall mean as provided in Section 163.3164(32), Florida Statutes, as amended.

**Five minute walk**

The average distance an adult is able to traverse in a five minute period.

**Floodway area**

The channel of a watercourse and those portions of the adjoining floodplains which are required to carry and discharge the 100-year flood with no significant increase in the base flood elevation.

**Floodway fringe**

That portion of a floodplain that is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.

**Floor area, gross**

The sum of the horizontal areas of all floors of a building, including areas used for human occupancy in basements, and attics, as measured from the exterior faces of the walls. Such area does not include basements, unenclosed porches, or attics not used for human occupancy.

**Floor area ratio (FAR)**

A measurement of development intensity determined by dividing the floor area of the building or buildings on any lot by the net area of the lot.

**Footprint**

The outline or shape of a building or structure as determined on a horizontal plane.

**Frontage**

The length of any one property line of a site, which property line abuts a legally accessible public right-of-way.

**G**

**Garage, public**

A structure designed and used for the storage of motor vehicles.

**Garage, private**

A structure for the private use of the owner or occupant of a principal structure situated on the same lot for the storage of motor vehicles.

**Garage, repair**

A building designed and used for the storage, care, repair, or refinishing of motor vehicles, including both minor and major mechanical overhauling, paint, and body work.

**Grade**

The elevation established for the purpose of regulating the number of stories and the height of buildings. Grade shall be the mean level of the finished surface of the ground adjacent to the exterior walls of the buildings.

**Green building**

A building whose design, construction and operation promote the preservation of resources and environmentally sensitive construction practices, systems and materials.

**Green development**

The use of sustainable building and development planning methods utilized in a way that result in minimum impact on natural resources, energy consumption, use of water, use of raw materials and waste generation, thereby affording inhabitants a potentially higher quality of life.

**Green program certification**

The final designation awarded to a program participant for satisfying all requirements associated with the program for a particular project.

**Group home**

A facility which provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents. Adult congregate living facilities comparable in size to group homes are included in this definition. It shall not include rooming or boarding homes, clubs, fraternities, sororities, monasteries or convents, hotels, residential treatment facilities, nursing homes, or emergency shelters.

**Growth Management Plan**

A plan that meets the requirements of sections 163.3177 and 163.3178, F.S.

**Guesthouse**

Living quarters within a detached or semidetached accessory building located on the same lot with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

**H**

**Height**

The vertical distance from grade to the highest point of the structure.

**Height limit**

The limit to the vertical extent of a structure that is measured in number of stories or feet.

**Home office**

An office designed for and operated as a home occupation/office location in a dwelling unit, and carried on by a person residing in the dwelling unit involving only written correspondence, telephones, computers, or other common office equipment, and which is clearly ancillary and secondary to the use of the dwelling for residential purposes. A home office shall preclude any business operation which requires or permits customers or patrons to visit the dwelling. The incidental taking of office work home and completing same, by a person having a business address other than the residence, shall not constitute the establishment of a home office and shall continue to be permitted in conjunction with a residential use. It is further provided that an office use ancillary to a permitted, bonafide agricultural use shall not constitute a home office.

**Hotel/Motel**

A building, or part thereof, in which sleeping accommodations are offered to the public, primarily on a short term or transient basis, with no cooking facilities for use by the occupants, in which there may be a public dining room for the convenience of the guests, and access to the sleeping rooms is through an inside lobby or office.

A motel is a building or a group of two (2) or more buildings designed to provide sleeping accommodations for transient or overnight guests. Each building shall contain a minimum of ten (10) residential units or rooms which shall generally have direct, private openings to a street, drive, court, patio, or the like.

I

**Impervious area**

That portion of a lot measured in square feet which is incapable of being penetrated by rainwater. This shall include, but not be limited to, all structures, roof extensions, terraces, porches, sidewalks, pools and athletic courts.

**Institutional use**

A nonprofit or quasi-public use, such as a religious institution, library, public, or private school, hospital, or government owned or government-operated structure or land used for public purpose.

## K

### **Kennel**

Any place where four or more dogs over four months of age are kept.

## L

### **Landscape feature**

Any improvement or vegetation including, but not limited to courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, low walls, street furniture and exterior lighting.

### **Landscaping plan**

A plan associated with a subdivision, land development, or parking facility plan indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

### **Local Planning Agency**

The agency designated to prepare the comprehensive plan or plan amendments as required by Section 163.3174 F.S.

### **Loading space**

An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

### **Lot**

A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon.

### **Lot, corner**

A lot abutting the intersection of two or more streets.

### **Lot coverage**

The area of a lot which is occupied or covered by, but not limited to, buildings, including covered porches and accessory buildings, decks, pools, driveways, walkways and patios.

### **Lot depth**

The *mean* horizontal distance between the front and rear lot lines.

### **Lot frontage**

The distance for which the front lot line and the street right-of-way line are coincident.

**Lot line, front**

The front of a lot shall be construed to be that portion abutting the street. For corner lots, the lot front shall be the narrowest portion of the lot abutting any street, unless determined otherwise by the Town.

**Lot line, rear**

The rear property line of a lot is that lot line opposite to the front property line, unless otherwise determined by the Town.

**Lot line, side**

Any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is an exterior side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line

**Lot width**

The horizontal distance between side lot lines, measured at the required front setback line.

**M**

**Mangroves**

Any specimen of the species *Laguncularia racemosa* (white mangrove), *Rhizophora mangle* (red mangrove), or *Avicennia germinans* (black mangrove).

**Manufactured home**

A factory-built, single-family structure, which is manufactured or constructed under authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of this title, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.

**Mechanical equipment**

An air conditioning unit, water cooling tower, swimming pool pump, irrigation pump, well water pump, fan, power generator or other similar power source equipment, permanently affixed to real property.

**Mixed-use occupancy**

Occupancy of a building or parcel of land by more than one type of use.

**Mixed use**

The development of a tract of land or building or structure with two or more different uses such as but not limited to residential, office, retail, public, or entertainment, in a compact urban form.

**Mobile home**

A trailer designed to be used as living quarters, providing the normal and usual facilities of a residence, intended by size and capacity for extended use as a dwelling which is constructed with a permanent hitch or other device allowing transport of the unit.

**Mobile structure**

A structure on wheels, rollers or skids and not structurally anchored to a foundation.

**N**

**Newspaper of general circulation**

A newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising, as provided for in Section 163.3164(15), Florida Statutes, as amended.

**Night club**

A commercial establishment in which music, dancing and/or entertainment is conducted as a principal use.

**Nonconforming structure**

A structure or portion thereof, existing at the effective date of these regulations or any amendment thereto, which was designed or structurally altered for a use not permitted at its location by the provisions of these regulations as a new use, and/or which does not conform to all of the regulations applicable to the district in which it is located, such as setbacks, minimum floor area, and the like.

**Nonconforming use**

The use of a structure or premise, existing at the effective date of these regulations, or any amendment thereto, for any purpose not permitted as a use in the zoning district in which it is located.

**Non-residential development**

An area of land lawfully used, designated in the Growth Management Plan, and approved in a master plan, development order, or other final development approval for non-residential purposes.

**Nursing home facility**

Any facility which provides nursing services as defined in Part I of Chapter 464 and which is licensed according to this part.

**O**

**Office use**

A use associated with conducting the affairs of a business, profession, service industry, or government.

**Off-street parking**

The storage space for vehicles on premises other than rights-of-way.

**Open space**

Land used for recreation, resource protection, amenity, and/or buffers. In no event shall any area of a lot constituting the minimum lot area of said lot nor any part of an existing or future road or right-of-way be counted as constituting open space except that buffer areas may be included in the area of a lot constituting the minimum lot area.

**Outdoor dining area**

An area of designated size used as a seating area with tables and chairs for the contiguous restaurant. This seating may be in addition to the indoor seating or it may be the only seating available for the restaurant.

**Outdoor sale**

The placement of goods, equipment, or materials for sale, rental, or lease in a location not enclosed by a structure consisting of walls and a roof. "Outdoor display" shall not mean yard sales as defined in the Town Code.

**Outdoor storage**

The storage of any material for a period greater than 24 hours, including items for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

**Overlay regulations**

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.

**P**

**Painted sign**

A sign painted directly on to the surface of a structure.

**Parapet**

The portion of a building wall which rises above the roof level.

**Parcel of Land**

Any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer and land to be used, or developed as, a unit or which has been used or developed as a unit, as provided in Section 163.3164(16) F.S.

**Park**

Any area that is predominately open space, used principally for active or passive recreation, and not used for a profit making purpose. Any area designated by the Town as a park.

**Parking**

The temporary, transient storage of private passenger automobiles used for personal transportation, while their operators are engaged in other activities. Parking shall not include storage of new or used cars for sale, service, rental or any other purpose other than specified above.

**Parking lot or garage, satellite**

A parking lot or garage which is accessory to but located on a lot which is not contiguous with the main permitted use.

**Parking lot and/or garage, valet**

A parking lot and/or garage which is accessory to and that may or may not be located on the same lot as the main permitted use, where non-commercial personal automobiles and vans are parked solely by employees or agents of the owner of the main permitted use.

**Parking space or stall**

An area on a lot and/or within a building intended for parking of a personal vehicle.

**Patio or terrace living area**

A constructed hard surface area that is paved or bricked (not asphalt).

**Pawn shop**

A business establishment which accepts merchandise as security for cash loans and which offers the merchandise for sale after an agreed upon period of time if the loan has not been paid.

**Pedestrian-oriented development**

Development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than on auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades which face the street. Typically, buildings cover a large portion of the site. Although parking areas may be provided, they are generally limited in size and they are not emphasized by the design of the site.

**Performance guarantee**

A financial guarantee (letter of credit or bond) to ensure that all improvements, facilities, or work required will be completed in compliance with the ordinances, regulations, plans, permits and specifications of a development.

**Permit**

See Development Permit

**Planned unit development (PUD)**

Land under unified control to be planned and developed as a whole or in phases. A PUD includes structures and uses substantially related to the character and purposes of the planned development and is built according to general and detailed plans. A PUD includes a program for the operation, and maintenance of such areas, facilities, and improvements as will be for the common use by some or all of the occupants of the PUD zoning district, but which will not be provided, operated, or maintained at general public expense.

**Plat**

See final or tentative plat definitions.

**Porch**

An attached open air projection from the outside façade of a building covered by a roof and used solely for ingress and egress and not for occupancy.

**Porte cochere**

A structure attached to a residence and erected over a driveway, not exceeding one story in height, and open on two or more sides.

**Portico**

A colonnade or covered ambulatory and often at the entrance of a building.

**Principal building**

A building in which is conducted the primary or predominant use of the lot on which it is located.

**Promenade**

A wide controlled pedestrian walk, formal in aesthetic design. They may be made of pavers, crushed gravel, grass, wood decking, or concrete.

**Public**

Belonging or open to, enjoyed and used by and/or maintained for the public generally, but not limited to a facility the control of which is wholly or partially exercised by some governmental agency.

**Public Facilities**

Major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

**Public hearing**

A publicly advertised meeting of an official legislative or quasi-judicial body conducting town business during which the, public is allowed to give testimony concerning issues under consideration.

**Public notice**

Notice as required by s. 166.041(3)(a) F.S.

**Public service/utility uses**

Those which provide essential or important public services such as: emergency dispatch centers for fire, police and rescue; broadcasting stations; utility facilities such as water or wastewater plants, electricity substations, maintenance facilities for schools or telephone companies.

**R**

**Recreation facilities, private**

A private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

**Recreation facilities, public**

A component of a recreation site used by the public such as a trail, court, athletic field or swimming pool.

**Religious institutions**

Churches and ecclesiastical or denominational organizations, or established physical places for worship in this State at which nonprofit religious services and activities are regularly conducted and carried on, and shall also mean church cemeteries.

**Residential uses**

Activities within land areas used predominantly for housing.

**Restaurant**

A food and/or beverage establishment that prepares food on the premises for consumption either on or off the premises. Bars or lounge areas are considered an incidental use to the restaurant.

**Restaurant, drive-thru**

Food and/or beverage establishment that has a dedicated drive-thru lane for customers in motor vehicles.

**Retail**

The sale of commodities or goods which are sold to the ultimate consumer.

**Right-of-way**

A strip of land occupied or intended to be occupied by a street, crosswalk or other pedestrian ways, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other public infrastructure.

**Road, private**

Vehicular ingress and egress established as a separate tract for the benefit of certain adjacent properties not abutting public right-of-way.

**Roof**

The exterior top covering of a building.

**Roof line**

The top edge of the roof or top of the parapet, whichever forms the top line of the building structure.

**Roof overhang**

The overhead features of an architectural element beyond the building wall such as roofs.

**Rooftop equipment**

All machinery and equipment located on the roof of a structure.

**S**

**Satellite dish antenna**

A round, parabolic antenna intended to receive signals from orbiting satellites and other sources.

**School**

An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

**Screening**

The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

**Service station**

Any premises where gasoline and other petroleum products are sold and/or limited light maintenance activities such as engine tuneups, lubrication, minor repairs, and carburetor cleaning are conducted.

**Setback**

The minimum horizontal distance between the lot or property line and the nearest front, side, or rear line of the building, as the case may be, including terraces or any covered projection thereof. Steps and ramps are excluded from this calculation.

**Setback, Front**

A setback that is measured from a front lot line.

**Setbacks, interior side**

A setback that is measured from an interior side lot line.

**Setbacks, rear**

A setback that is measured from a rear lot line.

**Setbacks, side**

A setback that is measured from a side lot line.

**Shared parking**

Any parking spaces intended to be utilized for more than one use occurring on a single lot or within a single building, where persons utilizing the spaces are unlikely to need the spaces at the same time of day.

**Shopping center**

A grouping of retail business and service uses on a single site with common parking facilities.

**Showroom**

A building or premises where new vehicles, boats, equipment, furniture, appliances, and other products are prominently displayed and offered for sale by an authorized agent.

**Sight distance triangle**

An area of land at the intersection of streets, or a street and a driveway, within which nothing may be erected, planted, placed, or allowed to grow in a manner which will obstruct the vision of motorists entering or leaving the intersection.

**Sign**

Any device or representation for visual communication that is used for the purpose of bringing the subject matter to the attention of the public. Signs include, but are not limited to, figures, letters, logos, devices, flags, pennants, emblems, and pictures.

**Animated sign**

A sign that uses movement, change of lighting or change of color to depict action or create a special effect or scene. Also, a sign or device visible from the public right-of-way with letters or characters that move or change more frequently than every six (6) seconds.

**Attached sign**

A sign which is attached to or supported by a building, wall, or other structure. The definition of “attached sign” shall not include a sign painted directly on the wall face of a building or structure.

**Automatic electric changing sign (“ACS”)**

Any electrical or electronically controlled sign where different messages or copy changes are shown, including tri-vision panels. Also, any sign, or portions of a sign, where any light source, including but not limited to incandescent bulbs or light-emitting diodes (LEDs), constitutes the sign text or image. This type of sign includes, but is not limited to electronic message boards; television screens; plasma screens; digital screens; flat screens; LED screens; video boards; other types of electric and electronic display boards and screens; and holographic displays.

**Awning, canopy, roller curtain or umbrella sign**

Any sign—stamped, perforated, or stitched on the surface area of an awning, canopy, roller curtain or umbrella.

**Cantilever**

That portion of a building, projecting horizontally, whether it be on the same plane as the roof line or not.

**Cantilever sign**

Any sign which is mounted on a cantilever. No cantilever sign may extend beyond the cantilever.

Changeable copy sign (manual)

Any sign displaying a message which can be changed by hand through the use of removable characters.

Class A (temporary signs)

Any sign(s) to be erected on a temporary basis, such as signs advertising the sale or rental of the premises on which located; signs advertising a subdivision of property; signs advertising construction actually being done on the premises on which the sign is located; signs advertising future construction to be done on the premises on which located, and special events, such as carnivals, concerts, public meetings, sporting events, political campaigns or events of a similar nature.

Class B (point of sale sign)

Any sign advertising or designating the use, occupant of the premises, or merchandise and products sold on the premises, shall be deemed to be a point of sale sign (class B) and shall be located on the same premises whereon such is situated or the products sold.

Class C (commercial advertising signs)

Any sign which is used for any purpose other than that of advertising to the public the legal or exact firm name of business carried on the premises, or for advertising any service or product or products actually and actively being offered for sale on the premises, or which is designed and displayed solely to offer for sale or rent the premises or to advertise construction being done, or proposed to be done, on the premises, or advertising special events approved by the Department shall constitute a class C sign. Class C signs may be in the form of a billboard, bulletin board, or poster board, or may be affixed flat to a building or painted thereon.

Detached sign

Any sign not attached to or painted on a building, but which is affixed and permanently attached to the ground and which is not a monument sign as defined herein. "Permanently attached" as used herein shall mean that the supporting structure of the sign is attached to the ground by a concrete foundation or other support anchored in the ground.

Directional sign

A sign which guides or directs the public and contains no advertising. The name of the facility (such as store name), which the sign is giving direction to, may be included when specified conditions in the Code are complied with.

Entrance features

Any combination of decorative structures and landscape elements located at the entrance to a development, which identifies or draws attention to the development and/or exercises control of ingress and egress to the development. An entrance feature may include, although not necessarily be limited to, ornamental walls, fences, identifying lettering, logos, works of art, and other decorative structures, earthworks, water bodies, fountains, trees, plantings, and other landscape elements, as well as gatehouses, either singly or in any combination thereof.

Flag

A piece of fabric with a color or pattern representing a government or other organization, entity, or idea.

Flat sign

Any sign attached to and erected parallel to the face of, or erected or painted on the outside wall of any building, and supported throughout its length by such wall or building.

Freestanding sign

Any sign not painted or mounted on a building, fence, or wall.

Marquee

A covered structure projecting from, and supported by the building with independent roof and drainage provisions, and which is erected over a doorway or entranceway as protection against the weather.

Marquee sign

Any sign attached to or hung from a marquee.

Monument sign

A freestanding, self-supported structure of solid construction, not attached or affixed in any way to a building or any other primary structure, and with concealed means of support that is built into the ground that could not be construed to be a pole sign.

Multi-family office sign

A sign identifying the location of the management office of a multifamily residential property.

Multi-tenant center sign

Any shopping center, office center or business center in which two (2) or more occupancies abut each other or share common parking facilities or driveways or are otherwise related.

Non-commercial sign

A sign containing only non-commercial copy. "Non-commercial" shall mean not-for-profit or commercial gain. Regardless of the content of the copy, a noncommercial sign shall not be construed to be an off-premises sign.

Non-conforming sign

A sign located within the town limits on the effective date of this code or existing in an area annexed by the town after the effective date of this code (or amendments hereto) which, by its height, type, area, design, colors, materials, location, use, or structural support, conformed to the town code prior to the effective date of this ordinance, but does not conform to the requirements of this code. This shall include signs that had been granted variances that were approved, and signs that were issued a construction permit by the Town of Cutler Bay or Miami-Dade County prior to the effective date of this ordinance.

Off-premises sign

A sign that directs attention to a commercial business, commodity, service, product, or activity not conducted, sold, offered, or available on the premises where such sign is located, the copy of which may be intended to be changed periodically. An off-premises sign is the principal use of the property on which it is located. It may also be referred to as a "billboard." This definition includes a sign displayed on a trailer or the bed of a truck that advertises something other than the identity of the truck, the driver or its contents.

On-premises sign

A sign that is located on the premises of the occupant, business, or property identified on the sign. The occupant, business, or property is the principal use of the property, and the sign is an accessory use of the property on which it is located.

Point of sale sign

Any sign advertising or designating the use, occupant of the premises, or merchandise or products sold on the premises.

Pole sign

A sign erected upon a pole, poles, post, or "pole-like" structure that is visible and wholly independent of any building or structure for support.

Portable sign

Any sign not attached to or painted on a building and not affixed or permanently attached to the ground.

Projecting sign

Any sign which is an independent structure, which is attached to the building wall, and which extends at any angle from the face of the wall. No

projecting sign shall extend above the roof or parapet wall in any residential district.

Pylon

A vertical extension of a building, constructed integrally and concurrently with the building, or in connection with a major remodeling or alteration of a building. To classify as a pylon for sign purposes, the pylon structure must be an integral part of the building structure, extending to ground level.

Pylon sign

A flat sign attached to the face of a pylon. The outer edge of the sign shall not extend beyond the pylon nor above the roof line.

Roof sign

Any sign which is fastened to, or supported by the roof or erected over the roof.

Semaphore

Any sign consisting of two (2) dual-face signs extending horizontally from a light standard. Such sign must project from opposite sides of such light standard, and must be located in the parking lot of a shopping center to identify the location of parking areas. No advertising is permitted on the sign.

Shopping center sign

An area with at least two hundred fifty (250) feet of street frontage zoned for retail purposes under one (1) application and under one (1) ownership, and with at least two (2) tiers of parking, two (2) or more retail uses, which is subject to site plan or plot use approval as a condition of the applicable resolution or ordinance.

Temporary sign

Any sign to be displayed for a limited period of time. Temporary signs include signs capable of being mounted on the ground through use of supports made of wood, plastic, or metal, or leaned or affixed to a structure or similar object, hand-carried signs, temporary portable signs as defined herein, but shall not include bumper stickers placed on vehicle bumpers.

Town public information sign

An automatic electric changing sign erected by the Town, on Town property, for the purpose of providing noncommercial public information and announcements of Town-sponsored meetings, events, advisories, and activities.

*V-shaped point of sale sign*

A point of sale sign with two sign faces, which is constructed of solid materials in the form of a “v”.

*Wall sign*

Any sign painted on or attached to and erected parallel to the face of, or erected and confined within the limits of, the outside wall of any building and supported by such wall or building and which displays only one (1) advertising surface.

*Window sign*

A sign located on the inside of a window or within a building or other enclosed structure, where the sign face is visible and legible from the exterior through a window or other opening.

**Site**

A parcel of land which is to be developed as a single unit, subdivision, or project.

**Site plan**

A document or group of documents containing sketches, text, drawings, maps, photographs, and other material intended to present and explain certain elements of a proposed development, including physical design, siting of buildings and structures, interior vehicular and pedestrian access, the provision of improvements, landscaping and open space and the interrelationship of these elements.

**Special event**

Circuses, fairs, carnivals, festivals, or other types of special events that (1) run for longer than one day but not longer than two weeks, (2) are intended to or likely to attract substantial crowds, and (3) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

**Storefront**

A facade facing aligned with public right-of-way with glazed window openings, at least one (1) entrance, and the ability to function as an independent store without any exterior modification.

**Story**

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over five feet above the average level of the finished ground surface adjoining the exterior walls of such building, or if it is occupied for business or dwelling purposes.

**Street**

A public or private right-of-way used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform. The dedication of half-streets at the perimeter of a new subdivision is prohibited. If circumstances render this impracticable, adequate provision for the dedication on the remaining half shall be required.

**Structure**

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. "Structure" also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and advertising signs.

**Structural alterations**

Any change, except for repair, or replacement of the structural members of a building, including but not limited to, bearing walls, column, beams or girders, but where no additional facilities of floor space are added thereto.

**Subdivision**

The division of any tract or parcel of land into 3 or more parcels.

**Sustainable**

The finite capacity of any place to support human activities, given a set of impacts that those activities have on the place. Once capacity is reached, the impacts of additional growth or activities harm the integrity of the place and impair its ability to function as intended.

**T**

**Temporary event**

An event lasting not more than two (2) consecutive weeks during one (1) calendar year.

**Temporary conditional use permit**

A variance of a type that is for a special purpose, granted to a purchaser of property that is the subject of an existing special use permit, for a limited period of time and under the same conditions and restrictions set out in the original conditional use permit.

**Traditional neighborhood development**

A development that offers a mixture of: housing types and prices; prominently sited civic or community building(s); and stores/offices/workplaces to provide a balanced mix of activities. Church and preschool/elementary school facilities are

encouraged. A traditional neighborhood development has a recognizable center and clearly defined edges; optimum size is a quarter mile from center to edge.

**Trailer**

A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

**Transit stop**

A designated location that provides passengers access to the transit system and/or a point of transfer between transit routes.

**Trees; large and small**

A large tree has a height at maturity greater than 30 feet and which provides significant canopy due to the shape of the tree.

A small tree has an expected height at maturity no greater than 30 feet.

**U**

**Urban sprawl**

Urban development or uses which are located in predominantly rural areas, or rural areas interspersed with generally low-intensity or low-density urban uses, and which are characterized by one or more of the following conditions: (a) The premature or poorly planned conversion of rural land to other uses; (b) The creation of areas of urban development or uses which are not functionally related to land uses which predominate the adjacent area; or (c) The creation of areas of urban development or uses which fail to maximize the use of existing public facilities or the use of areas within which public services are currently provided. Urban sprawl is typically manifested in one or more of the following land use or development patterns: Leapfrog or scattered development; ribbon or strip commercial or other development; or large expanses of predominantly low-intensity, low-density, or single-use development.

**V**

**Variance**

A relaxation of the strict terms of a specific provision of this Chapter by the Town Council in accordance with this Chapter.

**Y**

**Yard**

Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in these land use regulations. The minimum depth or width of a yard shall be measured by the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

**Yard; front**

A yard extending along the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth. Front yard depth shall be measured at right angles to the front line of the lot.

**Yard; rear**

A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. Rear yard depth shall be measured at right angles to the rear line of the lot.

**Yard; side**

A yard lying between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either of such front or rear yards, to the front or rear lot lines. Side yard width shall be measured at right angles to side lines of the lot.

**Yard; side street**

The area extending between the front yard and the rear yard or rear street yard and situated between the side street lot line and the face of the principal building which is parallel to, or most nearly parallel to, the side street lot line.

**Z**

**Zero lot line**

The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

**Zoning code**

An ordinance enacted by the Town Council pursuant to state law that sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the growth management plan of the town, which includes a zoning map, and complies with the provisions of the State of Florida.

**Zoning district**

Any district delineated on the official zoning district map under the terms and provisions of this code, which may be amended from time to time, for which regulations governing the area, height, use of buildings, or use of land, and other

regulations relating to development or maintenance of existing uses or structures, are uniform.

**Zoning map**

The map and any amendments thereto designating the zoning districts, incorporated into this ordinance by reference.

**Zoning permit**

A document signed by the zoning officer, as required in this chapter, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, which document acknowledges that such use, structure, or building complies with the provisions of this Chapter or an authorized variance there from.

## **ARTICLE II. GENERAL PROVISIONS**

### **Section 1. Title**

This Chapter shall be entitled "Land Development Regulations."

### **Section 2. Purpose and Authority**

These land use regulations are enacted pursuant to the requirements and authority of F.S. § 163.3202, the Local Government Comprehensive Planning and Land Development Regulation Act; the Town Charter.

### **Section 3. Intent of Land Development Regulations**

With regard to these Land Development Regulations in general, the provisions of this Chapter are intended:

- (a) To implement and promote consistency with goals, objectives and policies of the Town's Growth Management Plan.
- (b) To foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the Town in accordance with the Growth Management Plan.
- (c) To specify the duties and responsibilities of the Town in the administration of this Code.
- (d) To establish clear, consistent and certain regulations, procedures and development standards for obtaining development order and permitting approvals for all proposed development in the Town.
- (e) To adopt a development review process that is efficient, effective, and equitable.
- (f) To provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet level of service requirements (concurrency).

### **Section 4. Applicability to Development**

The provisions of this Chapter shall apply to all non-governmental related development in the Town. No development, except as specifically provided in this Chapter, shall be undertaken without prior authorization pursuant to this Chapter. With respect to transferability, unless otherwise specified, development orders and permits run with the land.

## **Section 5. Rules of interpretation**

Generally, in the interpretation and application of this Chapter all provisions shall be: considered as minimum requirements; liberally construed in favor of the objectives and purposes of the Town; and deemed neither to limit nor repeal any other powers granted under state statutes.

(a) *Responsibility for interpretation.*

If any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of this Chapter, the Director of the Department of Community Development, or designee, shall be responsible for interpretation and shall look to the comprehensive plan for guidance.

(b) *Rules of construction.*

The language used in this Chapter shall be interpreted according to the following rules unless that interpretation would be inconsistent with the manifest intent of the Town Council.

- (1) *Computation of time.* The time within which an act is to be done shall be computed by consecutive calendar days excluding Saturdays, Sundays or legal holidays.
- (2) *Delegation of authority.* Whenever a provision appears requiring the head of a department or some other Town officer or employee to do some act or perform some duty, it is to be construed to authorize delegation to professional level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.
- (3) *Number.* Words in the singular shall include the plural and words in the plural shall include the singular.
- (4) *Shall, may.* The word "shall" is mandatory; "may" is permissive.
- (5) *Tense.* Words used in the past or present tense include the future as well as the past or present.
- (6) *Written, in writing.* The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.
- (7) *Year.* The word "year" shall mean a calendar year, unless otherwise indicated.
- (8) *Day.* The word "day" shall mean a calendar day, unless a working day is

indicated.

- (9) *Boundaries.* Interpretations regarding boundaries of land use districts shall be made in accordance with the following:
  - a. Boundaries shown following or approximately following any street shall be construed as following the centerline of the street.
  - b. Boundaries shown following or approximately following any platted lot line or other property line shall be construed as following such line.
  - c. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- (10) The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- (11) The word "lot" includes the word "plot" or "parcel" or "tract".
- (12) The word "structure" shall include the word "building."
- (13) The word "District Map," or "Land Development Map," shall mean the Official Zoning Map of Cutler Bay, Florida.
- (14) The term "Town Council" shall mean the "Town Council of the Town of Cutler Bay, Florida."
- (15) The term "Department of Community Development" shall mean the "Department of Community Development of the Town of Cutler Bay, Florida."
- (16) The terms "Ordinance", "Code", and "Land Development Code" shall be synonymous and refer to the "Town of Cutler Bay Land Development Regulations."

## **Section 6. Relationship to Growth Management Plan**

F.S. § 163.3194(1)(b) requires that all Land Development Regulations within the land development code be consistent with the Growth Management Plan of the enacting local government. The Land Development Regulations adopted in this Chapter shall meet this standard of consistency, and implement the adopted goals, objectives and policies of the adopted Growth Management Plan of the Town.

## **Section 7. Official Zoning District Map**

The Town's Official Zoning District Map is established and incorporated as part of these regulations. The Official Zoning District Map delineates the boundaries of all Zoning Districts as adopted by the Town Council, as amended from time to time, and shall be kept on file with the Director of the Department of Community Development.

### **Section 8. Changes, Amendments, or Supplements**

All changes, amendments, or supplements to this Chapter and to the zoning district map shall be adopted in accordance with the provisions of this Chapter, the Growth Management Plan, and applicable state law.

### **Section 9. Nonconforming Development**

It is the purpose and intent of this sub-section to provide procedures whereby lawful nonconforming structures and uses may be maintained where such maintenance will not have a detrimental effect upon other persons or property within the vicinity, and in so doing to bring such uses and structures up to present standards to the maximum possible extent.

(a) *Nonconforming use of a conforming building.*

The lawful nonconforming use of building may be continued, although such use does not conform to the regulations of an applicable zoning district within which the building is located. Any such use shall only be changed to a permitted use. A nonconforming use shall not be expanded. If the nonconforming use is discontinued, any further use of said building shall conform to the regulations of the applicable zoning district. A nonconforming use shall be considered abandoned or having ceased when discontinued for a period of 180 days or more as indicated by one or more of the following:

- (1) Allowing licenses or certificate of use to lapse;
- (2) Removing meters;
- (3) Not maintaining structure in a habitable condition;
- (4) Not making unit available for occupation (i.e., advertising or marketing through a realtor or other agent);
- (5) Failure to perform actions pursuant to the terms of an active building permit;  
or
- (6) Failure to occupy the site.

(b) *Conforming use of a nonconforming building.*

A lawful nonconforming building may be utilized for any use that conforms to the regulations of the applicable zoning district within which the building is located. Structural alterations may only be made when they do not increase the degree of nonconformity of the building.

(c) *Nonconforming use of a nonconforming building.*

The lawful nonconforming use of a lawful nonconforming building may be continued although such use and building do not conform to the regulations of the applicable zoning district within which the building is located. However, neither the use nor the building shall be expanded. If the nonconforming use is abandoned, any further use of said building shall conform to the regulations of the applicable zoning district.

(d) *Nonconforming use of land.*

The lawful nonconforming use of land may be continued although such use does not conform to the regulations of the applicable zoning district within which the land is located. However, no such use shall be enlarged, intensified or extended to occupy a greater area of land, nor shall the use be reinstated following abandonment.

(e) *Nonconforming accessory use or accessory building.*

A nonconforming accessory use or accessory building may be expanded only if the nonconforming features of that use or structure are not expanded so as to increase the degree of nonconformity. No nonconforming accessory use or accessory building shall continue after the principal use or building is terminated by abandonment, damage, or destruction, unless such accessory use or accessory building thereafter is made to conform to the standards for the zoning district in which it is located. No nonconforming accessory use or building shall become or replace any terminated principal nonconforming use or building.

(f) *Maintenance and repairs.*

Normal structural repair and maintenance may be performed to allow the continuation of a nonconforming building. However, such work in any 12-month period shall not exceed 50% of the assessed value of such building. A nonconforming building may be re-established for its intended use in the case of damage to an extent of less than 50 % of its assessed value, due to fire or other disaster event pursuant to the issuance of a permit by the Town. An application must be filed for such building permit no later than 180 days after the use has been destroyed or damaged, otherwise the use will not be allowed to be rebuilt. Assessed value for purposes of this section shall be determined by using tax assessment records provided by the Property Appraiser's Office for the year in which the building was destroyed.

(g) *Compliance with regulations.*

Nothing in this section shall diminish the responsibility of an owner to maintain his use or structure in full compliance with all other city, county, state or federal regulations or licensing procedures.

(h) *Establishment of nonconformity.*

For the purpose of this section, the mere possession of a valid approval to use land or buildings or valid license to do so without actual demonstrable use of such land or structure is an insufficient basis to establish lawful nonconformity.

(i) *Special provisions for specific nonconformities.*

(1) *Nonconformity with stormwater management requirements.*

An existing development that does not currently comply must be brought into full compliance with the stormwater management requirements of this Chapter when the use of the development is intensified, resulting in an increase in stormwater runoff or added concentration of pollutants in the runoff.

(2) *Nonconformity with parking and loading requirements.*

Full compliance with this Chapter shall be required where the seating capacity or other factors controlling the number of parking or loading spaces required is increased by ten percent or more.

(3i) *Nonconforming signs.*

a. Signs or sign structures made legally nonconforming under this article, or upon the passage of any amendment to this article, shall be governed by the following regulations:

1. A sign existing within the Town, or an area subsequently annexed to the Town, upon the passage of the Sign Ordinance (adopted August 20, 2008 or any future amendment to this article, which because of its height, square foot area, location, or other characteristic, does not conform to this article in all respects is hereby declared to be a nonconforming sign and must conform to the amortization schedule provided below:

Schedule of time periods for removal, replacement, or alteration of signs subject to amortization procedures to meet ordinance requirements based upon the cost of original installation

<b>Cost of Original Installation</b>	<b>Time Period to Conform</b>
\$0-500	6 months
\$500-\$999	1 year
\$1,000-\$7,000	2 years
\$7,000-\$19,999	3 years
\$20,000 and over	5 years

**Section 10. Vested Rights and Previously Issued Development Permits or Approved Plans**

(a) *Vested rights.*

(1) *General applicability.* Unless otherwise permitted as an exception under section (2) below or allowed to continue as a non-conforming use under Section 3-10, all existing, proposed and new development or redevelopment and uses of land in the Town shall conform strictly to the provisions of these zoning regulations. Except as expressly provided in these zoning regulations, no development and use of land shall be undertaken without prior approval and issuance of a development order pursuant to these zoning regulations. The fact that a development order, permit or decision has been issued by an officer or employee with apparent but not actual authority over the interpretation or enforcement of these zoning regulations shall not stop or otherwise prevent the Town from strict enforcement of the provisions of these zoning regulations.

(2) *Exceptions, vested rights.*

(a) The provisions of these zoning regulations, and any amendments hereto, shall not affect development that has been approved after incorporation of the Town, but before adoption of these regulations, or is otherwise exempted in accordance with this section or the non-conformity section, § 3-10, of these zoning regulations.

(b) Nothing in these zoning regulations shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:

(i) A governmental act of development approval was obtained prior to the effective date of these zoning regulations or prior to the effective date of an amendment to these zoning regulations; and

(ii) The property owner has detrimentally relied, in good faith, by making substantial expenditures based upon the governmental act of development approval; and

(iii) It would be highly inequitable to deny the property owner the right to complete the development.

(c) Except as provided in subsection (d) below, any property owner claiming to have vested rights under this section must file an application with the Town Manager or his/her designee for a vested rights determination within 120 days after the initial effective date of this section (as to any claim of vested rights prior to initial adoption) or within 120 days after an amendment of these zoning regulations (as to any claim of vested rights arising after the initial adoption of these zoning regulations and prior to the amendment). The application shall be accompanied by a fee as set by resolution of the Town Council and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the Town and other documentary evidence supporting the claim. The Town Council shall review the application and, based upon the evidence submitted, shall make a written determination as to whether the property owner has established vested rights.

(d) Any property owner claiming to have vested rights under this section, by virtue of: (i) A court judgment rendered by a court of competent jurisdiction; or (ii) county vested rights determination; or (iii) State Department of Community Affairs vested rights determination may follow the simplified procedure authorized by this subsection in lieu of the procedure provided by subsection (c). The procedure under this subsection (d) shall be as follows:

The property owner claiming vested rights shall file an application with the Town Manager or his/her designee for a vested rights determination within 120 days after the effective date of this section. The application shall be accompanied by a fee as set by resolution of the Town Council and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation of the applicable qualifying items in subsection (2)(b) or required by the Town and other documentary evidence supporting the claim. The Town Council shall review the application, and based upon the evidence submitted shall make a written determination as to whether the property owner has established vested rights. Vested rights pursuant to the criteria of this division shall be presumed to exist, upon submittal of the qualifying items (subsection (d)(i-iii)), unless clear and convincing evidence shows that vested rights have been waived, have expired or are not applicable, in whole or in part.

(e) The provisions of these zoning regulations shall not affect development for which a building permit has been issued on or before the effective date of the initial adoption of this section, provided that such building permit was lawfully issued and remains in full force and effect and the approval has not expired. Upon completion of such development, the development thenceforth will be subject to the provisions of these zoning regulations.

## **ARTICLE III. DECISION MAKING AND ADMINISTRATIVE RESPONSIBILITIES**

### **Section 1. Purpose and Authority**

This article sets forth the duties and responsibilities of the agencies described herein.

### **Section 2. Town Council**

In addition to any authority granted to the Town Council by state law or by provisions of the Town Charter, the Town Council shall have the following duties and responsibilities listed herein concerning this land development code. The Town Council's authority shall include, but not be limited to approval, approval with conditions or modifications, or denial. Specifically, but without limitation, the Town Council shall have the authority to:

- (a) Initially adopt and subsequently amend the provisions and requirements of this Code and the Growth Management Plan as may be considered necessary from time to time.
- (b) Adopt and amend the official zoning map in accordance with the procedures outlined herein;
- (c) Review and approve applications for site plan approval;
- (d) Review and approve applications for conditional uses;
- (e) Review and approve preliminary plats, as well as final plats before recording;
- (f) Review applications for development approval for developments of regional impact (DRI) and to issue development orders therefore; and
- (g) Enter into development agreements
- (h) Review and approve variances.
- (i) Hear and decide certain appeals.
- (j) Have final authority for vacation, abandonment, or acceptance of dedicated public ways including rights-of-way or easements.
- (k) Perform any other deliberations, such as zoning workshops, or actions not otherwise assigned to any other board, committee, or staff, which may be necessary or desirable for the implementation of this Code.

### **Section 3. Local Planning Agency**

- (a) The Town Council is designated the Local Planning Agency (LPA) for the Town.
- (b) The LPA shall have all powers authorized under Section 163.3174, Florida Statutes.
- (c) A representative of the School Board of Miami-Dade County shall be entitled to sit as a non-voting member of the LPA when the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. Such School Board representative shall not be counted when determining the presence of a quorum.

#### **Section 4. Department of Community Development**

The Department of Community Development shall have the duty and responsibility to determine, interpret and enforce all sections of the Code. The Department shall promote, protect, and improve the health, safety, and welfare of the citizens of the Town by providing an equitable, expeditious and effective method of enforcing the land use, zoning, sign, and related technical codes enforced by the Town.

## **ARTICLE IV. REVIEW REQUIREMENTS, PROCEDURES AND NOTICE REQUIREMENTS**

### **Section 1. Purpose**

This Article sets forth the application review submittal requirements and procedures for obtaining land use changes, site plans, conditional uses, variances, vested rights, rezonings, any other development orders as may be required and certain types of permits. This article also specifies the procedures for appealing decisions and seeking legislative action.

### **Section 2. Generally**

Whenever an applicant desires a change in land use or zoning or site plan approval, conditional uses, variance, vested rights determination or any other development order as provided in this Chapter the applicant shall do so to the Department of Community Development (Department) in a form as prescribed by the Town. Included with the application shall be the appropriate fee as set forth and adopted by Resolution (Town Fee Schedule) to cover administrative review costs and costs associated with notices for public hearing.

The written application shall be signed by the owner or owner's designee and shall be accompanied by any necessary information or documentation supporting the request and which shall be reviewed in accordance with the provisions of this Chapter and applicable state law.

An application shall not be determined to be complete until the above are accurately submitted and deemed so by the Director of the Department of Community Development (Director). An incomplete application shall not be reviewed.

### **Section 3. Authorization by Development Permit Required Prior to Undertaking Development Activity**

No development activity may be undertaken unless the activity is authorized by a development permit.

### **Section 4. Pre-application Review**

In order to expedite the review process and avoid conflict, waste and expense a pre-application review may be required, at the discretion of the Department or at the request of the applicant, prior to the submission of the application. Such reviews will be performed by Town staff and will require information on the proposed application such as:

- (a) Amendments to the Growth Management Plan, land use designations and zoning districts;
- (b) Type of development proposal;
- (c) Density/intensity of use;
- (d) Site plan and data;
- (e) Survey;
- (f) Subdivision plat;
- (g) Information on other required permits; and
- (h) Other information in order to explain proposal.

Pre-application review does not constitute a formal action by the Town and shall not be construed as a representation or implication that the proposal will be ultimately approved or rejected in any form.

### **Section 5. Cost Recovery**

The intent of this Section is to provide for a procedure for the recovery of costs related to the review of applications for development approval, real estate transactions, and economic development programs, such that those persons or entities that benefit from the Town's review and approval of these matters properly bear the costs of review. Application fees for public hearings and other items involving Town action or review shall be adopted by resolution of the Town Council. Application fees for public hearings and other items involving Town action or review shall be adopted by resolution of the Town Council.

The cost recovery required herein shall not apply to applications or transactions that are originally initiated by or on behalf of the Town.

The cost recovery program shall be administered as follows:

- (a) *Cost Recovery.* To the extent that any application for review by the Town under the Town's Zoning Code or, except as otherwise specified below, other Town Code provisions which require review by Town staff, Town contractors, agents or consultants, the actual costs for such additional review shall be passed on to the applicant. Costs for the Town Attorney and/or any outside contractors, agents or consultants of Town shall be charged to the applicant in an amount equal to the actual hourly rate charged to the Town.

(b) *Existing Miami-Dade County fee schedule not affected.* Fees charged by Miami-Dade County to process building permits and other development applications on the behalf of the Town shall not be affected by this Ordinance.

(c) *Town preparation of real estate transactional documents.* Unless prohibited by law, in circumstances in which the Town prepares closing papers, deeds, or other documents in conjunction with Town programs such as in-fill lot housing or other housing measures, or for other matters in which the Town holds a lien and is requested to subordinate its position, the Town shall charge the applicant a reasonable fee as determined by the Town Manager in an amount equal to the actual costs of the Town for the preparation of such documents.

(d) *Town loan and economic development programs.* In cases where the Town prepares loan documents, liens, mortgage papers, subordination documents and other such documents in conjunction with or resulting from Town loan and economic development programs, the Town shall charge the applicant a reasonable fee as determined by the Town Manager in an amount equal to the actual costs of the Town for the preparation of such documents.

## **Section 6. Requirements and Procedures for Site Plan Review**

(a) *Purpose.* The purpose of the site plan review is to encourage logic, imagination, innovation, and variety in the design process and to ensure the congruity of the proposed development and its compatibility with the surrounding area. The Department shall review plans for compliance with the land use regulations and development standards of this Chapter for compliance with the site plan review criteria.

(b) *Applications subject to site plan review.*

### **(1) Policy Guidance from Town Council**

(c) *Review procedure for developments.*

(1) *Application.* Applications for site plan review shall require the submission of a site plan in accordance with the provisions of this article. No certificate(s) of occupancy shall be issued for any building or buildings unless all facilities included in the approved site plan have been provided.

(2) *Submittal procedure.* An application for a site plan review shall be made to the Department prior to an application for a building permit and will only be accepted if all other ordinances and provisions of the Town where a public hearing is required have been complied with.

Upon receipt of five copies each of the site plan and application the Director shall have ten working days to determine its appropriateness and completeness and accept or reject the application.

The Department shall review and comment on the site plan application and recommend to the Town Council approval, as submitted; recommend with changes or special conditions; or denial.

(d) *Findings.* The Town Council shall review the site plan and grant, with or without changes or special conditions, or disapprove said plan. The Town Council when reviewing the site plan shall make the following findings:

- (1) In what respect the plan is or is not consistent with the Growth Management Plan and the purpose and intent of the use district in which it is located.
- (2) In what respect the plan is or is not in conformance with Development and Design Standards of the use district in which it is located.
- (3) Will the approval of the site plan have an adverse impact on the environmental and natural resources of the Town.
- (4) Will the approval of the site plan have an adverse impact on the necessary public facilities of the Town.
- (5) Will the approval of the site plan have an adverse impact on the necessary public transportation facilities of the Town.

(e) *Submittal requirements.* Any application for site plan approval shall include the following information:

- (1) The location and size of the site, including its legal description and a current certified survey.
- (2) The recorded ownership interests including liens and encumbrances and the nature of the developer's interest if the developer is not the owner.
- (3) The relationship of the site to existing development in the area including streets, utilities, residential and commercial development, and physical features of the land including pertinent ecological structures.
- (4) The density or intensity of land use to be allocated, all parts of the site to be developed, together with tabulations by acreage and percentage thereof.
- (5) The location, size, and character of any common open space and the form of organization proposed to own and maintain any common open space.
- (6) The use and the number of stories and approximate height, bulk, and

location of all buildings and other structures.

- (7) The requirements as set forth in this Chapter and other Chapters, including the necessary documentation for providing required improvements such as streets, water supply, storm drainage, parking, landscaping, and sewage collection as well as the provisions for all other appropriate public and private services such as police or security protection, fire protection, and refuse collection.
- (8) The substance of covenants, grants of easements, or other restrictions proposed to be imposed upon the use of the land, buildings, and structures including proposed easements or grants for public utilities.
- (9) In the case of plans which call for development over a period of years, a phasing schedule showing the approximate times within which applications for building permits are intended to be filed.
- (10) Any additional data, plans, or specifications which the applicant believes is pertinent and will assist in clarifying his application.
- (11) A demonstration that the proposed development does not degrade adopted levels of service in the Town.
- (12) And any additional information required on the development review application.

#### **Sub-Section 6-1. Modifications to Final Development Orders**

After a final development order has been issued under this Chapter, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification to the development order. A modification may be applied for in the same manner as the original, subject to fees as enumerated in the Town fee schedule. A written record of the modification shall be made a part of the original final development order and maintained in the files of the Town.

#### **Sub-Section 6-2. Substantial Compliance Determinations**

The Director is authorized to consider and make substantial compliance determinations which are minor modifications to previously approved site plans.

- (1) The Director may approve an application to modify a site plan where it is demonstrated that the proposed modification will result in substantial compliance with the previous zoning action regarding the site plan, as demonstrated by all of the following:

(a) Development density and intensity have not materially changed, in that:

1. the number of buildings is not increased by more than 10 percent;
2. the number of stories is the same or fewer;
3. the height of the building(s) is the same or less;
4. the number of units is the same or fewer;
5. the lot coverage and/or floor area ratio have not increased or decreased by more than 10%;
6. the number of bedrooms and corresponding parking spaces are increased or decreased by as much as 10%, based on the entire plan, provided the plan complies with all other requirements of this subsection and of this chapter; and
7. density or intensity (floor area ratio) may be transferred from one building to another or from one stage of development to another, provided that the total floor area ratio is not changed.

(b) Design has not materially changed, in that:

1. the roadway patterns, including ingress-egress points, are in the same general location as shown on the original plans, and are no closer to the rear or interior side property lines than shown on the original plans;
2. the parking area is in the same general location and configuration;
3. the building setbacks are the same or greater distance from perimeter property lines, except that the building setbacks for detached single family development, zero lot line and townhouse developments may also be decreased, provided that such decrease is limited such that the resulting setback distance will be the greater of either the underlying zoning district regulations, or any condition or restrictive covenant regulating the setback for which a substantial compliance determination is sought;
4. the landscaped open space is in the same general location, is of the same or greater amount, and is configured in a manner that does not diminish a previously intended buffering effect;

5. the proposed perimeter walls and/or fences are in the same general location and of a comparable type and design as previously approved;
  6. elevations and renderings of buildings have substantially similar architectural expressions as those shown on the approved plans;
  7. recreational facilities, if shown on plans approved by a prior action, either remain the same or are converted from one recreational use to another;
  8. if recreational facilities were not shown in the approved plans, they may be added, provided there is no increase in lot coverage or decrease in required non-recreational open space and such facilities are located internally within the proposed development;
  9. the proposed changes do not have the effect of creating any noncompliance or nonconformity with the strict application of the land development regulations that were not previously approved at public hearing, or of expanding the scope of existing variances, or other approvals such that they would differ to a greater degree from the strict application of the land development regulations;
  10. additional out parcels may be added where:
    - a. there is no increase in the project's total floor area ratio or lot coverage;
    - b. there is no reduction in the total amount of landscaped open space; and
    - c. addition of the out parcel does not result in noncompliance with any other provision of this subsection on any other portion of the subject property.
  11. reductions in the number of parking spaces on the site are permitted if sufficient parking spaces are provided to satisfy the requirements of this Code. An approved parking management plan is required for the town to consider reduction in the number of parking spaces.
- (c) The slope of any lake for which a modification is requested complies all applicable provisions of the Code of Miami-Dade County, Florida.

### **Sub-Section 6-3. Commencement of Development**

If development is not commenced within twelve (12) months from the date of final approval of the final development order, the approval shall become null and void and the site may not be developed in accordance with the plan. If development is permitted in phases a phasing plan shall be required and subsequent phases shall commence within 18 months after the completion of the previous phase.

If subsequent phases are not commenced within the 18 month period, the final development order approval shall be null and void and reapplication to the Town shall be required for the remaining phases. Phases may be developed out of sequence if good cause is shown and not be to the detriment of the preceding phase(s).

Prior to the expiration of a site plan the applicant may apply for an extension. The applicant shall have the burden of showing good cause of why said site plan should be extended.

With the commencement of construction, site improvements including, but not be limited to: road and drainage improvements, excavation, grading and leveling, installation of utilities, and other infrastructure shall be developed concurrently.

### **Sub-Section 6-4. Requirements and Procedures for Administrative Site Plan Review**

(a) *Applications subject to administrative site plan review.*

**(1) Policy Guidance from Town Council**

(b) *Review procedures.*

**(1) To be developed**

## **Section 7. Requirements and Procedures for Variances and Administrative Adjustments**

(a) *Generally.* Variances or Administrative Adjustments are relaxations of the technical requirements of this Chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, and where a literal enforcement of this Chapter would result in unnecessary or undue hardship. No variance that would increase flood damage on other property shall be granted unless flowage easements have been obtained from the owners of affected properties.

(b) *Variance*. The Town may grant a variance from the strict application of the above provisions of these Land Development Regulations only if considered in accordance with the following procedures, regulations and requirements:

- (1) Property owners or their authorized representatives, who possess written authorization, shall be the only eligible applicants for variances other than the Town itself.
- (2) Applications shall be received by the Town in a form prescribed by the Town accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this Chapter and applicable state law. Information supporting said request shall include:
  - a. Existing Land use designation(s)
  - b. Existing zoning districts
  - c. Type of development proposal
  - d. Density/intensity of use
  - e. Survey of property
  - f. Subdivision plat, if platted
  - g. Variance requested
  - h. Reason and justification for variance
  - i. Information on other required permits, if any
  - j. Other information in order to explain proposal
- (3) The Department shall review all submitted applications for completeness.
- (4) The Department shall meet to consider applications for variances and shall make an initial determination of conformance with applicable regulations. Upon conclusion of the review, the Department shall make a recommendation to the Town Council.
- (5) The Town Council shall hold a public hearing to consider the recommendations of the Department with respect to applications for variances and shall, upon conclusion of the public hearing, determine where, owing to special conditions, a literal enforcement of the provisions of these land use regulations will result in unnecessary and undue hardship. In order

to authorize any variance from the terms of these land development regulations, the Town Council must and shall find the following:

- a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.
- b. The special conditions and circumstances do not result from the actions of the applicant and/or the property owner.
- c. Literal interpretation of the provisions of these land use regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these land development regulations and would work unnecessary and undue hardship, but not economic hardship, on the applicant.
- d. The variance granted is the minimum variance that will make possible the reasonable use of land, structure, or building.
- e. The grant of the variance will be in harmony with the general intent and purpose of these land development regulations, and the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- f. Granting the variance requested will not be detrimental to adjacent property or adversely affect the public welfare.
- g. No nonconforming use of neighboring lands, structures, or buildings in other districts shall be considered grounds for the authorization of a variance.

(c) *Administrative Adjustment.* The Director may, by administrative decision, grant an administrative adjustment from the strict application of these Land Development Regulations but only in accordance with the following procedures, regulations and requirements:

- (1) Property owners or their authorized representatives, who possess written authorization, shall be the only eligible applicants for adjustments other than the Town itself.
- (2) Applications shall be received by the Town in a form set by the Town accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this Chapter and applicable state law. Information supporting said request shall include the information as required in 7.(b)(2) above.

(3) The Department shall review all submitted applications for completeness for said administrative adjustment and determine that:

**Policy Guidance from Town Council**

- a. That the setback proposed is reduced not more than **XX**% of that required;
  - b. That the lot coverage is not increased by more than **XX**% of that allowed; and
  - c. That the spacing between structures is not less than **XX** feet.
- (4) The Director will review the information and render a decision approving, approving with modifications or conditions or denying the request.
- (5) In granting the adjustment, the Director must find:
- a. That the adjustment will be in harmony with the general appearance and character of the community;
  - b. That the adjustment will not be injurious to the area involved or otherwise detrimental to the public welfare; and
  - c. That the proposed structure or addition for which the administrative adjustment is being requested is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent residences while affording the applicant a reasonable use of the land.
- (6) A copy of said decision shall be kept on file with the Town Clerk and will become effective 30 days after the Director's decision, unless an appeal is filed.

**Section 8. Requirements and Procedures for Conditional Uses**

(a) *Purpose.* The purpose of a conditional use is to allow uses not permitted by right but which may provide for an individual or community-serving need and which, subject to conditions as set forth in Chapter, would not impact the integrity of the zoning district. The Department shall review plans for compliance with the Land Development Regulations and development standards of this Chapter. The recommendations of the Department shall be transmitted to the Town Council for its consideration.

(b) *Review procedure for developments.*

- (1) *Application.* Applications for conditional uses shall require the submission of a site plan in accordance with the provisions of this Chapter. No

certificate(s) of occupancy shall be issued for any use unless said use has been approved.

- (2) *Submittal procedure.* An application for a conditional use shall be made to the Department prior to an application for a building permit.

Upon receipt of five copies of the application the Department shall have 10 working days to determine its appropriateness and completeness and accept or reject the application.

The Department shall review and comment on the conditional use application and recommend to the Town Council approval, as submitted; recommend with changes or special conditions; or denial.

- (c) *Findings.* The Town Council shall review an application for a conditional use and set forth the reasons for approval, with or without changes or special conditions, or for the disapproval.

Violation of the conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Code.

The Town Council may prescribe a reasonable time limit within which the action for which the conditional use is required shall be begun, or completed, or both.

- (d) *Submittal requirements.* Any application for conditional use shall include the following information, if applicable:

- (1) The location and size of the site, including its legal description and a current certified survey.
- (2) The recorded ownership interests including liens and encumbrances and the nature of the developer's interest if the developer is not the owner.
- (3) The relationship of the site to existing development in the area including streets, utilities, residential and commercial development, and physical features of the land including pertinent ecological structures.
- (4) The density or intensity of land use to be allocated, all parts of the site to be developed, together with tabulations by acreage and percentage thereof.
- (5) The location, size, and character of any open space, common or otherwise.
- (6) The use and the number of stories and height, bulk, and location of all buildings and other structures.

- (7) The requirements as set forth in this Chapter and other Chapters, including the necessary documentation for providing required improvements such as streets, water supply, storm drainage, parking, landscaping, and sewage collection as well as the provisions for all other appropriate public and private services such as police or security protection, fire protection, and refuse collection.
- (8) The substance of covenants, grants of easements, or other restrictions proposed to be imposed upon the use of the land, buildings, and structures including proposed easements or grants for public utilities.
- (10) Any additional data, plans, or specifications which the applicant believes is pertinent and will assist in clarifying his application.
- (11) A demonstration that the proposed conditional use does not degrade adopted levels of service in the Town.

### **Section 9. Requirements and Procedures for Growth Management Plan Amendments**

Growth Management Plan amendments, unless otherwise exempted by applicable law pursuant to Florida Statutes, shall be considered only on a semi-annual basis in accordance with the following procedural calendar and regulations:

- (1) Property owners or their authorized representatives, who possess written authorization, shall be the only eligible applicants for Growth Management Plan amendments other than the Town itself.
- (2) The Town shall publish a notice of intent to accept applications for amendments to the Growth Management Plan.
- (3) Applications shall be received by the Town in a form set by the Town and made available to the applicants at the time of the Town's publication of its notice to accept applications.

At the discretion of the Department, Town-initiated amendments may be held twice, at any time, during the year pursuant to F.S. Chapter 163.

- (4) The Department shall review all submitted applications for Growth Management Plan amendments and shall prepare a comprehensive written recommendation, including any initiated by the Town itself.
- (5) The Local Planning Agency shall hold a public hearing to consider applications for amendments to the Growth Management Plan and shall,

upon conclusion of the public hearing, make a recommendation to the Town Council with respect to each application.

- (6) The Town Council shall hold a public hearing to consider the recommendations of the Local Planning Agency with respect to applications for amendments to the Growth Management Plan and shall, upon conclusion of the public hearing, adopt an ordinance expressing an intent to adopt those proposed amendments to the Growth Management Plan that it considers to be in the best interest of the residents, property owners and the citizens of the Town.

### **Section 10. Requirements and Procedures for Re-zoning of Property**

Rezoning of property located within the Town shall be considered only in accordance with the following procedures, regulations and requirements:

- (1) Property owners or their authorized representatives, who possess written authorization, shall be the only eligible applicants for rezoning of property other than the Town itself.
- (2) Applications shall be received by the Town in a form set by the Town accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this Chapter and applicable state law. Information supporting said request shall include:
  - (a) Existing Land use designation(s)
  - (b) Existing and proposed zoning districts
  - (c) Type of development proposal
  - (d) Density/intensity of use
  - (e) Current survey of property
  - (f) Subdivision plat, if platted
  - (g) Information on other required permits
  - (h) Other information in order to explain proposal
- (3) The Department shall review all submitted applications for completeness for rezoning of property, schedule said application and make a recommendation to the Town Council. No incomplete application shall be scheduled for review.

- (4) The Town Council shall consider the rezoning of the property. The Town Council shall consider an approval to be in the best interest of the residents, property owners and the citizens of the Town.

*Criteria.*

**(1) To be developed by staff**

**Section 11. Requirements for Zoning Workshops**

(a) *Purpose.* It is the intent of the zoning workshop process to provide an open and public forum for members of the public, as well as the Town Council, to comment on proposed developments within the Town. It is further the intent that any communications between members of the Town Council and the applicant during a zoning workshop shall not be considered an ex parte communication, and shall not create a presumption of bias in relation to any future quasi-judicial decision on the applicant's application. The zoning workshop shall not be considered part of the quasi-judicial hearing. Each application shall be evaluated based upon the record presented at the Town Council hearing(s) on the application.

(b) *Applicability.* A pre-application conference with staff shall be held prior to an application being presented at a zoning workshop. A zoning workshop shall be held no fewer than thirty (30) days prior to the first Town Council meeting at which the application will be heard. A zoning workshop shall be required for the following types of applications:

- (1) Site plan approval;
- (2) Site plan amendments that seek to develop additional square footage; and
- (3) Any application submitted pursuant to the Town Zoning Code, which the Director finds may substantially impact the adjacent property owners.

(c) *Exemptions.* The following applications shall be exempt from the zoning workshop requirement:

Any applications related to the approval a single family residence.

(d) *Meeting Procedure.* A zoning workshop shall consist of two sessions which are described below:

1. *First Session.* The first session of a zoning workshop shall provide a forum for members of the public to learn about proposed developments within the Town. Developments may be presented to the public simultaneously, in several locations within the meeting site. During this session, members of the public are

encouraged to ask questions and to provide feedback to the applicant about the proposed development. The applicant shall provide visual depictions, such as renderings, drawings, pictures, and the location of the proposed development. In addition, representatives of the applicant shall be available to answer questions that members of the public may have about the proposed development. The members of the Town Council shall not be present during the first session of the zoning workshop.

2. Second Session. The second session of a zoning workshop shall provide a forum for the Town Council to learn about the proposed developments discussed at the first session of the zoning workshop. No quorum requirement shall apply. Developments shall be presented by the applicants sequentially, one at a time, for the Town Council's review and comment. The applicant shall again present visual depictions of the proposed development. In addition, the applicant shall be available to answer any questions that members of the Town Council may have about the proposed development.

## **Section 12. Requirements and Procedures for Appeals**

### *(a) Appeal of an Administrative Decision.*

Any aggrieved person may appeal a decision of Planning and Zoning Director to the Town Council. The appeal shall be in writing, specifying the grounds thereof on a form provided by the Town and shall be accompanied by an application fee. The appeal shall be filed with the Town within 30 days of the date the administrative decision is made. The Town Council shall hear and rule upon the appeal after a public hearing.

### *(b) Appeal of a Town Council Decision.*

Any aggrieved person may appeal a decision of the Town Council in a court of competent jurisdiction.

### *(c) Aggrieved person.*

The following qualify as aggrieved persons for purposes of this section:

- (1) The Town;
- (2) The applicant for a development permit; and
- (3) Any person or entity which will suffer to a greater degree than the general public an adverse effect to a legally recognized interest protected or furthered by the land development regulations or the comprehensive plan.

## **Section 13. Withdrawal of Development Applications**

An application for development review may be withdrawn at any time, subject to fee

being nonrefundable.

**Section 14. Advertising and Notice Requirements**

(a) Advertising Requirements

The Town shall advertise in accordance with the provisions set forth below:

<u>Development Application and Type of Meeting</u>	<u>Type of Advertisement Required</u>
Comprehensive Plan (Growth Management Plan) Amendments	As required by state law for the Town Council Meeting
Rezoning	As required by state law for the Town Council Meeting
Development of Regional Impact	As required by state law for the Town Council Meeting
Any other development application not mentioned above which requires a public hearing	An advertisement shall be published in the non-legal section of a local newspaper selected by the Town at least seven (7) days before the Town Council public hearing.
Zoning Workshops	An advertisement shall be published in the non-legal section of a local newspaper selected by the Town at least seven (7) days before the Zoning Workshop meeting.
Administrative Adjustments	An advertisement shall be published in the non-legal section of a local newspaper selected by the Town.

(b) Public Notice

A sign shall be prepared and posted on the property by the Town setting forth a notice of public hearing at least five (5) business days before the Town Council meeting in which the item is scheduled to be heard. This notice shall remain posted on the property through the date of the public hearing and shall be removed within ten (10) business days following the Town Council’s approval or denial of the application, or upon the application’s withdrawal.

(c) Courtesy Notice

Property owners of record within a 1000 foot radius of the property scheduled for a public hearing before the Town Council shall be mailed a courtesy notice. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken by the Town Council.

(d) Advertising and Notice Costs

All costs of advertising, noticing, and posting shall be borne by the applicant.