



CITY OF SOUTH MIAMI

SPECIAL CITY COMMISSION MEETING AGENDA

Wednesday, December 5, 2018, 7:00 PM
CITY HALL/COMMISSION CHAMBERS
6130 SUNSET DRIVE
SOUTH MIAMI, FL 33143

THE CITY OF SOUTH MIAMI HAS A SIGNIFICANT GOVERNMENTAL INTEREST IN CONDUCTING EFFICIENT AND ORDERLY COMMISSION MEETINGS. SPEAKERS PLEASE TAKE NOTICE THAT SECTION 2-2.1(K)(2) OF THE CODE OF ORDINANCES PROVIDES THAT "ANY PERSON WHO MAKES SLANDEROUS OR INTENTIONALLY RUDE, UNCIVIL OR OTHERWISE IMPERTINENT REMARKS, AND WHO REFUSES OR FAILS TO DESIST FROM MAKING SUCH REMARKS AFTER BEING INSTRUCTED TO DO SO, OR WHO SHALL BECOME BOISTEROUS IN THE COMMISSION CHAMBER AND WHO REFUSES OR FAILS TO DESIST FROM SUCH CONDUCT AFTER BEING INSTRUCTED TO DO SO MAY BE FORTHWITH REMOVED FROM THE PODIUM AND FROM CITY HALL FOR THE DURATION OF THAT MEETING AT THE DIRECTION OF THE PRESIDING OFFICER, UNLESS OVERRULED BY A MAJORITY VOTE OF THE COMMISSION. NO CLAPPING, APPLAUDING, HECKLING, OR VERBAL OUTBURSTS SHALL BE PERMITTED FOR ANY REASON, INCLUDING FOR THE PURPOSE OF SUPPORTING OR OPPOSING ANY MATTER, ANY SPEAKER OR A SPEAKER'S REMARKS. NO SIGNS OR PLACARDS SHALL BE ALLOWED TO BE DISPLAYED IN ANY MANNER OTHER THAN WHEN USED FROM THE PODIUM TO EXPRESS AN OPINION OR DISPLAY FACTS. SIGNS TO BE USED AT THE PODIUM MUST BE BROUGHT INTO THE COMMISSION CHAMBERS IN A MANNER SO AS NOT TO UNNECESSARILY DISPLAY THEIR CONTENT UNTIL THE SIGN IS BROUGHT TO THE PODIUM IMMEDIATELY BEFORE THE SIGN IS DISPLAYED FROM THE PODIUM IN THE COMMISSION CHAMBER. PERSONS EXITING THE COMMISSION CHAMBER SHALL DO SO QUIETLY. THE USE OF ACOUSTIC MOBILE COMMUNICATION DEVICE, SUCH AS PHONES, IN THE COMMISSION CHAMBER IS NOT PERMITTED WHILE THE COMMISSION IS IN SESSION. PHONE RINGERS AND OTHER DEVICES THAT EMIT SOUND MUST BE SET TO SILENT MODE TO AVOID DISRUPTION OF PROCEEDINGS. INDIVIDUALS MUST EXIT THE CHAMBER TO ANSWER INCOMING CALLS. NO CAMERA FLASH OPTIONS SHALL BE USED BY THE PUBLIC DURING ANY PORTION OF THE MEETING EXCEPT DURING RECOGNITION AND AWARD CEREMONIES."

A. SILENCE OR TURN OFF ALL CELL PHONES

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

E. ORDINANCES(S) SECOND READING(S) PUBLIC HEARING(S)

1. An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article III, Sections 20-3.4, 3.5 and 3.6; Article IV, Sections 20-4.3, 4.5, 4.5.1, and 4.6; Article V, Sections 20-5.7, 5.11, 5.12, 5.13, and 5.23; Article VI, Sections 20-6.1(C) and 6.2.; Article VII, Sections 20-7.3, 7.3.1, 7.5, 7.14, 7.15, 7.22, 7.24, 7.52; Article VIII, Sections 20-8.2, 8.9 and 8.12; Article IX, Section 20-9.5; Article X, Sections 20-10.5 and 10.9 ; Article XI, Section 20-11.2 and 11.9; Article XIII, Section 20-13.85 to amend the powers of the board and to make other revisions. 3/5 (Vice Mayor Harris)
[Ord_Amending_LDC_re_ERPB_v5sa.doc](#)
[7_3.1.____Issuance_of_building_permits.....doc](#)

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2. An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article VI, Section 20-6.1(C) and 20-6.2 to amend the powers of the ERPB and to make other revisions concerning appeals. 3/5 (Commissioner Welsh)

[Ord Amending 20-6.1\(C\) & 6.2v2sa.docx](#)

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F. ADJOURNMENT

PURSUANT TO FLORIDA STATUTE 286.0105, THE CITY HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS BOARD, AGENCY OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OR OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

PURSUANT TO RESOLUTION No. 246-10-13280, "ANY INVOCATION THAT MAY BE OFFERED BEFORE THE START OF REGULAR COMMISSION BUSINESS SHALL BE THE VOLUNTARY OFFERING OF A PRIVATE CITIZEN, FOR THE BENEFIT OF THE COMMISSION AND THE CITIZENS PRESENT. THE VIEWS OR BELIEFS EXPRESSED BY THE INVOCATION SPEAKER HAVE NOT BEEN PREVIOUSLY REVIEWED OR APPROVED BY THE COMMISSION, AND THE COMMISSION DOES NOT ENDORSE THE RELIGIOUS BELIEFS OR VIEWS OF THIS, OR ANY OTHER SPEAKER."

QUASI-JUDICIAL WARNING FOR CITY COMMISSION MEMBERS:

ANY AGENDA ITEM THAT HAS A QUASI-JUDICIAL WARNING IS CONSIDERED TO BE A QUASI-JUDICIAL MATTER. MEMBERS OF THE CITY COMMISSION MAY NOT HAVE ANY VERBAL COMMUNICATION WITH ANYONE, OTHER THAN AT THE MEETING SCHEDULED TO RESOLVE THE MATTER, UNTIL THE MATTER IS RESOLVED AT A PUBLIC MEETING AND THE MEETING IS ADJOURNED. YOU ARE PROHIBITED FROM MAKING ANY INDEPENDENT INVESTIGATION OF THIS MATTER OTHER THAN A SITE VISIT OR MAKING WRITTEN REQUESTS FOR INFORMATION FROM CITY EMPLOYEES AND RECEIVING WRITTEN RESPONSES FROM THEM IN THEIR OFFICIAL CAPACITY. ALL WRITTEN REQUESTS FOR INFORMATION AND RESPONSES THERETO MUST BE FILED WITH THE CLERK AND A COPY MUST ALSO BE SENT TO THE PLANNING AND ZONING DIRECTOR IF THE MATTER INVOLVES A LAND RELATED ISSUE. YOU MAY NOT HAVE ANY VERBAL COMMUNICATION WITH CITY EMPLOYEES REGARDING THIS MATTER. YOU MAY NOT ENTER ONTO SOMEONE'S PROPERTY WITHOUT THEIR PERMISSION. FURTHERMORE, YOU MAY NOT DISCUSS THE MATTER WITH THE PROPERTY OWNER OR ANYONE ELSE, INCLUDING NEIGHBORS. YOU MUST, IN WRITING, ADVISE THE CLERK OF THE DATE AND TIME OF YOUR SITE VISIT AND, IF THIS MATTER INVOLVES LAND USE, YOU MUST ALSO SEND A COPY TO THE PLANNING AND ZONING DIRECTOR. ALL INFORMATION THAT YOU OBTAIN ON THIS MATTER, OTHER THAN YOUR PERSONAL OBSERVATIONS AT A SITE VISIT AND WRITTEN INFORMATION PROVIDED BY STAFF, MUST BE PRESENTED TO YOU AT THE DULY NOTICED PUBLIC MEETING DURING WHICH THE APPLICANT SHALL BE GIVEN AN OPPORTUNITY TO PRESENT THE APPLICATION AND ANY EVIDENCE IN SUPPORT OF THE APPLICATION. IF THERE IS A BREAK IN THE MEETING, YOU MAY NOT ALLOW OTHERS TO SPEAK TO YOU ABOUT THE MATTER OR ALLOW THEM TO PROVIDE YOU WITH ANY INFORMATION ABOUT THE MATTER. IF THE MATTER REQUIRES MORE THAN ONE HEARING, YOU MAY NOT DISCUSS THE MATTER WITH ANYONE, UNTIL THE MATTER IS RESOLVED BY A FINAL WRITTEN RESOLUTION OR, IF APPLICABLE, ORDINANCE, AND, EVEN THEN, NOT UNTIL THE MEETING IS ADJOURNED. IF YOU RECEIVE AN EMAIL OR ANY WRITTEN OR PRINTED INFORMATION ABOUT THE MATTER BEFORE THE ADJOURNMENT OF THE HEARING AT WHICH A FINAL DECISION IS MADE FROM ANYONE OTHER THAN CITY EMPLOYEES ACTING IN THEIR OFFICIAL CAPACITY, YOU MAY READ IT BUT YOU ARE NOT ALLOWED TO RESPOND TO IT AND YOU ARE REQUIRED TO IMMEDIATELY PROVIDE A COPY OF ANY WRITTEN COMMUNICATION OR DOCUMENT YOU RECEIVE CONCERNING THIS MATTER TO THE CITY CLERK, AND A COPY MUST ALSO BE SENT TO THE PLANNING AND ZONING DIRECTOR IF THE MATTER INVOLVES A LAND RELATED ISSUE. IN ADDITION, IF YOU RECEIVE ANY VERBAL, OR WRITTEN COMMUNICATION (OTHER THAN WHAT HAS ALREADY BEEN DELIVERED TO THE CLERK AND THE PLANNING AND ZONING DIRECTOR) YOU ARE REQUIRED TO DISCLOSE IT AT THE PUBLIC MEETING AND, IF IT WAS VERBAL, YOU ARE REQUIRED TO WRITE A MEMORANDUM THAT INCLUDES THE INFORMATION RECEIVED AND THE NAME AND ADDRESS OF THE PERSON PROVIDING THE INFORMATION, AS WELL AS THE DATE, TIME AND PLACE WHERE THE COMMUNICATION TOOK PLACE. THIS DOCUMENT MUST BE DELIVERED AS SOON THEREAFTER AS POSSIBLE TO THE CITY CLERK, AND IF APPLICABLE TO A LAND RELATED ISSUE, A COPY MUST ALSO BE DELIVERED TO THE PLANNING AND ZONING DIRECTOR.

WARNING REGARDING EX PARTE COMMUNICATIONS:

"EX PARTE COMMUNICATIONS" ARE WRITTEN OR VERBAL EXCHANGES BETWEEN AN ELECTED OR APPOINTED PUBLIC OFFICIAL, AND AN APPLICANT, HIS OR HER REPRESENTATIVES, OR A CITIZEN OR OTHER THIRD-PARTY OUTSIDE OF THE PUBLIC QUASI-JUDICIAL HEARING WHICH IS THE SUBJECT OF THE EXCHANGE. THE FLORIDA LEGISLATURE BY THE ADOPTION OF SECTION 286.0115(1), FLORIDA STATUTES, HAS AUTHORIZED THE ADOPTION OF LOCAL ORDINANCES ALLOWING EX PARTE COMMUNICATIONS IF CERTAIN PROCEDURES ARE FOLLOWED TO ENSURE THAT THE WRITTEN OR VERBAL EXCHANGE IS MADE PUBLIC, WHICH IS DESIGNED TO REMOVE ANY PRESUMPTION OF PREJUDICE THAT WOULD OTHERWISE RESULT IF THE EXCHANGE WERE KEPT PRIVATE AND NOT DISCLOSED. EX PARTE COMMUNICATIONS MUST BE PUBLICLY DISCLOSED PRIOR TO OR AT THE QUASI-JUDICIAL HEARING AT WHICH THE DECISION IS TO BE MADE. ALL DECISIONS MADE AT A QUASI-JUDICIAL HEARING MUST BE BASED ON COMPETENT SUBSTANTIAL EVIDENCE. VERBAL EX PARTE COMMUNICATIONS ARE HEARSAY, ARE NOT COMPETENT EVIDENCE, AND MAY NOT FORM THE SOLE BASIS FOR MAKING ANY QUASI-JUDICIAL DECISIONS, BUT THEY MAY BE USED TO SUPPORT OR EXPLAIN OTHER COMPETENT EVIDENCE.

PURSUANT TO ORDINANCE §2-2.1, CITY CODE, THE SOUTH MIAMI CITY COMMISSION HAS ADOPTED THESE PROCEDURES TO ALLOW THE USE OF EX-PARTE COMMUNICATIONS AS FOLLOWS:

1. THE ELECTED OR APPOINTED PUBLIC OFFICIAL SHALL DISCLOSE IN WRITING THE SUBJECT OF THE COMMUNICATION AND THE IDENTITY OF THE PERSON, GROUP, OR ENTITY WITH WHOM THE COMMUNICATION TOOK PLACE, AS SOON AS PRACTICABLE AFTER THE COMMUNICATION TAKES PLACE, WITH THE CITY CLERK AND MADE A PART OF THE RECORD AT THE HEARING BEFORE FINAL ACTION ON THE MATTER.

2. A LOCAL PUBLIC OFFICIAL MAY READ A WRITTEN COMMUNICATION FROM ANY PERSON. ANY WRITTEN COMMUNICATION THAT RELATES TO QUASI-JUDICIAL ACTION PENDING BEFORE A LOCAL PUBLIC OFFICIAL, SHALL NOT BE PRESUMED PREJUDICIAL TO THE ACTION, PROVIDED SUCH WRITTEN COMMUNICATION IS DISCLOSED AND MADE A PART OF THE RECORD BEFORE FINAL ACTION ON THE MATTER.

3. A LOCAL PUBLIC OFFICIAL MAY CONDUCT INVESTIGATIONS, MAKE SITE VISITS AND RECEIVE EXPERT OPINIONS REGARDING QUASI-JUDICIAL ACTION PENDING OR IMPENDING BEFORE HIM OR HER PROVIDED THAT SUCH ACTIVITIES AND THE EXISTENCE OF SUCH INVESTIGATIONS, SITE VISITS OR EXPERT OPINIONS IS MADE A PART OF THE RECORD BEFORE FINAL ACTION IS TAKEN ON THE MATTER.

4. DISCLOSURE MADE PURSUANT TO PARAGRAPHS 1, 2 AND 3 ABOVE MUST BE MADE BEFORE OR DURING THE PUBLIC MEETING AT WHICH A VOTE IS TAKEN ON SUCH MATTERS SO THAT PERSONS WHO HAVE OPINIONS CONTRARY TO THOSE EXPRESSED IN THE EX PARTE COMMUNICATION ARE GIVEN A REASONABLE OPPORTUNITY TO REFUTE OR RESPOND TO THE COMMUNICATION.

IT IS POSSIBLE THAT IF THE STATUTE OR ORDINANCE DISCUSSED ABOVE, OR A QUASI-JUDICIAL ACTION PENDING BEFORE THE COMMISSION OR BOARD ARE CHALLENGED, THAT A COURT MIGHT FIND THAT NEITHER THE LEGISLATURE NOR THE CITY COMMISSION HAD AUTHORITY TO ENACT THESE PROCEDURES CONCERNING EX PARTE COMMUNICATIONS, WHICH COULD RESULT IN THE ACTION TAKEN BEING REVERSED. YOU THUS PROCEED AT YOUR OWN RISK IN ENGAGING IN SUCH COMMUNICATIONS, AND THEY ARE NOT ENCOURAGED. THEY ARE, HOWEVER, THE POLICY OF THE LEGISLATURE AND CITY COMMISSION, AND UNTIL DETERMINED OTHERWISE BY THE LEGISLATURE OR THE COURTS, ARE LEGALLY PERMITTED BUT NOT WITHOUT POSSIBLE ADVERSE LEGAL CONSEQUENCES TO THE DETRIMENT OF THE CITY AND OTHER PARTIES.

Special City Commission Agenda Item Report

Meeting Date: December 5, 2018

Submitted by: Thomas Pepe

Submitting Department: City Attorney

Item Type: Ordinance

Agenda Section: ORDINANCES(S) SECOND READING(S) PUBLIC HEARING(S)

Subject:

An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article III, Sections 20-3.4, 3.5 and 3.6; Article IV, Sections 20-4.3, 4.5, 4.5.1, and 4.6; Article V, Sections 20-5.7, 5.11, 5.12, 5.13, and 5.23; Article VI, Sections 20-6.1(C) and 6.2.; Article VII, Sections 20-7.3, 7.3.1, 7.5, 7.14, 7.15, 7.22, 7.24, 7.52; Article VIII, Sections 20-8.2, 8.9 and 8.12; Article IX, Section 20-9.5; Article X, Sections 20-10.5 and 10.9 ; Article XI, Section 20-11.2 and 11.9; Article XIII, Section 20-13.85 to amend the powers of the board and to make other revisions. 3/5 (Vice Mayor Harris)

Suggested Action:

Attachments:

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20_6.2___Appeals_and_Review..doc

20_7.3___Review_procedure..doc

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20_7.15___Architectural_standards_Intent. (1).doc

20_7.22___Architectural_standards_Roofs_and_gutters..doc

20_7.24___Architectural_standards_Colors..doc

20_7.52___Procedure_for_special_exception..doc

20_8.2___Definitions. (1).doc

20_8.9___Special_exceptions..doc

20_8.12___Architectural_standards_Intent..doc

20_9.5___Development_review_procedures..doc

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20_10.5___Uses_requiring_administrative_approval. (1).doc

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An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article III, Sections 20-3.4, 3.5 and 3.6; Article IV, Sections 20-4.3, 4.5, 4.5.1, and 4.6; Article V, Sections 20-5.7, 5.11, 5.12, 5.13, and 5.23; Article VI, Sections 20-6.1(C) and 6.2.; Article VII, Sections 20-7.3, 7.3.1, 7.5, 7.14, 7.15, 7.22, 7.24, 7.52; Article VIII, Sections 20-8.2, 8.9 and 8.12; Article IX, Section 20-9.5; Article X, Sections 20-10.5 and 10.9 ; Article XI, Section 20-11.2 and 11.9; ~~Article XIII, Section 20-13.85~~ to amend the powers of the board and to make other revisions.

WHEREAS, the Mayor and the City Commission desires to amend Chapter 20, Article III, Sections 20-3.4, 3.5 and 3.6; Article IV, Sections 20-4.3, 4.5, 4.5.1, and 4.6; Article V, Sections 20-5.7, 5.11, 5.12, 5.13, and 5.23; Article VI, Sections 20-6.1(C) and 6.2.; Article VII, Sections 20-7.3, 7.5, 7.14, 7.15, 7.22, 7.24, 7.52; Article VIII, Sections 20-8.2, 8.9 and 8.12; Article IX, Section 20-9.5; Article X, Sections 20-10.5 and 10.9; Article XI, Section 20-11.2 and 11.9.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA:

Section 1. The City of South Miami Land Development Code, Chapter 20, Article III, Sections 20-3.4(B) (22), 20-3.5H and 20-3.6 subsections O, Q and W are hereby amended to read as follows:

Sec. 20-3.4

(B)

(22) AUTOMOBILE RENTAL AGENCY. The following requirements shall be applicable to all automobile rental agencies allowed as a special use: (a) No ingress or egress to the automobile rental agency shall be permitted through abutting residentially zoned parcels. (b) When adjacent to a residential district, a landscape buffer acceptable to the ~~Ceity's- Commission~~ ERP shall be constructed along dividing property lines.

Sec. 20-3.5

H

(C) Performance Standards. The performance standard set forth in this section will guide the development of two-story residential homes in the single family residential districts: RS-1, RS-2, RS-3, RS-4 and RS-5. The performance standards are necessary in order to address yard setbacks, open space, adequate landscaping, plan review process, and existing character of the residential neighborhoods in the City of

South Miami. By implementing these standards, the City will be able to preserve and enhance the neighborhood character through architectural designs that are consistent and responsive to the individual context of the City's architecturally diverse neighborhoods.

(9) Architectural and Site Plan Review. All new two-story homes or second story additions shall be reviewed by the ERPB consistent with Section 20-6.1(C) of the Land Development Code. The design review must be based on sound and clearly articulated design principles. The architectural plans must be signed and sealed by a Florida Registered Architect.

(a) The ERPB shall consider and apply the following features as part of the review:

(i) Scale, color, texture, appropriateness, and aesthetic quality of all proposed buildings and other structures;

(ii) Quantity, quality and arrangement of all proposed landscaping and open space features;

(iii) Overall compatibility of the proposed development with the existing and desired character of the property and neighborhood in which located; and

(iv) The installation of sidewalks along all arterial roadways and compliance with the City's sidewalk policies and requirements.

(b) Designs should use a mix of articulation, architectural elements and exterior finishes reducing the perceived scale and bulk of buildings, including low to moderately pitched roofs and recesses under roof creating indoor/out door living spaces (terraces). ~~In considering the design of the building, the ERPB shall consider and apply Section 7(a)(i) thru (iii), and render a recommendation to the City Commission for approval, approval with conditions or denial decision as to the adequacy of the elements in the design concept including, but not limited to:~~

- Trim
- Shutters
- Awnings and canopies
- Windows (Fenestration)
- Doors
- Texture of surface
- Colors
- Roofs (materials, color, slope and overhang)
- Planters
- Window boxes
- Walls, height, location, materials, design
- Height of building
- Location of structure on site
- ~~Site circulation in regard to pedestrian travel, parking, services, grades and landscaping~~
- Location of exposed piping, conduits and rain water leaders
- The impact on adjacent properties of continuous two-story walls
- ~~All lighting (height, location and style)~~

1
2 (c) A Comprehensive Neighborhood Analysis, photographs of the site, and a
3 statement explaining how the proposed building ~~complies~~ assimilates with the
4 architectural style surrounding the site must be submitted as part of the **ERP**
5 application. The **ERP** shall ~~require~~ recommend changes to the plans to ensure that
6 the design preserves the existing architectural style of the neighborhood, unless
7 specified to the contrary, and promotes design excellence in the community. The
8 **ERP**, as part of the its application for review, shall require the submission of
9 photographs of both sides of the street and all abutting properties, on the block where
10 the new two-story home or two-story addition is to be constructed.

11 (d) The architectural context includes the height, scale, massing, separation
12 between buildings, and style in regard to how buildings and structures relate to each
13 other within a specified area. Architectural context allows for differences in height,
14 scale, massing, and separation between buildings and style, when such differences
15 contribute to the overall harmony and character of the area. The **ERP** shall not take
16 into consideration existing buildings and structures that are out of context with the area
17 when considering whether a new building or structure or a substantial addition to an
18 existing building or structure is in context with both sides of the street on the block
19 where it is located and surrounding properties. The **ERP** shall review the building or
20 structure in the context of that area in which the site is located when a new building or
21 structure or a substantial addition to an existing building or structure is located on a
22 building site that is on the border of two areas that have different character or content.

23 (e) The Planning Director shall have the administrative discretion to require the
24 above review process to be ~~the~~ accomplished prior to a Planning Board public hearing
25 on the proposed development application, if applicable.

26 (10) Findings. The **ERP** shall ~~determine~~ make a written recommendation as
27 to approval or disapproval of the proposed designed plans and shall explain the
28 reasons for its recommendation. ~~The Board shall prepare a written determination in~~
29 ~~order to state the intent of its decision.~~ The written recommendation ~~determination~~
30 shall be filed with the Planning Department for inclusion in the project record.

31 (11) Historic Preservation Board Review. Construction of a two-story home or
32 a second story additions or alterations to existing homes in the City's Historic District
33 shall be reviewed by the Historic Preservation Board and the **ERP**. The Historic
34 Preservation Board shall review the application for consistency with the City's historic
35 preservation guidelines, requirements set forth in this section, and the standards for the
36 issuance of a Certificate of Appropriateness as set forth in the Land Development
37 Code. The Historic Preservation Board shall also determine the proposed project's
38 compatibility with the guidelines in the specific Historic Designation Report. The
39 Historic Preservation Board recommendations shall be submitted to the **ERP** for
40 consideration. The **ERP** shall give consideration to the findings of the Historic
41 Preservation Board as part of its review for the purpose of ~~determining~~ rendering
42 conclusions as to the consistency of the Historic Preservation Board's findings with
43 the requirements set forth in this section.

44 (12) Development Standards. The development standards are based on
45 percentage of lot size consistent with the table provided below. The lot size that does
46 not exactly match table 2 shall be rounded up to the next highest lot size in order to
47 determine the appropriate lot size.

20-3.6 - Supplemental regulations.

(O) RO Restrictions.

- (1) In addition to all other requirements, a continuous visual buffer shall be provided whenever an RO use abuts or faces directly (within fifty (50) feet) a property zoned for single-family residential purposes. To accomplish this, the normally required perimeter landscaped buffer shall be increased from five (5) to eight (8) feet in width and trees from Table 20-3.6(O)(5) shall be planted according to the spacing listed. These trees shall be a minimum of ten (10) to twelve (12) feet tall immediately after planting.
- (2) No structure shall be constructed or altered to produce a store front, display window, or any other feature that would detract from residential character except that, in areas where RO zoned property abuts the MetroRail right-of-way, the Environmental Review and Preservation Board shall make a recommendation ~~it shall be left to the discretion of the environmental review and preservation board~~ as to whether strict compliance shall be necessary on that side abutting the MetroRail right-of-way, providing that all other sides are residential in character.
- (3) A decorative wall or fence of masonry, reinforced concrete, precast concrete, chain link, wood, or other like material that will be compatible with the main structure, five (5) feet in height shall be erected along all interior property lines, including the rear property line; provided, however, that in the event that the rear property line abuts a secondary road, said wall shall be set in ten (10) feet from the official right-of-way of the secondary road, and said ten (10) feet shall be landscaped; provided, further, in the event that the interior side property line abuts the same or more liberal zoning district, the requirement for the wall along said common interior property line shall not apply. Walls within or extending into the required twenty-five-foot front setback area shall be no more than four (4) feet in height. Further, individual buildings shall not be connected by fences, walls, breezeways or any other structures which make the building appear to have a single facade more than eighty (80) feet in width, provided that buildings may be connected by a breezeway at the first level only of no more than eight (8) feet in width.
- (4) No accessory buildings, or storage of supplies, heavy equipment, or large vehicles shall be permitted anywhere on the lot. In addition, air conditioning equipment may not be placed in the required front setback area.
- (5) Table 20-3.6 (O)(5).

Tree Species and Required Spacing for Continuous Visual Buffer*

	Required Spacing

Aralia (Polyscias balforiana)	3'
Beauty Leaf (Callophyllum antillanum)	10'
Buttonwood (Conocarpus erectus)	5'
Carrotwood (Cupaniopsis spp.)	10'
Madagascar Olive (Noronhia emarginata)	10'
Pink Trumpet Tree (Tabebuia pallida)	10'
Spicewood (Calyptanthes pallens)	10'
Vitex (Vitex gnus castus)	10'
Wax Myrtle (Myrica cerifera)	10'
Yew (Podocarpus spp.)	10'

1

2 1. * Or substitute to be ~~approved~~ reviewed by the **Environmental**
3 **Review and Preservation Board**.

4 2. * Or substitution to be made from Commission approved tree list
5 ~~submitted by the Tree Committee~~.

6 ***

7 (Q) *Screening and Soundproofing of Exterior Heating, Ventilating, Air*
8 *Conditioning Equipment, and Other Mechanical Equipment.*

9 (1) Air-cooled condensing and/or compressor equipment, water cooling towers,
10 and any other similar mechanical or service equipment or apparatus installed
11 or replaced on the roof of any building erected shall be screened from view
12 by a parapet wall or such other screening device as shall be ~~approved~~
13 ~~reviewed~~ by the **Environmental Rreview and Ppreservation Bboard**. Such
14 screening shall be constructed so as to conceal the equipment visible in
15 elevation. The requirement of ~~approval~~ review by the **Eenvironmental**
16 **Rreview and Ppreservation Bboard** shall not apply to replacement equipment
17 if existing screening is in place and found sufficient by the Planning Director.

18 (2) Air-cooled condensing (excluding window and wall units), and/or
19 compressor equipment, water cooling towers, liquid propane gas tanks,

1 irrigation pumps, pool equipment, and any other similar mechanical or
2 service equipment or apparatus installed or replaced on the ground or on a
3 building (other than on its roof) shall be screened from view, at ground level
4 outside the subject property, by the use of landscaping or such other
5 screening device as shall be ~~approved~~ reviewed by the **Environmental**
6 **Review and Preservation Board**. The requirement of ~~approval~~ review by
7 the **Environmental Review and Preservation Board** shall not apply to
8 replacement equipment if existing screening is in place and found sufficient
9 by the Planning Director.

10
11 ***

12 (W) *Solar Requirements.*

- 13 (1) *Applicability.* All new construction of single-family residences with living
14 area greater than one thousand one hundred (1,100) square feet, townhouses,
15 and any multi-story residential building where a section of roof can be
16 reasonably allocated, as determined by the Director of the Building
17 Department or the Planning and Zoning Department, to a separately metered
18 dwelling unit (hereinafter referred to as "qualifying multi-story residential
19 building"), that apply for preliminary ~~approval~~ review (or final approval if no
20 preliminary approval was obtained) by the **Environmental Review and**
21 **Preservation Board** on or after September 18, 2017 shall design and construct
22 the roof so as to withstand the weight of all product approved roofing
23 material with the weight of solar collectors and shall install at least the
24 minimum amount of solar collectors required in subsection (2) of this section
25 (W). This requirement shall also apply to existing residential buildings as
26 described above, if an alteration or addition is made that either increases the
27 square footage of the principal structure by seventy-five (75) percent or
28 greater, or that replaces seventy-five (75) percent or more of the existing sub-
29 roof (any portion of the sub-roof that is necessarily replaced due to damage
30 from a natural disaster shall not be included in the calculation of this
31 percentage).

32 ***

33 **Section 2.** The City of South Miami Land Development Code, Chapter 20,
34 Article IV, Sections 20-4.3, 20-4.5, 20-4.5.1 and 20-4.6 are hereby amended to read as
35 follows:

36
37 **20-4.3 - Sign regulations.**

38
39 ***

40 (H) *Permitted Sign Schedule.*

- 41 (1) Signs shall be permitted in the various zoning districts in accordance with
42 the following schedule.

- 1 (2) Whenever a business is an existing non-conforming use; such an
2 establishment shall be permitted to erect signage as if the business were
3 located where the use is permitted.
- 4
- 5 (3) LANDSCAPE and PROJECTING SIGNS must be reviewed by the
6 Environmental Review and Preservation Board. Required submittals shall be
7 per Section 20-4.3(J).
- 8
- 9 (4) ADDITIONAL SIGNS as described under Section 20-4.3(L) may be
10 permitted upon the approval of the Planning and Zoning Director
11 Environmental Review and Preservation Board.
- 12 (5) ALL SIGNS to be permanently erected, constructed, posted, painted, altered
13 or relocated on a designated historic structure or a "contributive" building
14 must be reviewed by the Historic Preservation Board prior to the issuance of
15 a building permit for such signage.
- 16 (3) LANDSCAPE and PROJECTING SIGNS must be reviewed by the Environmental
17 Review and Preservation Board. Required submittals shall be per Section 20-4.3(J).
- 18 (4) ADDITIONAL SIGNS as described under Section 20-4.3(L) may be permitted upon the
19 ~~approval~~ review by of the Environmental Review and Preservation Board and approval by the
20 Planning and Zoning Director.
- 21 (5) ALL SIGNS to be permanently erected, constructed, posted, painted, altered or relocated
22 on a designated historic structure or a "contributive" building must be reviewed by the Historic
23 Preservation Board prior to the issuance of a building permit for such signage.
- 24 (I) [Zoning Districts.]
- 25 (1) *RS-Single Family Residential Districts.*

Sign Type	Conditions
ADDRESS ID	One (1) ADDRESS IDENTIFICATION SIGN per premises permitted, not to exceed one (1) square foot in area. Direct illumination is permitted.
BUILDING MARKER	One (1) BUILDING MARKER SIGN per premises permitted, not to exceed two (2) square feet in area.
CONSTRUCTION	One (1) CONSTRUCTION SIGN per lot, not to exceed four (4) square feet in area nor six (6) feet in height to be erected only during the progress of actual construction.
GARAGE SALE	One (1) GARAGE SALE SIGN is permitted per single-family residential dwelling unit, two-times only, for two weekends including Friday only, per each calendar year, not to exceed two (2) square feet in area. Said sign may only be erected on the private property where the garage sale is to be located from sunrise to sunset.
POLITICAL	One (1) POLITICAL OR CAMPAIGN SIGN may be permitted as provided in Miami-Dade County Code of Ordinances.

REAL ESTATE	One (1) REAL ESTATE SIGN per lot, not to exceed two (2) square feet in area with three "riders" permitted.
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1 ***

2 (5) *All Other Zoning Districts.*

Sign Type	Conditions
ADDRESS ID	One (1) ADDRESS IDENTIFICATION SIGN per premises permitted, not to exceed one (1) square foot in area.
AWNING	One (1) AWNING SIGN per each awning is permitted, not to exceed five (5) square feet in area for every ten (10) linear feet of awning, on the vertical edge of an awning, where no individual character may exceed six (6) inches in height; additionally, one (1) company logo is permitted per separate awning, not to exceed 50% of the vertical height of the awning structure.
BUILDING MARKER	One (1) BUILDING MARKER SIGN per premises permitted, not to exceed two (2) square feet in area. Indirect illumination is permitted.
BEACON	Two (2) BEACONS per premises permitted, as part of the architectural design of the principal structure.
CHANGEABLE COPY	One (1) detached bulletin board, not to exceed ten (10) square feet in area, is permitted in each yard area facing a street. Indirect illumination is permitted.
CONSTRUCTION	One (1) CONSTRUCTION SIGN per project, not to exceed sixteen (16) square feet in area nor eight (8) feet in height for sites of less than five (5) acres in area to be erected only during the progress of actual construction. For sites of five (5) acres or more in area, one sign facing each public street, such signs shall not exceed thirty-two (32) square feet in area nor eight (8) feet in height to be erected only during the progress of actual construction. Indirect illumination is permitted.
DIRECTIONAL	DIRECTIONAL SIGNS, not to exceed five (5) square feet in area per sign nor four (4) feet in height. Direct illumination is permitted.
DIRECTORY	One (1) DIRECTORY SIGN is permitted per building. Directory signs must be attached to a lobby, hallway, or arcade. A directory sign must be located within ten (10) feet of the building's main entrance. Lettering on directory signs may be of a removable style, but no character may exceed one and one-half (1.5) inches in height. The total area of any directory sign shall be no greater than six (6) square feet in

	area. Indirect illumination is permitted.
DISPLAY PANEL	One (1) DISPLAY PANEL permitted per establishment, not to exceed four (4) square feet in area. Indirect illumination is permitted.
FLAT	FLAT SIGNS with a total aggregate sign area, not to exceed twenty (20) percent of the area of any building face; for the purposes of sign regulation, there shall be considered to be only four (4) facades to any building; no single sign shall exceed two hundred (200) square feet in area. Direct illumination is permitted.
HANGING	One (1) HANGING SIGN per establishment, not to exceed three (3) square feet in area each. Signs shall be uniform in size and design within a single property, but may vary in lettering style and color, provided ~~that~~ they are compatible and coordinated with other signs for individual establishments in the same development. Indirect illumination is permitted.
LANDSCAPE	One low-profile landscape sign may be permitted per project when approved by the <u>Planning and Zoning Director</u> Environmental Review and Preservation Board ; the landscape sign shall be a detached, low-profile sign which is either of a single-face or double-face design; the landscape sign shall not exceed four (4) feet in height from grade, nor twenty (20) square feet in area; and the landscape sign must be appropriately landscaped in a park-like manner, designed to be compatible with adjacent architecture of the surrounding premises. Direct illumination is permitted.
MARQUEE	One (1) MARQUEE SIGN may be permitted, not to exceed ten (10) square feet in area per ten (10) linear feet of street frontage. Direct illumination is permitted. Said sign shall replace permitted flat signs on that building face where affixed.
FREE STANDING MENU BOARD	One (1) MENU BOARD SIGN shall be permitted at each drive-through to a licensed RESTAURANT, not to exceed thirty-five (35) square feet in area nor seven and one-half (7.5) feet in height. A menu board sign may exceed the maximum allowable square footage by up to 10 square feet if the facade of the sign is not significantly visible from a public street, or if visible, screening or landscaping, <u>that is acceptable to the Planning and Zoning Director</u> , shall city's ERPB be provided up to the height of the sign. Direct illumination is permitted. Sign may be detached.
MURAL	One (1) MURAL SIGN is permitted per licensed premises where text and logos are limited to 20% of a single facade;

	graphic, including texts and logos, are limited to 30% of this same single facade area; scenic murals are not limited regarding area, but are limited to same single facade as any graphic mural, text and logos (if any are used).
NAME PLATE	One (1) NAME PLATE identification sign per licensed business establishment and professional license holder, not to exceed one (1) square foot in area per nameplate. Direct illumination is permitted.
POLITICAL	One (1) POLITICAL OR CAMPAIGN SIGN may be permitted as provided in Miami-Dade County Code of Ordinances.
PORTABLE SIGN FOR OUTDOOR DINING	One (1) PORTABLE SIGN per restaurant which is licensed to serve patrons in outdoor dining areas on either public or private property. Said sign shall not exceed four (4) feet in height nor six (6) feet in area, and may only be located within leased area of public sidewalks or on private property. Sign must be removed every night at closing.
PROJECTING SIGN	One (1) PROJECTING SIGN is permitted as a replacement for any permitted FLAT SIGN; signage area must be same as FLAT SIGN, when approved by the <u>Planning and Zoning Director</u> ~~Environmental Review and Preservation Board~~ .
REAL ESTATE	One (1) REAL ESTATE SIGN per lot, not to exceed six (6) square feet in area. For sites of five (5) acres or more in area, such signs shall not exceed twenty-four (24) square feet in area.
ROOF (MANSARD)	One (1) MANSARD OR SHED ROOF SIGN may be permitted for each business establishment which has a mansard roof. Said sign may be up to thirty (30) percent of the mansard roof area, but must be contained within the face of the mansard roof, parallel to the face of the building, and may not extend beyond any edge of the roof. Indirect illumination permitted. Direct illumination is permitted.
SEARCH LIGHTS	One (1) SET OF SEARCH LIGHTS permitted per licensed business for special events, not to be operated or remain lighted after 11 p.m.
SIGNS FOR COMMERCIAL PARKING LOTS	One (1) PORTABLE SIGN per entrance/exit of a licensed commercial parking lot, not to exceed a total of four signs. The sign shall not exceed three feet in height nor six square feet in area, and shall be located within private property. One (1) PORTABLE POLE SIGN per site is permissible only during the hours of operation.
TEMPORARY	One (1) TEMPORARY sign may be permitted by special

	permit issued by the Planning Division. Only one (1) sign is permitted per calendar year for each licensed business establishment. Each sign shall be permitted for no more than 30 days, except that this time limit may be extended by the Planning Division twice, for 30 days each, where total duration, including all approved extensions, shall not exceed 90 days. A temporary sign may be permitted up to 30 square feet in area. A temporary sign must be firmly affixed to the front face of a building.
TOW AWAY ZONE	TOW-AWAY ZONE SIGNS are permitted per Florida Statutes.
WINDOW, INFO.	INFORMATION SIGNS IN DISPLAY WINDOWS shall be limited to ten (10) percent of the total glass area of each window in which such signs are placed; this calculation does not include the area of permanent painted or neon signs in windows; glass area shall be calculated as the area of the opening in the face of the building which contains the window component; individual panes within a mullioned window are calculated together as a single glass area for signage purposes. Permanent signs shall not be permitted under this category.
WINDOW, PERM.	PERMANENT PAINTED OR NEON SIGNS IN DISPLAY WINDOWS, limited to ten (10) percent of the total glass area in which they are located; this calculation does not include the area of information signs in windows; glass area shall be calculated as the area of the opening in the face of the building which contains the window component; individual panes within a mullioned window are calculated together as a single glass area for signage purposes. Direct illumination permitted. Illuminated signage may only include the name of the business establishment. Direct illumination is permitted.

1

2 ***

3 (L) *Additional Signage.* Other types of signs, not expressly permitted by regulations
4 stated in Section 20-4.3(I), may be ~~approved~~ reviewed by the Environmental
5 Review and Preservation Board (ERPBB) City Commission who may approve the
6 sign with or without conditions when the following conditions are met:

- 7 (1) That the proposed sign is not prohibited by Section 20-4.3(E);
- 8 (2) That the proposed sign conforms to the Florida Building Code and other
9 code regulations, as applicable;

- 1 (3) That the proposed additional sign on the building does not occupy more
2 than 30% of the facade on which it is proposed to be installed or more than
3 20% of any window area; and
- 4 (4) Detached signs may be permitted on any commercial property with the
5 approval of the Planning and Zoning Director ~~Environmental Review and~~
6 ~~Preservation Board~~, including detached signs that exceed the permitted
7 location and height standards set forth in Section 20-4.3(I).

8 ***

9 **20-4.5 - Landscaping and tree protection requirements for all zoning districts.**

10 ***

11 ***

12

13 I. *Certificate of Compliance — Required Adjustment to Requirements Permitted.*

- 14 (1) A Preparer's Certification of Landscape Compliance bearing the original
15 letterhead of the designing firm and licensing number shall be submitted to
16 and approved by the Planning Department, prior to issuance of any final
17 Certificate of Occupancy, Certificate of Use and Occupancy or Certificate of
18 Completion. The Preparer's Certification of Landscape Compliance shall
19 contain a statement, signed and sealed by the landscape architect or by
20 person(s) authorized to prepare plans by Chapter 481, Florida Statutes, who
21 prepared the approved plans, that the landscape and irrigation plans have been
22 implemented and that all requirements of Section 20-4.5 and Section 20-4.5.1
23 have been met. Any changes or substitutions to the approved plan shall be
24 approved by the original designing firm prior to the implementation of said
25 changes and substitutions. All changes or substitutions to the approved plan
26 shall be noted on all copies. Changes and substitutions of plant material shall
27 be of similar quality, quantity and size, as originally approved and shall be in
28 compliance with the intent and requirements of Section 20-4.5 and Section
29 20-4.5.1.
- 30 (2) For a new single-family, duplex residence on its own lot or applicable
31 existing development, the owner or owner's agent may certify in writing that
32 landscape and irrigation have been installed according to approved plan(s).
- 33 (3) The Planning Department shall have the right to inspect all projects for
34 compliance prior to issuance of a Certificate of Occupancy, a Certificate of
35 Use and Occupancy, or a Certificate of Completion.
- 36 (4) Owners are responsible to ensure that landscaping required to be planted
37 pursuant to Section 20-4.5 and Section 20.4.5.1, and all previous versions,
38 now amended, is: (1) installed in compliance with the landscape
39 requirements; (2) maintained as to present a healthy, vigorous, and neat
40 appearance free from refuse and debris; and (3) sufficiently fertilized and
41 watered to maintain the plant material in a healthy condition. If the roots of a
42 Ficus tree are shown to be invading the septic system or drain field of a
43 neighboring property or disturbing a structure, including a sidewalk or
44 roadway, the roots shall be contained by an effective root barrier, or, if the

1 barrier fails to contain the roots, the tree shall be removed and all such
2 remedial action shall be at the expense of the owner of the property where the
3 trunk of the tree is located.

4 (5) If any tree or plant dies which is being used to satisfy current landscape
5 code requirements, such tree or plant shall be replaced with the same
6 landscape material or an approved substitute within sixty (60) days of a
7 complaint.

8 (6) The Planning Division shall withhold approval of a final landscape
9 inspection prior to issuance of the final Certificate of Occupancy, Certificate
10 of Use and Occupancy, or Certificate of Completion until a Preparer's
11 Certification of Landscape Compliance has been approved by the Division.

12 (7) The **Environmental Review & Preservation Board [ERP]** may recommend
13 to the City Commission adjustment to the requirements of Sections 20-4.5(F)
14 and (E), and Section 20-4.5.1(Q); under the following procedures:

15 (a) The **ERP** on receipt of application for adjustment of landscaping
16 requirements shall have the authority and duty to review and make a
17 recommendation as to consider and act upon such application. The
18 application shall be filed by the owner or tenant of the property
19 concerned, or by authorized agents as evidenced by written power of
20 attorney, on forms prescribed by the Planning Department and
21 accompanied by the **ERP** application fee.

22 (b) In the application, the applicant shall state clearly and in detail what
23 adjustment of landscaping requirements are being requested and the
24 reasons such adjustments are warranted, and shall accompany the
25 application with supplementary data, such as sketches, surveys and
26 statistical information to substantiate the adjustment.

27 (c) The **ERP** may shall a recommendation to approve, modify or deny the
28 requested adjustment, but shall only make a recommendation for
29 approval or to approve or modify such request only if it determines that
30 approval of any adjustment would not be contrary to the public interest
31 and would be in keeping with and would preserve the intent of Section
32 20-4.5, and Section 20-4.5.1

33 ~~(d) Procedures regarding Board actions and appeals from the decisions of~~
34 ~~the **E.R.P.B. ERP** shall follow the regulations set forth in Section 20-~~
35 ~~6.2.~~

36
37 **Sec. 20-4.5.1 - Tree protection.**

38 A. *Tree Permit Applications, Requirements and Review, Fees.* Except as
39 provided herein, no tree may be removed relocated, trimmed or pruned without
40 a permit and mitigation as provided for in this ~~Section which may be issued or~~
41 ~~denied notwithstanding any recommendation to the City Manager for approval~~
42 ~~by the **Environmental Review and Preservation Board**.~~ Only the City
43 Commission may approve the removal, relocation or replacement of a heritage

1 or champion trees. A tree in a landscape plan, planted to provide temporary
2 shade until adjacent trees reach maturity may be designated as a "temporary
3 shade tree", and which may be trimmed back or removed at such time as the
4 surrounding trees require additional access to sunlight.

5 ***

6 **20-4.6 - Environmental review standards.**

7 The following standards shall be utilized by the Eenvironmental Rreview and
8 Ppreservation Bboard in their review and evaluation of all site and landscape plans as
9 required by this Code.

10 ***

11
12
13 **Section 3.** The City of South Miami Land Development Code, Chapter 20,
14 Article V, Sections 20-5.7, 20-5.11, 20-5.12, 20-5.13, and 20-5.23 are hereby amended
15 to read as follows:

16
17 **20-5.7 - Rezoning and text amendments.**

18 (A) Multiple Properties. Multiple properties in any single application for a
19 rezoning shall be contiguous to one another or accompanied by a unity of title
20 agreement.

21 (B) City Initiated Applications. An application for a rezoning or text
22 amendment may be initiated by the city commission, planning board, Eenvironmental
23 Rreview and Ppreservation Bboard or Ceity administration.

24 ***

25 **20-5.11 - Site plan review approvals.**

26 (A) Applicability. Site plans shall not require a public hearing but shall be
27 submitted to the Eenvironmental Rreview and Ppreservation Bboard for review and
28 approval recommendation to the Planning Director. The Planning Director may
29 approve the site plan, approve it with conditions, or reject the site plan. The Planning
30 Director must approve the site plan by the environmental review and preservation
31 board prior to the issuance of a permit for:

32 (1) Any new building or other structure which is visible from any public or
33 private street; and

34 (2) Any material alterations to an existing building or other structure which
35 is visible from any public or private street.

36 (B) Standards and Guidelines. The Eenvironmental Rreview and
37 Ppreservation Bboard shall review the following aspects of all site plans:

38 (1) Scale, color, texture and appropriateness of all proposed buildings and
39 other structures;

40 (2) Quantity, quality and arrangement of all proposed landscaping and open
41 space features;

42 (3) Overall compatibility of the proposed development with the existing and
43 desired character of the property and neighborhood in which located; and

44 (4) The installation of sidewalks along all arterial roadways and compliance
45 with the Ceity's sidewalk policies and requirements.

46 (C) Review and Approval.

1 (1) The Eenvironmental Rreview and Ppreservation Bboard shall review the
2 proposed site plan at its first regularly scheduled meeting following proper filing of
3 such material.

4 (2) All approved site plans shall bear an official Ceity stamp and the
5 signature of the Planning Director ~~board chairman presiding at the meeting when such~~
6 ~~plans were approved.~~

7 (3) If the Eenvironmental Rreview and Ppreservation Bboard makes a
8 recommendation for the ~~a site plan is denied denial or~~ modifications are
9 recommended, the board shall, if possible, make specific findings include in its
10 recommendation as to the reasons for such denial or modifications, and recommend
11 appropriate changes to the applicant.

12 ~~(D) Review Exceptions. Notwithstanding any other regulations of this Code,~~
13 ~~the Eenvironmental Rreview and Ppreservation Bboard shall not review any additions~~
14 ~~or alterations to single family residential dwellings, except for the installation of~~
15 ~~sidewalks along all arterial roadways and compliance with the Ceity 's sidewalk~~
16 ~~policies and requirements.~~

17 ~~(D) (E)~~ General Application Requirements.

18 (1) Plans and supporting data as specified in this section shall be submitted
19 with each application.

20 (2) Preliminary plans may be submitted for Eenvironmental Rreview and
21 Ppreservation Bboard review prior to final plan submittal.

22 (3) Final plans must be submitted prior to a ~~decision~~ recommendation of the
23 Eenvironmental Rreview and Ppreservation Bboard.

24 (4) Required information shall include the title of the project, name of
25 developer, name of planner, architect, engineer, north arrow, date, scale and legal
26 description of the property.

27 (5) The architectural plans for construction of new buildings must be signed
28 and sealed by a Florida registered architect.

29 ~~(E) (F)~~ Existing Site Characteristics. Information shall be shown reflecting
30 the following existing features of the subject property:

- 31 (1) Property survey by registered surveyor;
- 32 (2) Rights-of-way and easements;
- 33 (3) Structures and uses;
- 34 (4) Photographs of surrounding properties; and
- 35 (5) Zoning districts.

36 ~~(F) (G)~~ Existing Tree Survey.

37 (1) Except for applications involving single-family dwellings, a tree survey
38 shall be submitted with each site plan approval application.

39 (2) The survey shall give the location, size and specie of all existing trees
40 with more than a three (3) inch DBH caliper trunk size and shall be signed and sealed
41 by a registered surveyor.

42 (H) Proposed Site Plan. The following information, indicating the proposed
43 character of the developed property, shall be submitted.

- 44 (1) Name, address and phone of owner and designer;
- 45 (2) Property lines;
- 46 (3) Rights-of-way and easements;
- 47 (4) Structures and uses;

- (5) Parking spaces, accessways, driveways, sidewalks, wheel stops and curbs;
- (6) Curb cuts and median openings;
- (7) Lighting and irrigation systems;
- (8) Fences and walls;
- (9) Storm sewers; and
- (10) Dumpster locations.

(H) ~~(F)~~ Proposed Landscape Plan. The following landscaping information shall be submitted:

(1) Proposed trees, shrubs, grass and other vegetation including their location, height, shape, size and type by both common and botanical classifications.

(2) Proposed berms, water courses and topographic features, including their location, height, size and shape.

(I) ~~(F)~~ Proposed Buildings and Structures. All proposed structures, fences and walls shall be shown in elevation drawing reflecting their location, size, color, height and construction material.

(J) ~~(K)~~ Tabular Summary. A tabular summary, as required by the Planning and Zoning Department building and zoning department, shall be submitted.

(K) ~~(L)~~ Expiration. Final approval by ~~ERP~~ the Planning and Zoning Director shall lapse after six (6) months if no permit which effectuates development of the project is applied for.

20-5.12 - Planned unit development approvals.

(A) *Review Procedures.* Upon receipt of a complete application for the approval of a planned unit development, the building Planning and Zoning Department shall review the application and submit its findings and recommendations to the Environmental Review and Preservation Board within thirty (30) calendar days from receipt of the application. All procedures and requirements specified below shall apply to applications for planned unit developments.

(B) Environmental Review and Preservation Board Review.

(1) The board shall, within thirty (30) calendar days following receipt of the complete application and staff recommendations, formally meet and consider the preliminary development concept plan for the proposed planned unit development.

(2) Prior to such meeting, the board may meet with the applicant to review the request at a special meeting.

(a) Three (3) working days' notice of such meeting shall be given by posting notice at City Hall.

(b) The board, at the chairman's discretion, may consider questions from the public.

(3) Preliminary development concept plan review may occur only at a special or regular board meeting, subject to three (3) working days' notice.

(4) The Environmental Review and Preservation Board ("ERP") shall make a recommendation on the application at least seven (7) calendar days

1 prior to the date of the scheduled Planning Board public hearing. If the
2 ERPB fails to timely make a recommendation, the Planning and Zoning
3 Director, and not the ERPB, shall make a recommendation to the Planning
4 Board.

5 (C) *Planning Board Action.*

6 (1) Within forty-five (45) calendar days after receipt of an application, the
7 planning board shall hold a public hearing on the application.

8 (2) Notice of such hearing shall comply with all requirements of state law and
9 this Code.

10 (3) Within fifteen (15) calendar days after such public hearing, the planning
11 board shall transmit its recommendations to the Ceity Ceommission.

12 (D) *City Commission Action.*

13 (1) Within ninety (90) calendar days of receipt of the recommendations of the
14 planning board, the Ceity Ceommission shall hold a public hearing on an
15 application for a planned unit development.

16 (2) Notice of such hearing shall comply with all requirements of state law.

17 (3) The Ceity Ceommission shall approve, deny or approve with conditions,
18 modifications, safeguards or stipulations appropriately and reasonably related
19 to the intent, purposes, standards and requirements of the planned unit
20 development regulations contained in Section 20-3.7 of this Code.

21 (E) *Final Plans and Reports.*

22 (1) Final plans shall be in accord with preliminary plans as approved by the
23 Ceity Ceommission.

24 (2) Minor changes may be permitted by the Ceity Manager, if such changes
25 meet the same physical design requirements as the approved final plans.

26 (F) *Changes in Final Plans and Reports.*

27 (1) *Major Changes.*

28 (a) Any proposed change which would have the effect of increasing
29 densities or redistributing square footage or altering the height or use of a
30 development is a major change.

31 (b) An applicant for a major change shall schedule a preliminary
32 conference with the building Planning and Zoning Deartment. The
33 department may accept the application, recommend changes to the
34 application or deny the application.

35 (c) Upon acceptance, the application shall be further considered at another
36 preliminary conference with members of the Eenvironmental Review
37 and Preservation Board, a representative from the department and the
38 applicant.

- 1 (d) The application shall then be completed and submitted to the
2 Eenvironmental Rreview and Ppreservation Bboard for consideration.
3 The Eenvironmental Rreview and Ppreservation Bboard shall submit
4 recommendations for approval, approval with conditions or denial to the
5 planning board within seven (7) calendar days of its review.
- 6 (e) The planning board shall receive a complete application and the
7 department shall post and publish public hearing notices. Public hearings
8 shall be held before both the planning board and Ceity Ceommission.
- 9 (f) If the application is approved by the Ceity Ceommission, it shall be
10 submitted to the Eenvironmental Rreview and Ppreservation Bboard for
11 final aesthetic ~~approval~~ review and recommendations to the City
12 Commission for final approval.
- 13 (G) *Application Requirements.* Applications for approval of a planned unit
14 development shall include:
- 15 (1) *Required Documents.* All plans, maps, designs, studies and reports which
16 may reasonably be required to make the determinations required by these
17 regulations.
- 18 (2) *Ownership Report.* A report identifying all property ownership and
19 beneficial interest within the boundaries of the proposed planned unit
20 development and giving evidence of unified control of the entire area.
- 21 (a) The report shall state agreement of all owners or holders of beneficial
22 interest to proceed with the proposed development according to the terms
23 of any final special permit approving the planned unit development,
24 including such modifications as may be set by the Ceity Ceommission;
25 and
- 26 (b) The report shall conform in the process of development to the
27 preliminary development concept plan and to proposals for staging of
28 development.
- 29 (3) *Property Survey.* A survey of the proposed development showing property
30 lines and ownerships; and existing features, including streets, alleys,
31 easements, utility lines, existing land use, general topography and physical
32 features.
- 33 (4) *Preliminary Concept Plan.* A preliminary concept plan which shall include:
- 34 (a) Names of proposed development, developer and planner.
- 35 (b) Scale (1" = 20'), date, north arrow.
- 36 (c) Location, height, floor area, residential density of existing structures, if
37 any; and location, orientation, height, floor area, residential or other
38 density, and use of proposed structures or portions of structures.
- 39 (d) Conceptual site plan, floor plan and elevations of all buildings, uses and
40 improvements as intended to be located, constructed and used.

- 1 (e) Points of egress and ingress for pedestrian, vehicular, transit and service
2 traffic, and circulation patterns within and around the proposed
3 development.
- 4 (f) Location, character and scale of parking and service facilities (area and
5 number of off-street parking spaces, character of mass transit related
6 facilities, location of principal service areas for major structures or
7 complexes, etc.).
- 8 (g) Relation of adjacent land uses and zoning districts to the proposed
9 planned unit development, including, where view protection is an
10 objective, location of principal public view points into or through the
11 proposed planned unit development.
- 12 (h) Existing lots or blocks, if any, and general pattern of proposed lots or
13 blocks, if any.
- 14 (i) Location of existing and proposed systems for pedestrian use or
15 common enjoyment (excluding automotive uses); scale of such systems;
16 indication of open space, open air and internal components.
- 17 (j) Where determined necessary, a professional market analysis and an
18 analysis of the economic impact of the proposed development may also
19 be required.
- 20 (k) Any additional information deemed necessary.
- 21 (5) *Special Reports.* Special surveys, approvals, preliminary approvals (as
22 appropriate to the particular case) or reports (such as a report for a
23 Development of Regional Impact) required by county, state or federal
24 governments where a proposed planned unit development is dependent upon
25 such special surveys, approvals or preliminary approvals or reports.
- 26 (6) *Phasing Reports.* Where a planned unit development is to be constructed in
27 stages, indications as to the nature of the planned unit development, uses,
28 location and floor areas, residential or other densities to be developed, and
29 timing of beginning of development of the first stage; and similar information
30 on succeeding stages; provided, that in lieu of an indication of specific
31 timing, initiation of succeeding stages may be made dependent upon
32 completion of all or substantial portions of earlier stages.
- 33 (7) *Common Area Reports.* Proposals concerning the establishment of areas,
34 facilities and improvements for the common use of the occupants or
35 employees of or visitors to the planned unit development shall give adequate
36 assurances to the Ccity that such areas, facilities and improvements will be
37 continued, operated and maintained without future expense to the taxpayers
38 of the Ccity.
- 39 (8) *Restrictive Covenants.* Proposals concerning restrictive covenants, if any, to
40 be recorded with respect to property included in the planned unit
41 development.

- 1 (9) *Submittal Requirements.* Materials submitted with an application for a
2 major change or a minor change to a previously approved planned unit
3 development shall include:
- 4 (a) Letter of intent containing statement of need and justification for
5 changes.
- 6 (b) Copy of approved final plan and report.
- 7 (c) Copy of proposed final plan and report.
- 8 (H) *Revocation of Planned Unit Developments Approval.*
- 9 (1) *Revocation Procedures and Standards.*
- 10 (a) *Revocation procedures:* Planned unit development approvals may be
11 revoked by resolution of the Ceity Ceommission. Prior to passing a
12 resolution revoking a planned unit development approval, the Ceity
13 Ceommission shall hold at least one public hearing which shall be
14 advertised in accordance with the requirements of state law and in
15 accordance with the advertising required by Section 20-5.12(D)(2). Prior
16 to holding a public hearing to revoke a planned unit development
17 approval, the Ceity Ceommission shall request a recommendation from
18 the planning board which shall hold its own public hearing on the subject
19 prior to giving its recommendation. The planning board's public hearing
20 shall be advertised in accordance with the requirements of state law and
21 in accordance with the advertising required by Section 20-5.12 (C)(2). In
22 addition, the owner(s) of record of the subject property shall be notified
23 by registered mail at least sixty (60) days prior to the planning board's
24 first hearing on the subject. If the planning board fails to hold a public
25 hearing or fails to give a recommendation within one hundred twenty
26 (120) days of being requested by the Ceity Ceommission to do so, then
27 the Ceity Ceommission may proceed to advertise and hold its own public
28 hearing and to take action without the planning board's recommendation,
29 provided that the owner(s) of record of the subject property have been
30 notified by registered mail at least once and at least sixty (60) days prior
31 to the Ceity Ceommission 's first public hearing.
- 32 (b) *Revocation standards:* In considering a planned unit development
33 revocation, the planning board and the Ceity Ceommission shall evaluate
34 all relevant information which may come to their attention. A planned
35 unit development approval which meets all requirements for approval
36 under existing comprehensive plan and zoning designations applicable to
37 the subject property shall not be revoked. However, there shall be no
38 vested interest in a planned unit development approval per se and any
39 planned unit development approval that is inconsistent with existing
40 comprehensive plan or zoning designations may be revoked; indeed,
41 such inconsistency may be deemed sufficient grounds for revocation of
42 any planned unit development approval. The phrase "any planned unit
43 development approval" in the preceding sentence shall include approvals
44 for projects which have been fully or partially constructed. In the case of

such projects, the revocation of the planned unit development approval shall not in any way cancel any vested right which may apply to the already completed buildings and structures themselves.

20-5.13 - Building permit approvals.

(A) General Provisions.

- (1) No person shall erect, construct, reconstruct, excavate for a foundation, alter or change the use of any structure or improvements of land except in conformity with this Code and upon issuance of a building permit indicating what is to be allowed.
- (2) No construction material and equipment shall be placed on any premises, lot or proposed building site prior to building permit issuance.
- (3) A building permit shall not be required for any construction, repair or work in single-family residential districts, provided that:
 - (a) No inspection is required by the Ceity;
 - (b) No ~~approval-review~~ is required by the **ERP**; and
 - (c) All other zoning requirements are followed.

20-5.23 - Satellite antenna procedures.

- (A) Satellite Earth Station Antennas.** That plans of satellite earth station antennas shall be submitted with each application for a building permit, which shall include a site plan indicating the height, diameter, color, location, setbacks, foundation details, landscaping and screening, and that such plans shall be subject to ~~approval-review~~ by the **ERP** and that such antennas shall be subject to the following standards:

(1) Location:

- (a) In all RS, RT-6 and RT-9 Districts only ground-mounted antennas shall be permitted and such antennas shall be located in the rear yard of that property or in the interior side yard and not visible from the street.
- (b) In all other districts, roof-mounted antennas shall be permitted, provided, however, that such antennas shall be screened from ground view by a parapet or some other type masonry wall or screening. The minimum height and design of such parapet, wall or screening shall be subject to ~~approval-review~~ by the **ERP**.
- (c) Ground-mounted antennas shall also be permitted in the RM-18, RM-24 and commercial districts subject to the applicable provisions of this section.

(2) Landscaping:

- (a) Ground mounted antennas shall be screened by landscaping from view from the street and adjacent property owners so that such antennas are

1 not visible between ground level and eleven (11) feet above ground level
2 as shall be approval reviewed by the ERPB.

3 (b) In order to reduce the height of the required plant material, berms may
4 be employed in conjunction with the landscaping plan. All plant material,
5 size (at installation), quantity and spacing shall be specified on the
6 landscaping plan or site plan.

7 (3) *Diameter:*

8 (a) The diameter of such antennas shall not exceed ten (10) feet in all RS,
9 RT-6 and RT-9 Districts.

10 (b) The diameter of such antennas shall not exceed fifteen (15) feet in all
11 other districts.

12 (4) *Height:*

13 (a) Ground-mounted antennas shall be limited to a maximum height of
14 eleven (11) feet above grade in all RS, RT-6 and RT-9 Districts and a
15 maximum of fifteen (15) feet above grade in all other districts.

16 (b) Roof-mounted antennas shall be limited to a maximum height of five
17 (5) feet above the roof line or radius of the "dish bowl" in RS, RT-6 and
18 RT-9 districts with a maximum of fifteen (15) feet in all other districts.

19 (5) *Setbacks:*

20 (a) Ground-mounted satellite antennas in the most extended position shall
21 conform to the following minimum setbacks:

22 i. *Rear and Side:* In all RS, RT-6 and RT-9 Districts fifteen (15) feet
23 and in all other districts, rear and side setbacks shall be provided as
24 are required for the principal building on the building site.

25 ii. *Setbacks from Power Lines:* Satellite antennas or any appurtenances
26 thereto, shall be located not less than eight (8) feet from any
27 powerline over two hundred fifty (250) volts.

28 (b) In no case shall such satellite antennas be located closer to the front or
29 side street of a lot or building site than the main or principal building.

30 (c) Where such a satellite antenna is located on a building site which is
31 fronting upon two or more streets, the antenna shall maintain the same
32 setback as required for the principal building along each such street.

33 (6) *Impervious Coverage:* The impervious coverage of such antennas shall be
34 counted in computing the impervious coverage for auxiliary and accessory
35 use structures located upon the building site.

36 (7) *Color:* Such satellite antennas and their appurtenances shall be non-
37 reflective black, green or the same color as the wall to which it is attached (if
38 not freestanding) and, to the extent possible, shall be compatible with the
39 appearance and character of the neighborhood.

- (8) *Number Permitted:* Only one (1) satellite antenna shall be permitted for each principal building. Roof top antennas of three (3) feet or under shall not be limited, but they shall be screened from view with screening approval reviewed by the Environmental Review and Preservation Board.
- (9) *Installation:*
- (a) The installation or modification of all satellite antennas shall be in accordance with all applicable construction and safety codes and procedures and shall meet the requirements of the Florida Building Code.
 - (b) Roof-mounted antennas shall be anchored to the roof and shall conform with the requirements of the Florida Building Code.
 - (c) All antennas and appurtenances shall be so constructed and installed so as to withstand the forces due to wind pressure as provided for under the Florida Building Code, and all applications shall include signed and sealed drawings by a professional engineer.
- (10) *Maintenance:* Such satellite antennas, appurtenances, landscaping and screening shall be kept and maintained in good condition.
- (11) *Existing Antennas:* All antennas installed prior to February 5, 1991, will be grandfathered in under the following conditions and must be brought into compliance by May 5, 1991 (ninety (90) days):
- (a) A certified statement by a professional engineer be provided that the existing antenna is installed to the specifications of the Florida Building Code and not an undue hazard to the community; and
 - (b) Appropriate screening shall be done as shall be approved by the City.

Section 4. The City of South Miami Land Development Code, Chapter 20, Article VI, Sections 20-6.1(C) and 20-6.2 are hereby amended to read as follows:

20-6.1 - Administrative entities.

(C) **Environmental Review and Preservation Board.**

(1) *Establishment and Membership.*

- (a) An Environmental Review and Preservation Board is hereby created which shall consist of nine (9) members who reside or work in the City, except as provided in
 - i. In accordance with the City Charter, Article II, Section 8, A, each City Commissioner shall appoint one (1) person to serve as a representative on the Board and all members of the Board in excess of five (5) shall be appointed by three (3) affirmative votes of the City Commission based on recommendations submitted by any City Commissioner.

- 1 ii. Board membership shall include at least one (1) registered
2 landscape architect licensed to practice in the State of Florida. If it is
3 determined by the City Commission that the position of landscape
4 architect cannot be filled by a qualified individual who resides or
5 works in the City, the residency requirement may be waived by the
6 Commission and the position of landscape architect may be filled by
7 a qualified individual who does not reside or work in the City.
- 8 iii Board membership shall include two (2), but no more than four (4),
9 architects licensed to practice in the State of Florida.
- 10 iv. Members of the Environmental Review and Preservation
11 Board may not work for the City or be employed by any company
12 that has contracts with the City.
- 13 v. Members shall serve for a term of two (2) years.
- 14 (b) Any member of the board shall be automatically removed for missing
15 five (5) regular meetings in a row, or nine (9) meetings in a twelve-
16 month period.
- 17 i. The Planning and Zoning Director shall keep an attendance record of
18 board meetings missed.
- 19 ii. The Planning and Zoning Director shall advise the City
20 Commission and the member being removed that such member has
21 been automatically removed.

22 ***
23

24 (3) *Powers and Duties.*

- 25 (a) The board shall have all such powers and duties as are granted by this
26 Code.
- 27 (b) The board shall review and make recommendations for approval,
28 disapproval or modification on all site plans, projects and specifications
29 as required under the board's mandatory review pursuant to this Code.
- 30 (c) The board shall review the scale, color, texture and appropriateness of
31 all proposed buildings, additions, and other structures; the quantity,
32 quality and arrangement of all proposed landscaping and open space
33 features; and the overall compatibility of the proposed development with
34 the existing character of the neighborhood and make a recommendation
35 for approval, disapproval, or approval with modifications.
- 36 (d) ~~The board shall have the power and the duty to hear and decide matters,~~
37 ~~specifically prescribed by and in accordance with the terms of this Code.~~
- 38 (e) The board shall conduct any other function which may be designated or
39 assigned by act of the City Commission.
- 40 (f) Notwithstanding any other provisions of this Code, the Environmental
41 Review and Preservation Board shall not review any additions or

alterations to single-family dwellings, unless ~~in the opinion of the~~
Planning and Zoning Director believes that it would significantly affect
the character of the residence.

~~(g) Notwithstanding any other provisions of this Code, the Environmental Review and Preservation Board (ERP) shall review all new construction, painting, remodeling, landscaping and signage projects to be performed by this municipal government (the City), prior to any permits being issued or any work being performed.~~

(4) *Procedures.*

(a) Quorum and voting.

i. A quorum shall be five ~~three~~ (53) members.

ii. An affirmative vote of a majority of the members present shall be required to pass upon any matter on which the board is required to act under this Code.

(b) The board shall keep a permanent record of all proceedings before it.

(c) Meetings of the board shall be public and notification of such meetings shall be given in accordance with Code provisions. If any scheduled meeting to review applications is not held (whether for lack of quorum or otherwise), or if the ERPB fails to address an application that is pending review by the ERPB, or fails to make a recommendation without deferring the review of the application to the next regularly scheduled meeting, or if the ERPB defers action on an application more than twice, then all such applications scheduled for such meeting shall be heard and decided by the Planning and Zoning Director ~~of the Building, Zoning, and Community Development Department~~ (or the Director's designee) no later than the end of the next business day after the scheduled meeting was to have been held. The Director's decision, ~~if for approval,~~ shall be the final constitute ERPB approval recommendation. The seven-day appeal period begins the day after the Director's decision.

(d) All approved plans and specifications shall bear the official signature of the ~~chair presiding at the meeting at which such plans and specifications are approved.~~ Planning and Zoning Director.

(e) If the board makes a recommendation to the Planning and Zoning Director for denial or modification for a set of plans is denied, or modification is recommended, the board shall, to the greatest extent possible, make specific findings as to describe the reasons for the recommendation of denial and or modification, and recommend appropriate changes, if possible.

~~(f) Financial interest.~~

~~i. Any member of the board who has a special financial interest, direct or indirect, in any matter before the board shall make that interest known and shall abstain from participation therein in any manner.~~

1 ii. ~~Willful failure to disclose such financial interest shall constitute~~
2 ~~malfeasance in office and shall render the action voidable by the~~
3 ~~City Commission.~~

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7 **20-6.2 - Appeals and Review.**

8 (A) ERP~~BPB~~ Administrative Decisions; Time; Standing to Appeal. All decisions
9 and recommendations of the Environmental Review and Preservation Board
10 (ERPB) of any Administrative Department shall be in writing, delivered to the
11 applicant and they are subject to review by appeal to the City Commission
12 shall be posted on the City Hall bulletin board immediately following the
13 ERP~~BPB~~ meeting. An applicant may apply for a building permit after two (2)
14 working days (excluding Saturdays, Sundays and legal Miami Dade County
15 holidays) following the day of the ERP~~BPB~~ meeting, at which the application was
16 given final approval, if all other requirements for the permit have been met. (1)
17 An appeal of an ERP~~B~~ a final Administrative decision or lack of final action by
18 the ERPB subsequent to the item being scheduled for ERPB action or
19 recommendation may be taken to the City Commission if a request for
20 appellate review ("Notice of Appeal") is filed delivered to ("served on") the
21 City Clerk within thirty (30) days of the ERP~~B~~ receipt of the final decision or
22 before a building permit is issued, whichever comes first. All documents are
23 deemed filed upon delivery of the document to the City Clerk. The appeal
24 shall be filed with the City Clerk upon a form prescribed therefor by the City
25 Clerk. Appeals may be filed by any affected person, including but not limited
26 to a person living, working, or who owns any property or business, in the City
27 or the applicant, a property owner, business owner, or resident of the City, the
28 City administration, interested citizens in an abutting municipality or
29 unincorporated area that is and within five hundred (500) feet of the property
30 under review. The person filing the Notice of Appeal is the appellant and the
31 opposing party is the appellee.

32 (2) ~~A~~On appellate review, by the City Commission may reverse or affirm the
33 Administrative action decision of the ERP~~B~~ in whole or in part, modify the
34 decision, or remand the matter back to the ERP~~B~~ Administrative Department
35 with or without guidanceinstructions.

36 (3) Record on Appeal: The evidence on appeal shall be limited to the
37 documents ~~record which shall~~ that consists of the written decision of the
38 Administrative Department, a transcript of the proceedings, if any, and any
39 the documents that were presented to the Administrative Department and
40 any documents taken into consideration by that Administrative Department
41 at the pertinent meeting ("record on appeal"). The City Clerk shall prepare
42 the record on appeal after the appellant delivers the pertinent transcript.
43 Unless waived in writing by all of the parties to the appeal, the preparation
44 of the transcript, if one is available, is a prerequisite to the appeal. The
45 City Commission may request a partial or full transcript. If the City
46 Commission requests a transcript, it must be file with the Clerk and it will

1 be a prerequisite to a final decision regarding the appeal unless the City
2 Commission subsequently withdraws this requirement. The transcript shall
3 be delivered to the City Clerk at least thirty (30) days prior to the hearing
4 on the appeal. The failure of the appellant to timely deliver the transcript
5 shall be grounds for the dismissal of the appeal or, if good cause is shown
6 for the delay and an extension of time is granted by the City Clerk for the
7 preparation of the transcript, the hearing date for the appeal or review, as
8 well as all other schedule of events, such as service of briefs, shall be
9 extended accordingly notwithstanding any other provision of this ordinance
10 Section to the contrary.

11 (4) Briefs: The appellant shall prepare a written statement of the issues and an
12 argument ("brief") which shall be filed with the City Clerk and ~~delivered~~
13 ("served") served on all opposing parties by hand, facsimile transmission, e-
14 mail or other acceptable electronic transmission, at least twenty-six (~~20-26~~)
15 days before the hearing on the appeal ~~or Commission review~~. The opposing
16 party ("appellee"), which may include the City, may also prepare a brief, if
17 desired, which shall be filed with the City Clerk and served on the appellant at
18 least six (6) days before the scheduled appellate hearing. The appeal shall be
19 limited to the issues raised in the briefs and facts contained in the record on
20 appeal.

21 (5) Appellate Costs: The recoverable appellate costs are limited to the filing
22 fee, the cost to prepare a transcript, if any, and the cost of copying the
23 documents that make up the record on appeal. The ~~person who files an~~
24 appeal, appellant shall pay the applicable appellate filing fee as set forth in the
25 City's Fee Schedule and the cost incurred by the City in making the record on
26 appeal. The appellant (which term shall include the person who files an appeal
27 and the City if the review is instituted by resolution), shall pay the cost of
28 transcribing the testimony and statements made at any the pertinent **ERPB**
29 meeting. The non-prevailing party shall pay the recoverable appellate costs
30 incurred by the prevailing party. A prevailing party is the party person,
31 including the City, if deemed to be the prevailing party who has prevailed on
32 the most significant appellate issues in the appeal, shall be reimbursed the
33 appellate costs including the cost of the transcript, by the non-prevailing party
34 or parties. If there is more than one (1) non-prevailing party, the costs shall be
35 shared paid equally by all of between or among them. The failure of a non-
36 prevailing party to pay the appellate costs shall be a violation of this Section.

37 (B) Stay of Proceedings, Certification. An appeal stays all proceedings in
38 furtherance of the action appealed from, unless the City Commission finds that
39 there is competent substantial evidence to support the finding of facts and
40 conclusions in the certificate of the officer, department director, City employee
41 or board (hereinafter collectively referred to as "Officer") from whom the
42 appeal is taken, that a stay would, in the Officer's opinion, cause imminent
43 peril to life or property or that because the violation charged is transitory in
44 nature a stay would seriously interfere with enforcement of the Code.

45 (C) Restraining Orders. If certification occurs in accordance with subsection
46 (B) above, proceedings may not be stayed except by a restraining order, which
47 may be granted by the City Commission or by a court of ~~record~~ competent

1 jurisdiction on application, on notice to the Officer from whom the appeal is
2 taken and on due cause shown.

3 (D) Appeal Hearing. The City Commission shall hear and enter a decision on
4 all appeals within sixty (60) days of the date of filing ~~said~~ the Notice of Appeal
5 and shall provide due notice of the ~~appeal~~ appellate decision to the parties.

6 (E) Commission Action. The City Commission may reverse, affirm or modify
7 any order, requirement, decision or determination appealed from and shall
8 make any order, requirement, decision or determination that, in the City
9 Commission's opinion, ought to be made in the circumstances.

10 (F) Modification Allowed. When practical difficulties or unnecessary hardships
11 would result from carrying out the strict letter of a Code provision, the City
12 Commission may, in passing upon appeals, vary or modify any regulation or
13 provision of the Code relating to the use, construction or alteration of buildings
14 or structures or the use of land, so that the spirit of the Code is observed, public
15 safety and welfare secured, and substantial justice done.

16 (G) Prior Denials. The City Commission shall not be required to hear an appeal
17 or application previously denied if it finds that there has been no substantial
18 change in conditions or circumstances bearing on the appeal or application.

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20
21 **Section 5.** The City of South Miami Land Development Code, Chapter 20,
22 Article VII, Sections 20-7.3, 20-7.5, 20-7.14, 20-7.15, 20-7.22, 20-7.24, 20-7.52 are
23 hereby amended to read as follows:
24

25 **20-7.3 - Review procedure.**

- 26 (A) Pre-Application Conference. All applicants filing an application for a
27 development permit (ADP) within the Hometown District shall first attend
28 a meeting with the director of building, zoning and community
29 development or other designated official (director) to discuss and analyze
30 the proposed application in a non-binding forum.
- 31 (B) Application for Development Permit. The contents of an ADP shall be as
32 provided in Chapter 20 of the Code, except that all such application shall
33 include the following items:
- 34 (1) Application Form: completed, signed, and notarized.
 - 35 (2) Surveys: Two (2) signed and sealed surveys, showing existing structures,
36 boundaries, rights-of-way and easements of record.
 - 37 (3) Fee: Assessed per fee schedule at time application is filed.
 - 38 (4) Site Plan: Three (3) copies of the site plan (see site plan requirements).
 - 39 (5) Building Elevation Drawings: Three (3) copies of the drawings. Building
40 elevations may be schematic in nature, but shall be drawn to scale, be
41 properly dimensioned, and shall indicate proposed building materials and
42 exterior surfaces and finishes. All drawings shall demonstrate treatment of
43 required elements.
- 44 (C) Completeness. ADP shall be reviewed for completeness per Section 20-
45 5.4 of the Code.
- 46 (D) Review. A complete ADP shall be reviewed by the Director. If the ADP
47 is determined to be in conformance with the Hometown District Standards,

the application shall be processed for approval pursuant to the applicable provisions of the Code and the development permit issued by the director without further review by the planning board, **ERP** or the Ccity commission.

- (E) ADP Not Conforming to HD Standards. If the ADP includes a use that requires approval as a special use, or if the ADP does not conform to the Hometown District Standards (other than nonconformance with the Architectural Standards), the application shall be processed as provided in Sections 20-5.5 through 5.9, as appropriate.
- (F) ADP Not Conforming to HD Architectural Standards. ADPs not conforming to the Architectural Standards shall be reviewed by the **ERP** pursuant to the site plan review process established in Section 20-5.11 of the Code.
- (G) Established Nonconforming Uses. The provisions of Sections 20-3.3(B) and 20-4.8 shall apply to established nonconforming uses within the HD boundaries.

20-7.5 - Definitions.

Terms used throughout this article shall take their commonly accepted meaning unless otherwise defined in the Code. When there are conflicts between the Code and this article, this article shall control terms requiring interpretation specific to this article as follows:

ERP: The Eenvironmental Review and Preservation Board, an appointed board of the City of South Miami.

20-7.14 - Regulating plan—Special areas.

Because of the irregular geometry of a few lots caused by the intersection of US1 with other streets in the Hometown District, and other lot-configuration constraints, certain properties may not be required to meet all of the provisions in the Basic Standards but may be subject to customized regulatory conditions instead, at the discretion of the Planning and Zoning Director~~director of building, zoning and community development~~. The customized regulatory conditions for each of the special areas are as follows:

- (A) Special Area #1: Maximum lot coverage and minimum open yard space requirements are waived for properties in this area. Building frontage requirements shall be observed for property lines facing both Red Road and US1. Design is subject to **ERP** review and recommendation and Planning and Zoning Director approval. (B) Special Area #2: Maximum lot coverage and minimum open yard space requirements are waived for properties in this area. Buildings shall have two (2) front sides, meeting storefront design requirements. Building frontage requirements shall be observed for all frontages including US1, SW 58th Avenue, and SW 71st Street. Design is

subject to ERPB- Planning and Zoning Director approval. (C) Special Area #3: A gasoline/service station is a permitted use in this area, subject to ERPB- Planning and Zoning Director approval of the specific design. For any other use, building frontage requirements shall be observed for property lines facing both US1 and SW 73rd Street.

20-7.15 - Architectural standards—Intent.

The architectural standards are pre-approved and are intended to provide a degree of predictability about the quality of building designs and to promote harmony among buildings without requiring an appearance before ~~and approval by~~ a review board for every project. Applicants with projects which conform to these standards may obtain approval from the departmental staff without appearing before ERPB. Appearance before ERPB remains an optional route. Every permissible option is not described herein; other options may be approved by ERPB- the Planning and Zoning Director.

20-7.22 Architectural standards - Roofs and gutters.

(C) General Requirements. All runoff will be captured by gutters and routed with enclosed downspouts to an approved drainage area. Downspouts are to match gutters in material and finish.

Any machinery as defined in Section 20-3.6(Q) of the Code shall be screened from view using either one of the screening systems ~~pre-approved by~~ ERPB and pre-approved by the Ceity Ceommission, or a system specifically approved by ~~ERPB or the~~ City Commission for applicant's project.

Permitted Roof Types: hipped, gabled, shed, barrel vaulted and domed. Flat roofs are permitted only where used as outdoor useable space.

20-7.24 - Architectural standards—Colors.

The Color Palette list, maintained in the department of building, zoning and community development, identifies exterior paint/finish colors that are pre-approved for buildings in the Hometown District. Other colors may also be permissible with approval by ERPB- Planning and Zoning Director. Departmental staff shall maintain a color chip chart or display illustrating the range of pre-approved colors. Sherwin-Williams standard paint numbers are used on the Color Palette list for reference, but any manufacturer's paint is acceptable if similar in color. This list reflects the community's desires to encourage a range of colors for visual variety, to

1 encourage light colors for energy savings, and colors appropriate for the
2 subtropical environment.

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5 **20-7.52 - Procedure for special exception.**

- 6 (A) Special exceptions under Ordinance No. 19-94-1569 [Sections 20-7.51, 20-
7 7.52] may be granted only after a minimum of two (2) public hearings. The
8 first public hearing shall be before the planning board, at which time the
9 planning board shall review the project and provide to the Ceity
10 Ceommission an advisory recommendation regarding approval, approval
11 with conditions, or disapproval. The second public hearing shall be held
12 before the Ceity Ceommission and shall be held no sooner than seven (7)
13 calendar days following the planning board hearing. Public notice
14 requirements, as specified in Section 20-5.5(C) and (G), Applications
15 requiring public hearings, shall be followed.
- 16 (B) Requests for special exceptions under Ordinance No. 19-94-1569 [Sections
17 20-7.51, 20-7.52] shall be in a form acceptable to the Ceity Mmanager and
18 shall include each exhibit required per Section 20-7.3(B), Application for
19 Development Permit, and per Section 20-7.4, Site Plan Requirements. In
20 addition, the Ceity Ceommission, at its discretion, may require additional
21 exhibits and may defer approval of the special exception application or
22 schedule an additional public hearing or hearings to review those exhibits.
- 23 (C) The Ceity Mmanager shall have authority to require additional review and
24 ~~approval— a recommendation to the City Commission for approval,~~
25 ~~disapproval or modification~~ by the Eenvironmental Rreview and
26 Ppreservation Bboard for developments involving special exception, which
27 review shall follow the procedure set forth in Section 20-5.11 of this Code.
- 28 (D) The Ceity Ceommission may grant a special exception upon four (4)
29 affirmative votes of its members.
30
31

32 **Section 6.** The City of South Miami Land Development Code, Chapter 20,
33 Article VIII, Sections 20-8.2, 20-8.9 and 20-8.12 are hereby amended to read as
34 follows:
35

36 **20-8.2 - Definitions.**

37 Terms used throughout this Ordinance shall take their commonly accepted
38 meaning unless otherwise defined in the Code. When there are conflicts
39 between the Code and this Ordinance, this Ordinance shall control terms
40 requiring interpretation specific to this Ordinance as follows:

41 ***\

1 *Historic building:* A building that has been designated by the City of South
2 Miami per the historic preservation portion of the **Environmental Review and**
3 **Preservation Board** regulations.

4 ***

5
6
7 **20-8.9- Special exceptions.**

8 (A) A Special Exception as used in the T.O.D.D. shall mean a permitted use
9 that complies with all the conditions and standards for the district as
10 well as those set forth below. For those existing uses in this district, any
11 alterations or additions to those buildings that result in the building
12 being designated as a Large-Scale Development, shall conform to the
13 provisions of this ordinance. Existing heights of existing buildings and
14 existing floors may remain in their current condition; however,
15 additional floors, if authorized, may be added in accordance with this
16 ordinance.

17
18 ***

19 (I) The granting of a special exception shall be conditioned on the Applicant
20 signing an agreement with the City, in a form acceptable to the City,
21 which shall include all of the conditions required for the granting of the
22 special exception ("Development Agreement"). The Development
23 Agreement, after it has been drafted by the City Attorney shall be subject
24 to approval by the City Commission. A separate agreement or covenant
25 ("Covenant") that provides for maintenance of common elements and any
26 other condition specified as a prerequisite to approval of the special
27 exception ("Maintenance Covenants") shall be signed by the owner of the
28 property in question. The Maintenance Covenant shall be treated as a
29 covenant running with and binding the land upon which the Development
30 is situated and it shall be recorded in the land records of Miami-Dade
31 County and, at the option of the City and if allowed by law, the
32 Maintenance Covenant may be re-recorded when necessary or required to
33 maintain, uninterrupted, the effectiveness of the covenant running with the
34 land. The Covenant shall provide that the owner and his/her/its grantees,
35 heirs, successors and assigns ("Owner") shall comply with the
36 Maintenance Covenants at the Owner's expense and without any cost to
37 the City.

38 (1) In the event that any special exception condition includes the
39 development of any common areas ("Common Areas"), the Maintenance
40 Covenant shall include the following provisions: (a) the Common Areas
41 shall continue in existence, as part of the structure and those Common
42 Areas shall be operated and maintained at the expense of the Owner of the
43 property so long as the Development continues to exist, in whole or in
44 part; (b) the operation and maintenance of the Common Areas shall
45 include a provision for landscaping in accordance with an approved site

1 and development plan, approved by the City Commission and the
2 ~~Environmental Review and Preservation Board~~, or as amended from time
3 to time with approval of the City Commission, the maintenance of the
4 landscape as well as other maintenance services and private security
5 protection of the Common Areas; (c) the Owner shall continue, operate
6 and maintain the Common Areas in such a manner as to keep such areas in
7 good order, clean, attractive, fully functional (subject to interruption for
8 maintenance, repair, restoration and renovation) and, generally, so as not
9 to create a nuisance to owners, occupants and users of the adjacent land
10 and surrounding areas and to the general public.

11 ***

12 **20-8.12 - Architectural standards—Intent.**

13 The Architectural Standards are pre-approved and are intended to provide
14 a degree of predictability about the quality of building designs and to
15 promote harmony among buildings without requiring an appearance before
16 and approval by a review board for every one project. Applicants with
17 projects which conform to these standards may obtain approval from the
18 Departmental staff without appearing before ~~ERP~~. Appearance before
19 ~~ERP~~ remains an optional route. Every permissible option is not described
20 herein; other options may be approved by ~~ERP~~ Planning and Zoning
21 Director.

22 ***
23
24
25

26 **Section 7.** The City of South Miami Land Development Code, Chapter 20,
27 Article IX, Section 20-9.5 are hereby amended to read as follows:
28
29

30 **20-9.5 - Development review procedures.**

- 31 (A) Applicants shall meet in pre-application conference with the Planning and
32 Zoning Division staff to discuss and analyze proposed applications in non-
33 binding forum. Staff may prescribe special conditions in order to assure the
34 overall compatibility of the proposed uses and physical structures with the
35 neighboring uses and physical structures.
- 36 (B) Applicants shall submit an application for development responding to the
37 pre-application conference findings in the form prescribed under the
38 provisions of Section 20-5, entitled Article V. Procedures and Applications,
39 as contained in the Land Development Code.
- 40 (C) Upon receipt of applications for development, the Planning and Zoning
41 staff shall review the application and assure that proposed uses and
42 physical structures are compliant with the purpose, intent and requirements
43 of this article and applicable Code requirements.
- 44 (D) Upon the staff's determination of compliance with the purpose, intent and
45 requirements of this article and applicable Code requirements by the

1 Planning and Zoning Division, the application shall be reviewed by the
2 **ERP**, as regulated by Section 20-5.11.

- 3 (E) Applicants shall incorporate **ERP** the Planning and Zoning Director's
4 conditions, if any, and apply for all required building, electrical,
5 mechanical, plumbing and utility permits, as regulated by Section 20-5.13.
6

7 **Section 8.** The City of South Miami Land Development Code, Chapter 20,
8 Article X, Sections 20-10.5, and 10.9 are hereby amended to read as follows:
9

10
11 **20-10.5 - Uses requiring administrative approval.**

- 12 (A) The following uses may be approved by the City Manager [or the Manager's
13 designee] after the **ERP**, or the City Commission per Section 20-6.2, has
14 recommended approval:
15

16 ***

17 **20-10.9 - Accessory equipment building.**

18 Accessory equipment buildings used in conjunction with the operation
19 and maintenance of antennas shall be permitted subject to the following
20 requirements:
21

22 **(A) ERP** review is required pursuant to the procedure set forth in 20-5.11.

23 (B) Must conform to the applicable zoning district's dimensional standards.

24 (C) If the site is already occupied by a principal building, the provider shall
25 attempt to utilize the existing building for its antenna-related equipment. If the
26 provider is unable to use the existing building, it must provide a report to the
27 City describing the reasons which disallow it from using the existing building.

28 (D) Shall be designed, constructed, and installed in compliance with this Code,
29 the Florida Building Code, and all other applicable codes.
30

31 **Section 9.** The City of South Miami Land Development Code, Chapter 20,
32 Article XI, Sections 20-11.2 is hereby amended to read as follows:
33

34 **20-11.2 - Designation procedure for historic sites.**

- 35 (A) *Report Required.* Prior to the designation of an individual historic or archeological
36 site, an investigation and formal designation report must be filed with the Historic
37 Preservation Board.

- 38 (B) *Historic Preservation Board Recommendation.* The Historic Preservation Board shall
39 make recommendations to the City Commission concerning all properties proposed
40 as historic sites, districts or archeological zones.

- 41 (C) *Proposals and Preliminary Evaluation and Recommendation.*

- 42 (1) Application for designation of individual properties and districts may be made to the
43 Planning and Zoning Department by any member of the Historic Preservation Board,
44 the **Environmental Review and Preservation Board**, the City Commission, the City
45 administration or the property owner(s) of the subject property for designation.

46 ***
47

1 **Section 10. Codification.** The provisions of this ordinance shall become
2 and be made part of the Code of Ordinances of the City of South Miami as amended.

3
4 **Section 11. Ordinances in Conflict.** All ordinances or parts of ordinances
5 and all sections and parts of sections of ordinances in direct conflict herewith are
6 hereby repealed.

7
8 **Section 12. Severability.** If any section, clause, sentence, or phrase of this
9 ordinance is for any reason held invalid or unconstitutional by a court of competent
10 jurisdiction, this holding shall not affect the validity of the remaining portions of this
11 ordinance or the Guidelines adopted hereunder.

12
13 **Section 13. Effective Date.** This ordinance shall become effective upon
14 enactment and shall apply retroactively to all pending appeals regarding any matter
15 that was filed with the Environmental Review and Preservation Board.

16
17
18 PASSED AND ENACTED this ____ day of _____, 2018.

19
20 ATTEST:

APPROVED:

21
22
23 _____
24 CITY CLERK

MAYOR

25 1st Reading

26 2nd Reading

27
28
29 READ AND APPROVED AS TO FORM:
30 LANGUAGE, LEGALITY AND
31 EXECUTION THEREOF

COMMISSION VOTE:
Mayor Stoddard:
Vice Mayor Harris:
Commissioner Liebman:
Commissioner Welsh:
Commissioner Gil:

32
33
34 _____
35 CITY ATTORNEY

Sec. 7-3.1. - Issuance of building permits involving use of sewer plants.

The issuance of building permits involving the use of sewer plants without prior recommendation of the **environmental review board**, recommendation of the planning board and approval of the city council is hereby prohibited.

(Ord. No. 821, 4-2-74)

Editor's note— Ord. No. 821 did not expressly amend this Code, hence its codification as § 7-3.1 was at the discretion of the editors.

Sec. 13-85. - Location and relocation of facilities.

- (a) Unless specifically approved by the city manager, licensee's system shall be installed underground. All aboveground facilities shall be constructed in a manner as to minimize the visual impact of the facility. Licensee shall provide landscaping sufficient to minimize visual impact, and as approved by the environmental protection review board.
- (b) Licensees shall not place any facilities, fixtures or equipment where they will interfere with any existing gas, electric, CATV, telecommunication, telephone, sewer, drainage or water lines, fixtures or equipment. Licensee shall not place facilities, fixtures or equipment so as to interfere with any other persons or companies lawfully using the public right-of-way to service residents of the city. The licensee shall locate its lines and equipment in a manner that does not interfere unnecessarily with travel on public right-of-way, with the installation or operation of gas, electric, CATV, telephone, water, drainage or sewer line equipment, or with the rights or reasonable convenience of owners of property which abuts any public right-of-way.
- (c) Licensees shall relocate any aboveground portion of the systems underground in any easement or right-of-way area when existing power or telephone facilities are relocated. Relocation shall be at licensee's expense, and the relocation shall be accomplished concurrently with relocation of power or telephone facilities.
- (d) Licensees shall have the authority and the duty to trim trees on or hanging over public right-of-way in order to prevent the branches of the trees from coming in contact with the wires and cables of the licensee. At the option of the city, the trimming may be done by it or under its supervision and direction at the expense of the licensee, if prior notification has been given to the licensee and licensee has failed to respond.
- (e) Licensee shall promptly and at licensee's own expense, protect, support, temporarily disconnect, remove, modify or relocate any part of the system when required by the city by reason of traffic conditions, public safety, road construction, change of street grade, installation of sewers, drains, water pipes, power lines, signal devices, tracks or any other type of city improvement project, or to accommodate the abandonment of any street. Licensee shall bear the costs of any the removal or relocation that meets the requirements of Florida Statute section 337.403. The work shall be completed no later than 180 days after receiving notice from the city, or the longer period as may be agreed to by licensee and the city. In the event the licensee fails to remove or modify its system, the city may, upon notice to licensee, make the necessary removals and charge the licensee for the cost.
- (f) Each licensee shall, on the request of any person holding a building moving permit issued by the city, temporarily remove, raise or lower its wires to permit the moving of buildings. The expense of the temporary removal or raising or lowering of wires shall be paid by the person requesting the service, and the licensee shall have the authority to require the pavement in advance. Licensee shall be given not less than 7 days advance notice to arrange for the temporary wire changes.
- (g) All service lines, drops or laterals that connect the end user customer to licensee distribution system shall be buried as follows:
 - (1) On easements and public right-of-way at the depth as established by the public works director.
 - (2) On private property at a sufficient depth so that no portion of the line is exposed.
 - (3) The public works director may impose a specific depth requirement for the lines on private property.

(Ord. No. 5-99-1679, § 1, 3-2-99)

20-3.4 - Special use conditions.

Any of the following special uses may be approved and permitted by the City Commission at a public hearing, after a recommendation by the Planning Board, provided that such use is specifically listed as a permitted special use in the appropriate district column in the Permitted Use Schedule (Section 20-3.3D), and that such use complies with the following general and special requirements, as well as any other conditions that the City Commission may consider appropriate and necessary:

(A) *General Requirements.*

- (1) All such uses shall comply with all requirements established in the appropriate zoning use district, unless additional or more restrictive requirements are set forth below or by the City Commission.
- (2) All such uses shall be determined to be of a compatible and complementary nature with any existing, planned or anticipated surrounding uses.
- (3) A public hearing shall be held by the City Commission to determine the overall compatibility of the use with the surrounding neighborhood.
- (4) If a special use is, in the future, determined by the Director of the Planning and Zoning Department or the City Commission, to be adversely affecting the health, safety or welfare, including quiet enjoyment, of persons residing or working in the vicinity of the proposed use, or otherwise to be detrimental to the public welfare or property or improvements in the surrounding neighborhood, or to be not in compliance with any other applicable Code provisions, the special use approval may be modified, with conditions of approval revised or added to alleviate such adverse effect, or revoked by the City Commission upon notification and public hearing.

(B) *Special Requirements.*

(1) CHURCH, TEMPLE, MOSQUE OR SYNAGOGUE

- (a) In RM-18, RM-24, and RO Districts, all such uses shall be located on a site of not less than two (2) net acres in area.
- (b) No structure shall be located less than one hundred (100) feet from any adjacent residential district.
- (c) Ancillary uses such as education, recreational and social uses shall be subordinate to the principal use as a church.

(2) FRATERNAL ORGANIZATION OR PRIVATE CLUB

- (a) All such uses shall be located on a site of not less than one (1) net acre in area.
- (b) The activities, uses and structures located on the property shall be adequately screened and/or buffered from residentially zoned districts as recommended by the Planning and Zoning Director or as required by the City Commission to reduce any noise emanating from the property and limit the vision of the structure and activity taking place on the property.
- (c) No vehicular ingress nor egress shall be permitted along streets and rights-of-way bordering a residentially zoned district in the City.

(3) FUNERAL HOME

- (a) All such uses shall be located on a site of not less than one (1) net acre in area.
- (b) All such uses shall have not less than twenty-five (25) off-street parking spaces on-site.
- (c) No parking spaces shall be located between the front or side of the principal structure and any street right-of-way line.
- (d) All ambulances and other equipment shall be stored in a completely enclosed structure when not in actual use.

- (e) Principal structures shall have a minimum setback of at least forty (40) feet from any side property line.

(4) RESTAURANTS

(a) RESTAURANTS, CONVENIENCE

- i. No vehicular ingress nor egress shall be permitted along streets and rights-of-way bordering residential zoning districts in the City of South Miami. Public streets, rights-of-way, sidewalks and required setbacks may not be used for patio or street-side services of any kind.
- ii. The City Commission shall review and recommend approval, disapproval or modification of all site plans and project specifications, including, but not limited to, traffic circulation, landscaping, lot size, access and facility arrangement for this Special Use Permit.

(b) RESTAURANT, GENERAL

- i. All such establishments shall provide only inside or patio service on private property. Public streets, rights-of-way, sidewalks and required setbacks may not be used for patio or street-side services of any kind.
- ii. No services of a drive-in or of a fast food nature shall be permitted.
- iii. The City Commission shall review and recommend approval, disapproval or modification of all site plans and project specifications for this special use permit.

(c) RESTAURANT, WALK-UP

- i. Containers for the proper disposal of waste materials must be provided by the restaurant at all times during the hours of operation. The number of required containers shall be that approved by the city commission. Such containers must be kept clean and well maintained at all times.
- ii. No such facility shall be permitted along streets and rights-of-way bordering residential zoning districts in the City of South Miami.
- iii. This use excludes any service to a customer in a motor vehicle, but may include delivery service with city commission approval; seating is not required; food may be consumed at inside tables or at the patio area on private property. Public streets, rights-of-way and required setbacks shall not be used for street-side services of any kind.
- iv. No walk-up restaurant may sell or offer for sale any alcoholic beverage for consumption on or off the premises, including delivery, at any time.
- v. The city commission shall review and recommend approval, disapproval or modification of all site plans and specifications, including, but not limited to, pedestrian circulation, facility access and facility arrangement for this Special Use.

(d) RESTAURANT, DENSITY

- i. Respective restaurant sites shall not be allowed to occupy more than the following percentage of the allowable first floor building area of any of the following zoning districts:

NR 5% I 10% GR 25% SR 25%

(5) GASOLINE SERVICE STATION

(a) *Objectives of this Subsection.*

- i. The following standards are established for service stations to ensure that such uses shall be compatible with other uses permitted in the same district and to protect the public health, safety and welfare of the community.
 - ii. These standards are to promote design which is architecturally compatible with the surrounding area and the design goals of the community.
- (b) *Applicability.*
- i. This section shall apply to all new service stations, additions or renovations in excess of \$10,000 as determined by the City, including tank removal or upgrades.
 - ii. Exceptions to this section can be approved by the City Commission.
- (c) *Appearance.*
- i. All structures on the site shall create a unified architectural theme.
 - ii. Service station roofs shall be pitched with generous overhangs. The roofing shall be [composed of] incombustible materials, such as shingle, clay tile, cement tile, or metal.
 - iii. The canopy shall be restricted to a clearance of 13 feet in height and shall be consistent with the main building design. The canopy columns shall be architecturally finished to match the building.
 - iv. The use of flat steel or metal panels for the exterior walls of the service station shall not be permitted.
 - v. The rear and sides of buildings shall be finished with material that, in texture and color, resembles the front of the building.
 - vi. Glass windows and doors must make up 35% of the primary elevation and 15% of the secondary elevation. This calculation is excluding areas designated as service bays.
 - vii. The adopted color palette and painting standards shall be applied; however, the use of "earth tone" or light pastel colors shall be encouraged. The use of gray tone colors shall not be permitted.
 - viii. Perimeter walls of the site shall be architecturally compatible with the principal structure.
- (d) *Landscaping.* The service station must comply with Section 20-4.5, Landscaping Requirements, as well as the items specified below:
- i. The service station site landscaping must be compatible with the existing landscaping of the surrounding community.
 - ii. Street tree requirements shall be altered to require palm clusters on the ends of the landscape buffer parallel to the service pump canopy. The palm clusters shall consist of three palms with a minimum height of 13 feet.
 - iii. The use of planters and window boxes shall be incorporated into the overall landscape design of the building and the site.
 - iv. The service pump island shall contain planters on the ends equal to the width of the island.
 - v. Where hedges are required, a tiered effect is required.
 - vi. Landscaped areas shall be surrounded with a six-inch raised concrete curb. Grade within areas to be landscaped shall be raised to curb height.
- (e) *Signage and Lighting.*

- i. Landscape signs pursuant to Section 20-4.3(l)(5) shall be used in place of pole or pylon signs.
 - ii. Canopies shall not contain any signage, striping or super graphics.
 - iii. Temporary window signage shall not be permitted.
 - iv. Lighting fixtures shall be baffled and arranged so that illumination is deflected away from adjacent properties and roadways.
- (f) *Ancillary Uses.*
 - i. The sale of snack foods, soft drinks, candies, gum, cigarettes and related items, but not alcoholic beverages, is permitted within approved principle building structures.
 - ii. The sale of automotive service items, such as motor oil, antifreeze or allied products, is permitted within approved principle building structures.
 - iii. There shall be no storage or display of any merchandise, including tires, outside of the principle building structure.
 - iv. On-site preparation of ready-to-consume food is only permitted via special use approval.
 - v. Automatic teller machines shall be permitted only within or as a part of the principal building.
 - vi. Automobile washing/detailing operations may be permitted as an accessory use in the GR General Retail Zoning District.
- (g) *Operation and Maintenance.*
 - i. No sales, rentals, leasing of storage space, major engine, painting, body work, tire recapping or dismantling of any kind shall be permitted on the service station site. No vehicle may be parked on the site for more than 48 hours.
 - ii. No storage of used auto parts or wrecked vehicles, including water craft and trailers, shall be located outside the principle structure.
 - iii. At all times, the premises shall be maintained in a clean and orderly condition and landscaping must be maintained in a healthy and viable condition.
- (6) USED MERCHANDISE STORE
 - (a) No such establishment shall be located less than one hundred (100) feet from any adjacent residential district.
 - (b) No outside display of goods or merchandise shall be permitted.
 - (c) No such establishment shall be located less than five hundred (500) feet from another such establishment.
- (7) DRY CLEANING PLANT
 - (a) Only nonflammable solvents in self-contained dry cleaning units shall be used.
 - (b) A decorative wall of masonry, reinforced concrete, or precast concrete, six (6) feet in height, shall be erected along all interior property lines, including the rear property line, which abut residential districts (RS, RT, RM, and RO). This requirement may be waived or modified by the city commission if adequate acoustical and visual buffering are provided.
 - (c) Landscaping, in addition to that which is required under Section 20-4.5, Landscaping requirements, may be required by the city commission.
- (8) PLANNED UNIT DEVELOPMENT. All such uses shall be located on a site of not less than two (2) net acres in area. (See Section 20-3.7 for additional requirements)

(9) AUTOMOBILE, BOAT OR RECREATIONAL VEHICLE DEALER

- (a) No structure shall be located less than one hundred (100) feet from any adjacent residential district.
- (b) All vehicles or boats located on site shall be in operating and saleable condition and have valid current registration and license tags.
- (c) When adjacent to a residential district, a masonry or concrete wall of between six (6) and eight (8) feet in height shall be constructed along dividing property lines.
- (d) When adjacent to public rights-of-way, a landscaped buffer of at least seven (7) feet in width shall be provided, except for approved access points.
- (e) All on-site servicing or repairing of vehicles or boats shall be conducted in completely enclosed soundproof structures.
- (f) A decorative masonry or concrete wall of five (5) feet in height shall be erected along all rear and interior side property lines. Said wall shall be located not less than ten (10) feet from any property or right-of-way line and said area between the wall and property or right-of-way lines shall be landscaped. In the event that any interior side property line abuts the same or less restrictive zoning district, said wall and landscaped area shall not be required. Walls located within ten (10) feet of the front property line shall not exceed four (4) feet in height.

(10) AUTO WASH OPERATION

- (a) All such uses involving an automated car washing operation shall be conducted in a structure enclosed on three sides.
- (b) All such uses involving an automated car washing operation shall have storage lanes adequate to accommodate four (4) vehicles for each bay.
- (c) No such use involving an automated car washing operation shall be located less than one hundred (100) feet from any residential district.

(11) BOWLING ALLEY OR SKATING RINK

- (a) All such uses shall be located within a fully enclosed soundproof structure.
- (b) No such use shall be located less than one hundred (100) feet from any residential district.

(12) MATERIAL STORAGE YARD

- (a) All such uses shall be accessory and incidental to a permitted principal use.
- (b) All such uses shall be completely surrounded by a masonry or concrete wall of not less than six (6) nor more than eight (8) feet in height which shall be permanently maintained in an attractive condition. Storage of all materials and equipment shall not exceed the height of said wall.
- (c) No on-site storage of heavy road-building or earth-moving equipment shall be permitted.
- (d) No structure shall be located less than five hundred (500) feet from any adjacent residential district.

(13) ADULT CONGREGATE LIVING FACILITY. All such uses shall comply with all applicable requirements of state law.

(14) HOSPITAL. The construction of new or the expansion or conversion of existing hospital facilities and accessory uses shall be subject to the following:

- (a) Such construction, expansion, conversion shall:
 - i. Not create additional traffic on adjacent residential streets;

- ii. Not overburden any other public facility, except that the hospital may agree to provide or expand needed facilities at no added public cost;
 - iii. Be compatible with the surrounding area and conform to the city's adopted Comprehensive Plan.
 - (b) The city commission may attach such conditions and safeguards to an approval of a special use as are reasonably necessary and required to protect public interest in:
 - i. Completion of the development according to approved plans;
 - ii. Provision for continuing operation and maintenance of such areas, facilities and functions as are not to be provided, operated or maintained at public expense; and
 - iii. Provision for such dedications, contributions or guarantees are required for provision of needed public facilities and services.
 - (c) The preceding paragraph shall not deny the city commission the authority to set other conditions and safeguards at the time of special use approval, but where such conditions and safeguards are attached the city commission shall determine that they are reasonably necessary and required to protect the public interest and to carry out the intent and purpose of the "H" District and the city's adopted Comprehensive Plan.
 - (d) The provisions of this section shall not apply in the event that a "Planned Unit Development-Hospital" (PUD-H) District has been enacted by the city commission for a subject property. In such event, the provisions of the PUD-H District, as approved by the city commission, shall apply. In the event that a PUD-H District is applied to a property subsequent to the adoption of this Code, then the provisions of said PUD-H District shall supersede the provisions of this section.
 - (e) Dimensional requirements shall be approved by the city commission but in no case shall they be less restrictive than requirements applicable to the MO District.
- (15) GROUP HOME I and GROUP HOME II
- (a) There is required a minimum of two (2) parking spaces, but no more than two (2) unenclosed parking spaces.
 - (b) A business tax receipt shall be required.
 - (c) Supervisory staff shall be on-premises 24 hours per day, 365 days per year.
 - (d) Emergency telephone numbers shall be provided to the Police department and be kept current at all times.
 - (e) The address number must be placed on the house in a way to be clearly visible from the street.
- (16) ACCESSORY RETAIL AND SERVICE USES. Within any permitted principal building in LO or MO districts, accessory retail or service uses may be permitted provided that:
- (a) Such uses are located entirely within the principal building for the convenience of the occupants of or visitors to the principal use;
 - (b) Such uses do not occupy more than ten (10) percent of the gross floor area of the principal building in which located; and
 - (c) Such uses shall not have any signs or advertising visible from outside the principal building.
- (17) RESIDENTIAL USES WITHIN RESIDENTIAL OFFICE DISTRICTS. Within any Residential Office "RO" district, single-family residential uses shall be permitted subject to the dimensional requirements of the RS-4 Single-Family Residential district.
- (18) ACCESSORY MEDICAL SERVICES

- (a) Facilities may be permitted only in conjunction with an approved hospital use and located on hospital premises.
 - (b) Facilities may be provided in the form of a trailer unit which is periodically located for a specified length of time as determined by the city commission on an approved site and conforms to all applicable codes.
 - (c) Only one trailer unit may be permitted per each approved, specially permitted hospital use.
 - (d) Only those services that are not already provided by the hospital facility and which is for the sole use of the hospital staff and patients may be permitted.
 - (e) No vehicular ingress nor egress shall be permitted along streets or rights-of-way bordering residential zoning districts in the City of South Miami.
 - (f) The city commission shall review and recommend approval, disapproval or modification of all site plans and project specifications, including but not limited to, traffic circulation, landscaping, facility placement, access and facility arrangement for this special use permit.
- (19) Reserved.
- (20) MOBILE AUTOMOBILE WASH/WAX SERVICE
- (a) Mobile carwash services may operate from 9:00 a.m. to 5:00 p.m. on Monday through Saturday only. No mobile service vendor shall station itself upon any public street or right-of-way. Neither shall any mobile service vendor station itself upon any private property except with the express permission of the owner thereof and in a manner, which does not impede the flow of traffic in public streets or rights-of-way nor block pedestrian access to public streets or rights-of-way. No mobile service vendor shall station itself within one hundred (100) feet of a residential zoning district; however, this restriction shall not apply to mobile carwash vendors operating in residential districts and servicing the primary residents.
 - (b) All mobile service vendors must provide for their own trash and garbage removal such that no trash or garbage remains on the premises upon which the vending was conducted.
 - (c) No property owner may permit mobile carwash services to operate on their property for longer than two (2) hours, or operate on site more than two (2) times per week.
 - (d) No signage, other than normal commercial graphics painted upon the actual mobile service vehicle, shall be permitted, except as provided for in (e) below.
 - (e) With special use approval, exception to (c) above may be made for mobile service vendors who are stationed within approved parking structures. No exterior signage visible from a public street shall be permitted for locations within parking structures.
 - (f) Mobile service vendors must operate from four-wheel motorized vehicles registered in the State of Florida.
 - (e) No steam-cleaning, solvents, and/or degreasers may be used.
 - (f) No run-off into catch basins is permitted.
 - (g) If soap is used, any run-off must be negligible and contained on private property.
- (21) ANIMAL HOSPITAL/VETERINARIAN
- (a) All such uses shall be located within a fully enclosed, air-conditioned, soundproof structure.
 - (b) There shall be no overnight boarding of animals except for medical purposes.
 - (c) The hours of operation for visits and treatment will be 7:00 a.m. to 9:00 p.m. Monday through Saturday; hours of operation shall not prevent emergency medical treatment.

- (22) AUTOMOBILE RENTAL AGENCY. The following requirements shall be applicable to all automobile rental agencies allowed as a special use:
- (a) No ingress or egress to the automobile rental agency shall be permitted through abutting residentially zoned parcels.
 - (b) When adjacent to a residential district, a landscape buffer acceptable to the city's ERPB shall be constructed along dividing property lines.
 - (c) Required parking spaces are to be designated for customers and employees only, and not to be used for the storage of vehicles.
 - (d) Maintenance, mechanical repair or washing of cars on site is prohibited.
- (23) SCHOOLS AND CHILD CARE FACILITIES: The following requirements shall be applicable to all schools and child care facilities allowed as a special use:
- (a) The maximum student capacity of a school (K-12) shall not exceed one hundred and fifty (150) students per net acre based upon the site size of the property.
 - (b) The maximum capacity of a child care center shall be governed by life safety codes and licensing standards for such facilities, as amended.
 - (c) Notwithstanding the parking requirements set forth in Section 20-4.4(B)(12), all schools, except high schools, shall provide one parking space for every three hundred (300) square feet of gross floor area. High schools shall provide one (1) parking space for every two hundred (200) square feet of gross floor area.
 - (d) The proposed school shall meet State standards for class size and for recreation and open space.
 - (e) A traffic study to include a parking impact on the surrounding neighborhood and requirements for adequate queuing on site shall be provided indicating the impact of the proposed facility on the surrounding area; the traffic study consultant shall contract with the City and be paid for by the school applicant.
 - (f) Child care facilities with fifteen (15) or more children shall be required to provide a traffic circulation plan, a traffic study, if required, and a facilities impact statement to the Planning Department for review. The Planning Department and the Police Department will assess the information and determine whether a traffic study is warranted based on the proposed number of children and the surrounding neighborhood conditions. The traffic circulation plan must be supported by the data for the use before a license to operate the facility may be issued. If a traffic study is warranted, the traffic study consultant shall contract with the City and be paid for by the child care facility applicant. If the traffic circulation plan is not supported by the data, then the permit may not be issued unless the applicant complies with appropriate mitigation.
 - (g) All required parking for the school and child care facility shall be located on site.
 - (h) The drop off and pick-up loading zone areas for students and children attending the child care facility shall be completely accommodated on site.
 - (i) All proposed driveways, vehicular circulation, and parking areas shall be designed to avoid a back up of traffic onto a public right-of-way.
 - (j) No ingress or egress to a school or child care facility shall be permitted through abutting residentially zoned parcels.
 - (k) When adjacent to a residential zone district, a landscape opaque buffer shall be constructed along dividing property lines.
 - (l) All playground and athletic activities areas shall be accommodated on site.
 - (m) There may not be any school activities on site after 11:00 p.m.

- (n) The school and child care facility shall be financially responsible for the appropriate solution of any problems that arise after approval.
 - (o) If the proposed school or child care facility, or the traffic generated by the school or facility is, in the future, determined by the Director of Planning, to be adversely affecting the health or safety of persons residing or working in the vicinity of the proposed use, or to be detrimental to the public welfare or to the property or improvements in the neighborhood, or to be not in compliance with other applicable Code provisions, the special use approval may be modified or revoked by the City Commission upon notification and public hearing.
- (24) MEDICAL MARIJUANA CENTER (MMC). The following requirements shall be applicable to all Medical Marijuana Retail Centers and Medical Marijuana Processing Center allowed as a special use:
- (a) Location requirements. A MMC shall not be located:
 - i. Within 300 feet of any RS zoning district;
 - ii. Within 1,000 feet of another MMC, whether it is located in the City or in another jurisdiction; and
 - iii. Within 500 feet of a child day care facility, county or municipal park, or elementary, middle or secondary school.

Distances shall be measured by drawing a straight line between the closest point of a building housing the MMC to the closest property line of the RS zoning district, another MMC, school, day care facility, or park.
 - (b) Hours of operation. MMC shall only be permitted to operate between the hours of 7:00 a.m. and 9:00 p.m.
 - (c) Vehicular traffic. The MMC shall ensure that there is no queuing of vehicles in the rights-of-way. No MMC shall have a drive-through or drive-in service aisle or a walk-up service window for doing business to the outside of the space housing the MMC.
 - (d) Parking. Any parking demand created by a MMC shall not exceed the parking spaces located or allocated on site, as required by the City's parking regulations. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the MMC will be sufficient to accommodate traffic and parking demands generated by the MMC, based upon a current traffic and parking study prepared by a certified professional.
 - (e) Requirement for indoor operation and prohibition on loitering. There shall be no outdoor seating areas, queues, or customer waiting areas. All activities of the MMC including sales, display, preparations and storage shall be conducted entirely within an enclosed building. The MMC shall not direct or encourage any patient or business invitee to stand, sit, gather, or loiter outside of the building where the MMC operates, including in a parked car, in any parking areas, sidewalks, rights-of-way, or neighboring properties for any period of time longer than reasonably required for patients to conduct their official business. The owner of the building housing the MMC shall post conspicuous signs on all sides of the building stating that no loitering is allowed on the property.
 - (f) Prohibition of on-site consumption of marijuana. No consumption of medical marijuana shall be allowed on the premises, including in the parking areas, sidewalks, or rights-of-way.
 - (g) Landlord responsibilities. (i) Any landlord, leasing agent, or owner of property upon which a MMC operates, who knows, or in the exercise of reasonable care should know, that a MMC is operating in violation of City Code or applicable law, including the rules and regulations promulgated by the state department of health, must take all reasonable measures to prevent, stop, or take reasonable steps to prevent the continued illegal activity on the leased premises. (ii) Landlords who lease space to a MMC must expressly incorporate language into the lease or rental agreement stating that failure to comply with

City Code is a material non-curable breach of the lease and shall constitute grounds for termination of the lease and immediate eviction by the landlord ("termination clause"). It shall be a violation of this section for a landlord to fail to incorporate such a termination clause in the tenant's lease and/or the failure to take reasonable steps to evict a tenant when the tenant is in violation of the City Code. The landlord shall pay a fine of \$500 each day that the landlord fails to take reasonable steps to evict the tenant as required by this section. If the landlord takes reasonable steps to evict the tenant but is unable to evict due to the landlord's failure to incorporate the termination clause, the landlord shall pay a fine of \$500 per day for each day that the tenant is in violation of the City Code.

- (h) If a special use is, in the future, determined by the Director of Planning and Zoning, to be adversely affecting the health or safety of persons residing or working in the vicinity of the proposed use, to be detrimental to the public welfare or property or improvements in the neighborhood, or to be not in compliance with other applicable Code provisions, the special use approval may be modified or revoked by the City Commission up on notification and public hearing.

(Ord. No. 12-90-1452, 7-24-90; Ord. No. 13-90-1452, 8-21-90; Ord. No. 2-91-1467, 1-15-91; Ord. No. 14-91-1476, 4-16-91; Ord. No. 15-91-1480, 5-21-91; Ord. No. 19-91-1484, 7-23-91; Ord. No. 26-91-1490, 11-5-91; Ord. No. 26-91-1491-A, 11-19-91; Ord. No. 3-92-1498, 1-7-92; Ord. No. 5-93-1534, 6-1-93; Ord. No. 16-94-1566, § 2, 11-1-94; Ord. No. 2-97-1623, § 1, 3-4-97; Ord. No. 14-98-1662, § 3, 9-1-98; Ord. No. 22-99-1696, § 3, 11-16-99; Ord. No. 21-01-1752, § 2, 10-2-01; Ord. No. 6-02-1774, § 2, 7-23-02; Ord. No. 47-08-1982, § 1, 8-21-08; Ord. No. 01-09-1993, § 3, 2-3-09; Ord. No. 10-10-2035, § 3, 4-6-10; Ord. No. 27-10-2052, § 2, 9-21-10; Ord. No. 47-10-2072, § 2, 12-7-10; Ord. No. 05-11-2078, § 2, 1-18-11; Ord. No. 01-12-2117, § 3, 1-3-12; Ord. No. 23-12-2139, § 1, 10-2-12; Ord. No. 15-14-2193, § 1, 7-5-14; Ord. No. 29-16-2262, § 1, 11-1-16; Ord. No. 06-17-2276, § 3, 4-4-17)

20-3.5 - Dimensional requirements.

- (A) *Residential Districts.* In residential districts, the maximum density, minimum lot area and frontage, minimum yard setbacks, maximum coverage and maximum building heights for the permitted uses in each district shall be determined from the Dimensional Requirements Table for either single-family residential districts one-story (Section 20-3.5(E)) or single-family residential districts two-story (Section 20-3.5(H)) or multi-family districts (Section 20-3.5(F)).
- (B) *Nonresidential Districts.* In nonresidential districts, the minimum lot area and frontage, minimum yard setbacks, maximum floor area, maximum coverage and maximum building heights for permitted uses in each district shall be determined from the Dimensional Requirements Table for nonresidential districts (Section 20-3.5(G)).
- (C) *Dimensional Requirement Tables.*
- (1) The use of land and the erection of buildings and other structures on land shall be subject to the dimensional requirements of the applicable zoning district, as reflected on the four tables labeled "Dimensional Requirements, Single-Family Residential Districts, One-Story" (Section 20-3.5(E)) or "Dimensional Requirements, Single-Family Residential Districts, Two-Story" (Section 20-3.5(H)), "Dimensional Requirements, Multi-family Districts" (Section 20-3.5(F)) and "Dimensional Requirements, Nonresidential Districts" (Section 20-3.5(G)).
 - (2) There shall be no variation or deviation from such dimensional requirements except where expressly allowed by this Code.
 - (3) Minimum and maximum dimensional requirements for permitted uses within a PR or PI use district shall be the same as those listed in the following tables for uses within the most restrictive use district located adjacent to the subject PR or PI property.
- (D) *Properties Abutting Single-Family Zoning Districts.*
- (1) Notwithstanding the dimensional requirements of the zoning use district in which a property is located, if that property is abutting (common border or separated by a right-of-way) to a single-family zoning district the maximum height of any new building or any vertical addition to an existing building on that property is limited to two stories, however, additional height may be obtained via the special use permit process as set forth in Section 20-5.8.
 - (2) Properties or projects constructed under a city approved Planned Unit Development Site Plan or projects subject to Development Agreements during the period that the Agreement is in effect, shall not be subject to the provisions of this section. In no case shall a project be rebuilt which exceeds the height, setback or density that was set forth in the Development Agreement or applicable Planned Unit Development Site Plan.
 - (3) Properties presently existing and actually built on the effective date of this ordinance shall be grandfathered in and exempted from the provisions of this section and allowed to be rebuilt to the same height if they are destroyed by an act of God or other natural disaster.

Section 20-3.5E

DIMENSIONAL REQUIREMENTS

SINGLE-FAMILY RESIDENTIAL DISTRICTS - ONE-STORY

Min. Lot Size					
Net Area (sq. ft.)	40,000	15,000	10,000	6,000	6,000
Frontage (ft.)	125	100	75	60	50

Min. Yard Setbacks (ft.)						
Front		50	35	25	25	25
Rear		25	25	25	25	25
Side (Interior) ^a		12.5	10	7.5	7.5 ^b	7.5 ^b
Side (Street)		25	20	20	15	15
Max. Building Height						
Feet		25	25	25	25	25
Max. Building Coverage (%)	First floor	20	30	30	30	30
Max. Impervious Coverage (%)		30	40	40	45	45

^a Cumulative width of both side yards shall be not less than 20 percent of total lot width.

^b Except that additions to existing structures may have 5 feet interior side setbacks where any portion of the building already has a 5 feet setback.

Section 20-3.5F
DIMENSIONAL REQUIREMENTS
MULTI-FAMILY DISTRICTS

REQUIREMENT	RT-6 (TH)	RT-9 ^a (2F)	RM-18 (MF)	RM-24 (MF)	MU-AH (MF)
Max. Density (units/acre)	6	8.7	18	24	24
Min. Site Size					
Net Area (sq. ft.)	10,000	10,000	10,000	15,000	(1 acre)
Frontage (ft.)	200	100	75	100	100
Min. Lot Size					

Net Area (sq. ft.)	3,000	na	na	na	na
Frontage (ft.)	25	na	na	na	na
Min. Yard Setbacks (ft.)					
Front:					
1 & 2 stories	25	25	25	25	25
3 stories	na	na	na	30	na
4 stories	na	na	na	35	na
Rear:					
1 & 2 stories	25	25	20	20	20
3 stories	na	na	na	25	na
4 stories	na	na	na	35	na
Side (Interior)					
1 & 2 stories	10	7.5	12.5	12.5	12.5
3 stories	na	na	na	15	na
4 stories	na	na	na	20	na
Side (Street)					
1 & 2 stories	15	15	25	25	25
3 stories	na	na	na	30	na
4 stories	na	na	na	35	na
Between Buildings	20	15	20	20	20

Perimeter ^b	15	15	na	na	na
Max. Building Height					
Stories	2	2	2	4	2
Feet	25	25	30	50	30
Max. Impervious Coverage (%)	40	35	60	70	70

^a Townhouses allowed subject to all RT-6 requirements, except minimum site size.

^b In addition to all other required setbacks when the site area is greater than two (2) acres.

Section 20-3.5G
DIMENSIONAL REQUIREMENTS
NONRESIDENTIAL DISTRICTS

REQUIREMENT	RO	LO	MO	NR	SR	GR	I
Min. Lot Size							
Net Area (sq. ft.)	7,500	7,500	10,000	7,500	5,000	10,000	5,000
Frontage (ft)	75	75	100	75	50 ^c	100	50
Min. Setbacks (ft.)							
Front	25	20	15 ^b	25	10 ^b	20	20
Rear	20	15	10	15	10	15	^a
Side (Interior)	10	10	0	—	—	—	
Side (Street)	20	15	10	15	10 ^b	15	15
Adj. Res. Dist.	25	25	25	25	25	25	25
Side (w/driveway)	20	20	20	20	20	20	20

Between Buildings	20	20	20	—	—	—	—
Max. Building Height							
Stories	2	2	4	2	4	2	2
Feet	25	30	50	25	50	30	30
Max. Building							
Coverage (%)	30	—	—	—	—	—	—
Max. Impervious							
Coverage (%)	75	80	85	75	90	85	85
Max. Floor Area							
Ratio (FAR)	0.30	.70	1.60	.25	1.60	.80	.80

- ^a 5' setback with wall opening adjacent to rear property line; no setback if no openings in wall.
- ^b Applies to ground floor only; columns are permitted within the setback. Columns shall not be greater than twenty-four (24) inches in diameter; columns on the property line shall not be closer to each other than ten (10) feet.
- ^c The frontage requirement does not apply to uses in the SR District.

Section 20-3.5H

DIMENSIONAL REQUIREMENTS

SINGLE-FAMILY RESIDENTIAL DISTRICTS - TWO-STORY

REQUIREMENT		RS-1	RS-2	RS-3	RS-4	RS-5
Min. Lot Size						
Net Area (sq. ft.)		40,000	15,000	10,000	6,000	6,000
Frontage (ft.)		125	100	75	60	50

Min. Yard Setbacks (ft.)						
Front		50	35	25	25	25
Rear		25	25	25	25	25
Side (Interior) ^a	For structure 12' or less in height, as measured from the first floor finished floor elevation	Refer to Table 1				
	Portion of structure above 12' high as measured from the first floor finished floor elevation	Refer to Table 1				
Side (Street)- First Story		25	20	20	15	15
Side (Street)- Second Story		25	25	25		
Max. Building Height						
Stories		2	2	2	2	2
Feet		25	25	25	25	25
Max. Building Coverage (%) First floor		Refer to Table 2				
Max. Impervious Coverage (%)		Refer to Table 2				
Max. Floor Area Ratio (%) Second floor		Refer to Table 2				

^a Cumulative width of both side yards shall be not less than 20 percent of total lot width.

Special dimensional requirements and performance standards for two-story single family structure and two story additions.

- (A) *Purpose.* The purpose of this ordinance is to establish special dimensional requirements and performance standards to regulate two-story single family structures and two-story additions within the residential zoning districts: "RS-1" Estate Residential, "RS-2" Semi-Estate Residential, "RS-3" Low Density Single-Family Residential, "RS-4" Single-Family Residential and "RS-5" Single-Family Residential (50' lots) of the City of South Miami.
- (B) *Applicability.* The requirements of this Section shall be in addition to each and every other requirement of the City of South Miami Land Development Code (Code), and in the case of conflict, the provision of this Section shall control.
- (C) *Performance Standards.* The performance standard set forth in this section will guide the development of two-story residential homes in the single family residential districts: RS-1, RS-2, RS-3, RS-4 and RS-5. The performance standards are necessary in order to address yard setbacks, open space, adequate landscaping, plan review process, and existing character of the residential neighborhoods in the City of South Miami. By implementing these standards the city will be able to preserve and enhance the neighborhood character through architectural designs that are consistent and responsive to the individual context of the city architecturally diverse neighborhoods.
- (1) *Building Site.* The development of two-story residential homes shall be constructed on a lot that is suitable for residential development, provides adequate setbacks and the necessary infrastructure to support the development.
- (2) *Minimum Lot Size.* The minimum lot size for residential homes shall be subject to the dimensional requirements set forth in the Land Development Code table labeled "Dimensional Requirements Single-Family Residential District Two Story" Section 20-3.5(H). For irregular shaped lots, the average lot width rather than the frontage width shall be used at the discretion of the Planning Director.
- (3) *Yard Setback Requirements.* No building or structure, or any part thereof, including covered porches or terraces, but not including uncovered steps, projections shall be erected at a lesser distance from the front, side or rear line of any building site than the front, side or rear setback distance, respectively, prescribed and established herein for such building site. Nothing herein shall prohibit a building or structure from having more than the minimum required setbacks.
- (a) *Side Setbacks (Interior).* Refer to Table 1: "Proposed Preliminary Minimum Side Yard Setbacks."
- Side yards shall be measured from the closest point of the structure's vertical outside wall to the side lot line, on a bearing parallel to the front lot line, at ground level.

TABLE 1
New Two-Story Single Family Residential and
Second Story Additions
Minimum Setbacks Requirements
(Interior Lot)

Existing Lot Frontage (ft.)	First Floor Interior Side Setback ^a	Second Floor Interior Side Setback ^b
40—44	7.5	7.5
45—49	7.5	9.0

50—54	7.5	10.0
55—59	7.5	11.0
60—64	7.5	12.0
65—69	8.5	13.0
70—74	9.5	14.0
75—+	10.0	15.0

^a Except that additions to existing structures may have 5 feet interior side setbacks where any portion of the building already has a 5 feet setback.

^b For pre-existing improved lots of record in the RS-3 or RS-4 districts, that are 50 feet or less in lot width, the second floor setback shall be the same as the first floor setback.

- (b) *Front Setback.* The minimum front setback shall be consistent with the dimensional requirements reflected on the Land Development Code table labeled "Dimensional Requirements Single-Family Residential District Two Story" (Section 20-3.5(H)).
- (c) *Side Setbacks (Street).* The minimum side setback (street) for structure that abuts a street shall be consistent with the dimensional requirements reflected on the Land Development Code table labeled "Dimensional Requirements Single-Family Residential District Two Story" (Section 20-3.5(H)).
- (d) *Rear Setback.* The minimum rear setback of twenty-five (25) feet shall be maintained and required on principle buildings in the single-family residential district, as reflected on the Land Development Code table labeled "Dimensional Requirements Single-Family Residential District Two Story" (Section 20-3.5(H)).
- (4) *Building Height Limit.* No single-family residential home shall be built in the City of South Miami that is more than two-stories in height. The maximum building height for two-story homes shall not exceed twenty-five (25) feet.
- (5) *Maximum Building Coverage.* The maximum building coverage permitted for a two-story single family residence shall be determined for for each application by using the dimensional requirements set forth in Table 2, Section (C)12, Development Standards.
- (6) *Maximum Impervious Coverage.* The maximum impervious coverage permitted for a two-story single-family residence shall be determined for each application by using the dimensional requirements set forth in Table 2, Section (C)12, Development Standards.
- (7) *Maximum Floor Area Ratio.* The maximum floor area ratio permitted for a two-story single-family residence shall be determined for each application by using the dimensional requirements set forth in Table 2, Section (C)12, Development Standards.
- (8) *Landscape Requirements.* A minimum of fifty (50) percent of the entire front yard area shall be green space. All yard areas shall be landscaped with trees and drought resistant native vegetation, as necessary, to enhance privacy from abutting properties. The

landscaped open space required by this Section shall consist of pervious landscaped area and shall not consist of any paved or otherwise impervious areas. The minimum height of new trees for two-story homes shall be eighteen (18) feet. An inventory of existing trees located onsite shall be prepared and submitted to the Planning Department as part of the **Environmental Review Preservation Board (ERP)** application. The required landscaped plan shall be prepared by Florida Registered Landscape Architect consistent with the City's Tree Ordinance.

- (9) *Architectural and Site Plan Review.* All new two-story homes or second story additions shall be reviewed by the **ERP** consistent with Section 20-6.1(C) of the Land Development Code. The design review must be based on sound and clearly articulated design principles. The architectural plans must be signed and sealed by a Florida Registered Architect.
- (a) The **ERP** shall consider and apply the following features as part of the review:
- (i) Scale, color, texture, appropriateness, and aesthetic quality of all proposed buildings and other structures;
 - (ii) Quantity, quality and arrangement of all proposed landscaping and open space features;
 - (iii) Overall compatibility of the proposed development with the existing and desired character of the property and neighborhood in which located; and
 - (iv) The installation of sidewalks along all arterial roadways and compliance with the City's sidewalk policies and requirements.
- (b) Designs should use a mix of articulation, architectural elements and exterior finishes reducing the perceived scale and bulk of buildings, including low to moderately pitched roofs and recesses under roof creating indoor/out door living spaces (terraces). In considering the design of the building, the **ERP** shall consider and apply Section 7(a)(i) thru (iii), and render a decision as to the adequacy of the elements in the design concept including, but not limited to:

Trim

Shutters

Awnings and canopies

Windows (Fenestration)

Doors

Texture of surface

Colors

Roofs (materials, color, slope and overhang)

Planters

Window boxes

Walls, height, location, materials, design

Height of building

Location of structure on site

Site circulation in regard to pedestrian travel, parking, services, grades and landscaping

Location of exposed piping, conduits and rain water leaders

The impact on adjacent properties of continuous two story walls

All lighting (height, location and style)

- (c) A Comprehensive Neighborhood Analysis, photographs of the site, and a statement explaining how the proposed building complies with the architectural style surrounding the site must be submitted as part of the **ERP** application. The **ERP** shall require changes to the plans to ensure that the design preserves the existing architectural style of the neighborhood, unless specified to the contrary, and promotes design excellence in the community. The **ERP**, as part of its application for review, shall require the submission of photographs of both sides of the street and all abutting properties, on the block where the new two-story home or two-story addition is to be constructed.
 - (d) The architectural context includes the height, scale, massing, separation between buildings, and style in regard to how buildings and structures relate to each other within a specified area. Architectural context allows for differences in height, scale, massing, and separation between buildings and style, when such differences contribute to the overall harmony and character of the area. The **ERP** shall not take into consideration existing buildings and structure that are out of context with the area when considering whether a new building or structure or a substantial addition to an existing building or structure is in context with both sides of the street on the block where it is located and surrounding properties. The **ERP** shall review the building or structure in the context of that area in which the site is located when a new building or structure or a substantial addition to an existing building or structure is located on a building site that is on the border of two areas that have different character or content.
 - (e) The Planning Director shall have the administrative discretion to require the above review process to be accomplished prior to a Planning Board public hearing on the proposed development application.
- (10) *Findings.* The **ERP** shall determine approval or disapproval of the proposed designed plans. The Board shall prepare a written determination in order to state the intent of its decision. The written determination shall be filed with the Planning Department for inclusion in the project record.
 - (11) *Historic Preservation Board Review.* Construction of a two-story home or a second story additions or alterations to existing homes in the City's Historic District shall be reviewed by the Historic Preservation Board and **ERP**. The Historic Preservation Board shall review the application for consistency with the City's historic preservation guidelines, requirements set forth in this section, and the standards for the issuance of a Certificate of Appropriateness set forth in the Land Development Code. The Board shall also determine compatibility with the guidelines in the specific Historic Designation Report. The Historic Preservation Board recommendations shall be submitted to the **ERP** for consideration. The **ERP** shall give consideration to the findings of the Historic Preservation Board as part of its review for the purpose of determining consistency with the requirements set forth in this section.
 - (12) *Development Standards.* The development standards are based on percentage of lot size consistent with the table provided below. The lot size that does not exactly match table 2 shall be rounded up to the next highest lot size in order to determine the appropriate lot size.

TABLE 2
New Two-Story Single-Family Residential and Second Story Additions
Percentage Requirements for Maximum Building Coverage,
Impervious Coverage and FAR

Lot Size	Maximum Building Coverage	Maximum Impervious Coverage	Maximum Floor Area Ratio
5,000	0.300	0.450	0.550
6,000	0.300	0.450	0.525
7,000	0.300	0.438	0.500
8,000	0.300	0.425	0.475
9,000	0.300	0.413	0.450
10,000	0.300	0.400	0.450
11,000	0.300	0.400	0.450
12,000	0.300	0.400	0.450
13,000	0.300	0.400	0.450
14,000	0.300	0.400	0.450
15,000	0.300	0.400	0.450
16,000	0.296	0.396	0.444
17,000	0.292	0.392	0.438
18,000	0.288	0.388	0.432
19,000	0.284	0.384	0.426
20,000	0.280	0.380	0.420
21,000	0.276	0.376	0.414

22,000	0.272	0.372	0.408
23,000	0.268	0.368	0.402
24,000	0.264	0.364	0.396
25,000	0.260	0.360	0.390
26,000	0.256	0.356	0.384
27,000	0.252	0.352	0.378
28,000	0.248	0.348	0.372
29,000	0.244	0.344	0.366
30,000	0.240	0.340	0.360
31,000	0.236	0.336	0.354
32,000	0.232	0.332	0.348
33,000	0.228	0.328	0.342
34,000	0.224	0.324	0.336
35,000	0.220	0.320	0.330
36,000	0.216	0.316	0.324
37,000	0.212	0.312	0.318
38,000	0.208	0.308	0.312
39,000	0.204	0.304	0.306
40,000 +	0.200	0.300	0.300

(Ord. No. 2-90-1445, 1-2-90; Ord. No. 2-92-1497, 1-7-92; Ord. No. 13-93-1541, § 1, 9-17-93; Ord. No. 23-94-1573, § 1, 12-20-94; Ord. No. 8-95-1581, § 3, 6-6-95; Ord. No. 1-96-1601, § 1, 1-16-96; Ord. No. 8-97-1629, § 1, 4-1-97; Ord. No. 17-03-1801A, § 1, 9-2-03; Ord. No. 27-07-1928, § 2, 9-4-07; Ord. No. 04-10-2029, § 1, 2-2-10; Ord. No. 34-10-2059, § 3, 10-5-10; Ord. No. 35-10-2060, § 1, 10-5-10; Ord. No. 23-16-2256, § 1, 9-20-16)

20-3.6 - Supplemental regulations.

(A) *Height Limit Exceptions.* Height limits established in Section 20-3.5 of this Code shall not apply to:

- (1) Chimneys;
- (2) Church spires;
- (3) Cooling towers;
- (4) Elevator penthouses;
- (5) Flag poles;
- (6) Monuments;
- (7) Ornamental towers and spires;
- (8) Radio and television towers of less than one hundred twenty-five (125) feet in height; or
- (9) Water tanks and towers.

(B) *Yard Encroachments.*

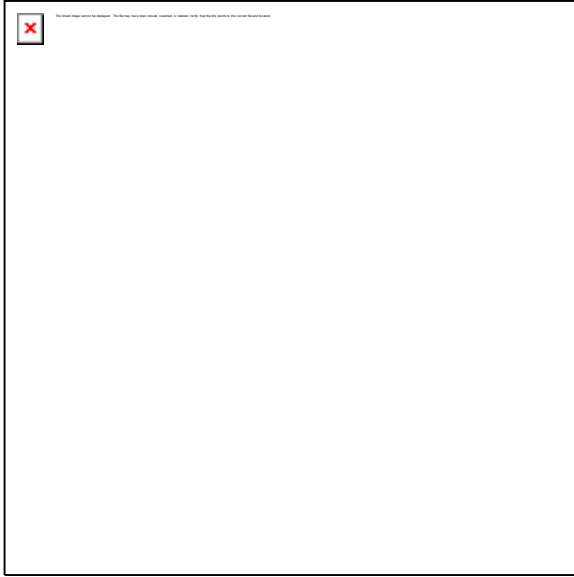
- (1) Every part of a required yard shall be open to the sky, except as otherwise permitted in this Code.
- (2) No part of a yard setback required for any principal building shall be included as part of a required yard setback for another principal building.
- (3) Ordinary projections of sills, belt courses, roof overhangs, window air-conditioning units, chimneys, cornices, cantilevers and ornamental features may project up to thirty-six (36) inches into required yard setback areas.
- (4) Movable awnings may be placed over doors and windows in any required yard setback area, but such awning shall not project closer than two (2) feet from any lot line or be vertically supported.
- (5) Canopies may extend from the main entrance of a principal building to the street line in multi-family or nonresidential districts provided that they:
 - (a) Do not extend beyond eighteen (18) inches from any curb line,
 - (b) Do not exceed fifteen (15) feet in width or twelve (12) feet in height,
 - (c) Are not screened or enclosed in any manner, and
 - (d) Provide a minimum unobstructed, clear space of seven and one-half (7.5) feet between grade and bottom of valance.
- (6) Service station pumps.
 - (a) Service station pumps and pump islands, with or without roof structures and not attached to a principal building, may occupy required yards.
 - (b) Pumps, pump islands and roof structures shall not be located less than fifteen (15) feet from public right-of-way lines.
- (7) Concrete slabs. Concrete slabs, A/C equipment and/or wood decks may project into required setbacks and extend up to five (5) feet from property lines. There shall be no obstructions above forty-two (42) inches in height.

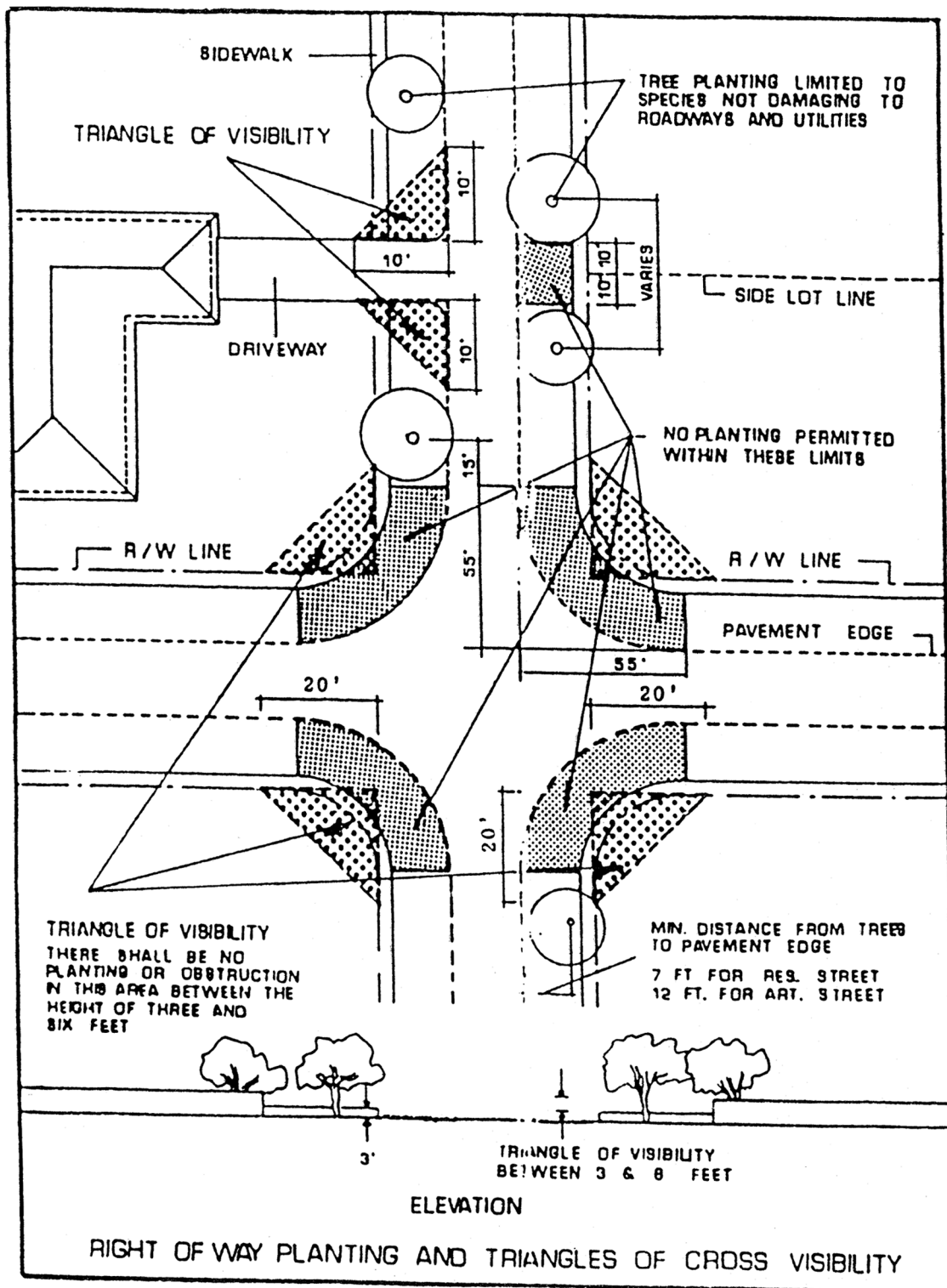
(C) *Building Coverage.*

- (1) In computing permissible building coverage, lot area shall be divided into the following:
 - (a) Total building area on the ground floor, including all porches, steps and balconies; and
 - (b) Total building area of accessory buildings or other structures on the property;

- (2) The resulting number shall be multiplied by one hundred (100) to yield lot coverage as a percentage and divided into the net lot area.
- (D) *Impervious Coverage.* The maximum amount of total site area which may be covered by all uses requiring impervious ground cover shall not exceed that amount set forth in the Dimensional Requirements tables in Section 20-3.5 and include, but not be limited to, structures, streets, alleys, driveways, pedestrian ways, parking areas, tennis courts, patios and swimming pools.
- (E) *Multiple Buildings on Single Lot.*
- (1) In the event that a lot is to be used for either multi-family residential, institutional, hotel or motel purposes, more than one (1) building may be located on the lot, provided that such buildings are located not less than fifteen (15) feet from one another and conform to all required yard setbacks set forth in Section 20-3.5.
- (2) In the event that a lot is to be used for nonresidential purposes, more than one (1) building may be located on a lot, provided that such buildings conform to all required yard setbacks set forth in Section 20-3.5.
- (F) *Roadway Dedications, Improvements and Setbacks.*
- (1) Public road rights-of-way shall be dedicated and paved to the minimum widths set forth in the city's adopted Transportation Element or as follows, whichever is greater:
- (a) One hundred (100) feet for: Bird Road (SW 40 Street), Miller Road (SW 56 Street) and Sunset Drive (SW 57 Avenue).
- (b) Eighty (80) feet for Kendall Drive (SW 88 Street).
- (c) Twenty-five (25) feet for Progress Road (from SW 70 Street to SW 68 Street).
- (d) Seventy (70) feet for section and half section line roads.
- (e) Fifty (50) feet for all other roads, unless required otherwise herein.
- (f) Thirty-five (35) feet for all private roadways.
- (g) Twenty (20) feet for all alleys.
- (2) All dedicated public roadways shall be improved by the abutting property owner to the specifications of the city or county.
- (3) No structures, other than utility poles, shall be located nearer to the centerline of an abutting roadway than a distance equal to one-half of the official right-of-way width plus the minimum required yard setback.
- (4) In determining which streets are the frontage and side streets, the Director of the Planning and Zoning Department shall be guided by the existing development pattern.
- (5) Required yard setback distances shall be measured from the official right-of-way line, regardless of whether such rights-of-way have been dedicated.
- (G) *Triangles of Visibility.*
- (1) On any corner lot in a residential district, nothing shall be erected, located, planted or allowed to grow and no vehicle shall be parked which materially impedes vision between a height of three (3) feet and six (6) feet within the area bounded by the two intersecting street rights-of-way lines and a diagonal line drawn joining said rights-of-way lines twenty (20) feet from their point of intersection.
- (2) At the intersection of any alley or driveway and a street in any residential district, nothing shall be erected, located, planted or allowed to grow and no vehicle shall be parked which materially impedes vision between a height of three (3) feet and six (6) feet within the area bounded by the street or alley right-of-way lines or a line drawn along the interior pavement edge of the driveway and a diagonal line joining said lines ten (10) feet from their point of intersection.

- (3) Subject to subsections (1) and (2) above, fences, walls and vegetation may be permitted in any required yard setback area, or along the edge of any yard, provided the fence, wall or vegetation does not materially impede vision between vehicular or pedestrian traffic.
- (4) In any required yard setback area, nothing permanent over three (3) feet high may be installed which materially impedes vision between vehicular or pedestrian traffic.





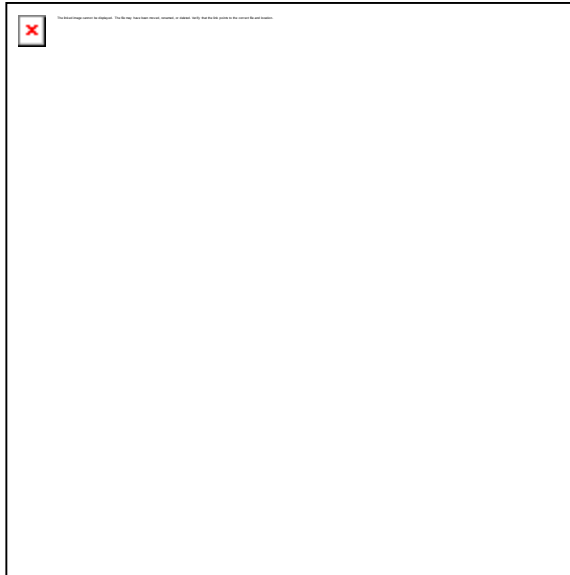
(H) *Physical Barriers.*

- (1) All fences, walls, trellises and hedges may be erected on or along a property line, but shall not extend into official public rights-of-way or project on or over adjacent properties.

(2) Height limit.

Residential:

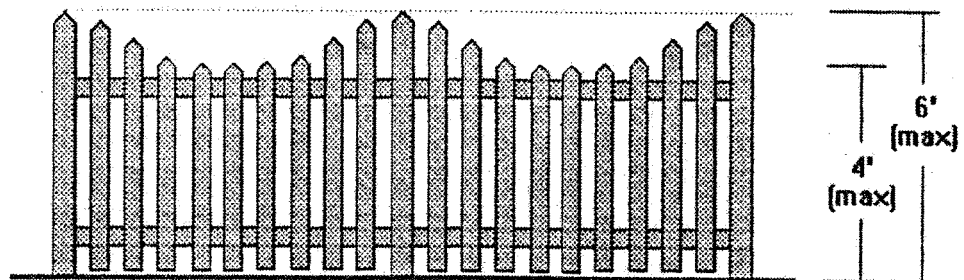
- (a) Chain link fences will not be permitted on required yards adjacent to a right-of-way.
- (b) In all yards, fences, walls, and trellises (excluding arbors) shall not exceed six (6) feet in height above grade, unless further restricted as provided in (c) below.
- (c) In the setback areas adjacent to a right-of-way, and along that portion of a rear setback area that is adjacent to the front yard of an adjoining property, fences, walls, trellises, gates and hedges shall not exceed four (4) feet in height above grade with the following exceptions:
 - (i) Wooden fences exceeding four (4) feet in height adjacent to a right-of-way in required front setback areas shall provide for a minimum of sixty (60) percent open area for all portions between four (4) and six (6) feet in height above grade. The graphic "Wooden Fence Types" includes an example of both an unacceptable and acceptable prototype.



Wooden Fence Types

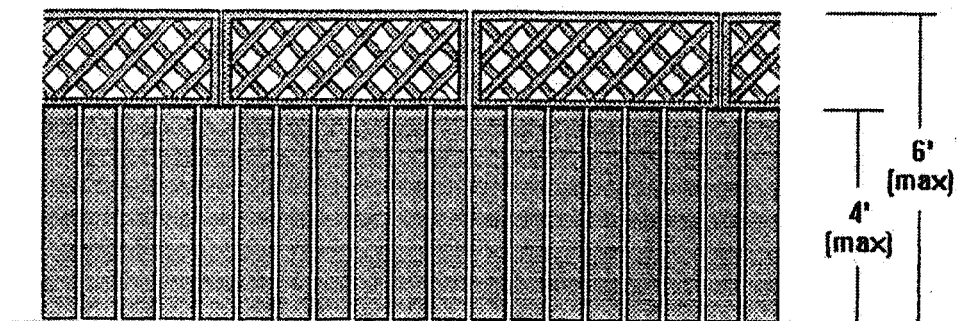
ACCEPTABLE:

Sine wave pattern yields more than 60 percent open area

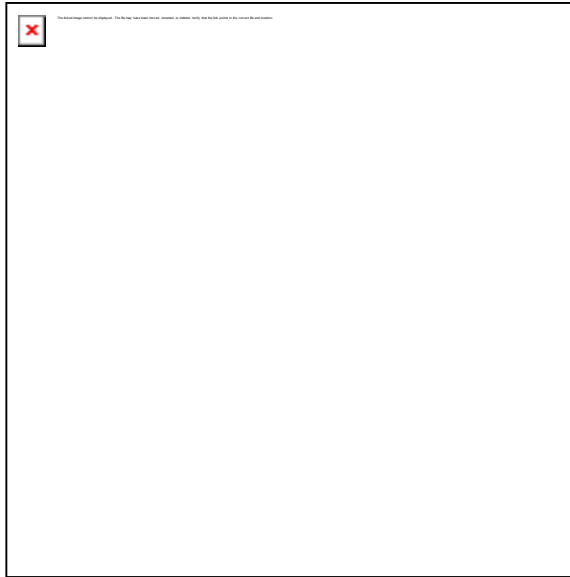


UNACCEPTABLE:

Pre-fabricated lattice yields less than 60 percent open area



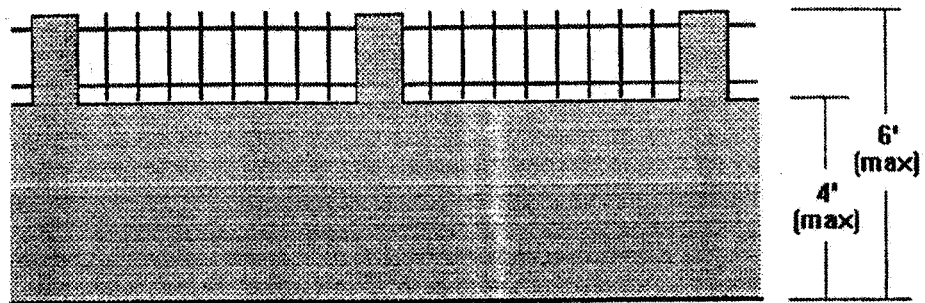
- (ii) Masonry wall exceeding four (4) feet in height adjacent to a right-of-way in required front setback areas shall provide a minimum of sixty (60) percent open area for all portions between four (4) and six (6) feet in height above grade. No portion of any solid masonry wall above four (4) feet in height above grade along rights-of-way shall exceed sixteen (16) inches in width. This is to provide for vertical support (per section 20-3.6(H)(2)(c)) of screening material. The remaining balance of open area may be screened by metal work, lattice or any other non-masonry screening material. A minimum of sixty (60) percent open area shall be maintained. The graphic "Masonry Wall Types" includes an example of both an unacceptable and acceptable prototype.



Masonry Wall Types

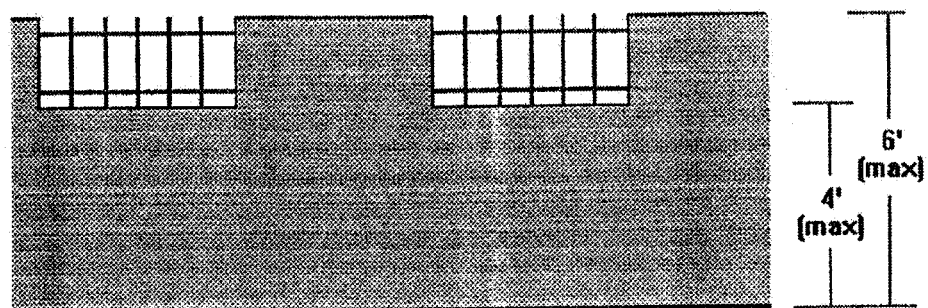
ACCEPTABLE:

Vertical supports (columns) do not exceed 14 inches in width



UNACCEPTABLE:

Vertical supports exceed 14 inches in width



- (iii) Gates may be increased by three (3) feet above grade provided that the upper three (3) feet of the gate between vertical supports is designed as a uniform pattern with a minimum of sixty (60) percent open area.
- [(iv)] Trellises cannot exceed four (4) feet in height along rights-of-way. Freestanding trellises not located along property lines and not installed to create a physical barrier may extend up to six (6) feet in height above grade in any required yard. Tree species included in the Official Tree List of the City of South Miami shall not be considered as physical barriers.
- [(v)] Vines, as defined under Section 20-2.3 may be permitted on any physical barrier. There is no height limitation for vines and hedges, but they must be maintained and trimmed regularly. All hedges and vines located along property lines abutting a right-of-way, must be in conformity with the triangle of visibility regulations as set forth in Section 20-3.6(G).
- [(vi)] Light fixtures are permitted to extend up to sixteen (16) inches above the maximum height for permitted physical barriers on single-family residential properties.

Non-residential:

- (d) Fences, walls, trellises or hedges on property zoned for non-residential uses shall not exceed eight (8) feet in height above grade.
- (3) Prohibited features. Fences constructed wholly or partially of barbed wire are prohibited, except fences or walls exceeding six (6) feet which have a maximum top extension of sixteen (16) inches bearing a maximum of three (3) strands of barbed wire. Use of electrically charged fences shall not be permitted in any district.
- (l) *Accessory Structures or Uses.*
 - (1) No accessory structure shall be constructed upon a lot until construction of the principal structure or use has commenced.
 - (2) No accessory structure shall be used unless the principal structure on the lot is also being used.
 - (3) No accessory structures or uses shall be located within any required yard setback area, except as permitted in subsection (4) below.
 - (4) Accessory structures or uses may be located in a required rear yard, provided such structures or uses do not occupy more than thirty (30) percent of required setback areas and provided further that such accessory buildings do not exceed one (1) story or twelve (12) feet in height above grade.
 - (5) Accessory structures or uses shall be located not less than five (5) feet from any rear or side lot line. No accessory structures or uses shall be located in the required setbacks that are adjacent to a street right-of-way line; nor shall any accessory structures be located less than five (5) feet from any rear lot line.
 - (6) Canvas tents and cabanas, used for temporary shelter and not containing cooking facilities, shall be subject to the accessory structure regulations.
 - (a) *Temporary structures.*
 - (1) The building official is authorized to issue a permit for temporary structures and uses that are not constructed within the public right-of-way. Permits shall be limited as to time of service, but shall not be permitted for more than one hundred and eighty (180) days. The building official is authorized to grant extensions for demonstrated cause.

- (2) Temporary structures shall be subject to the location requirements for accessory structures. The city manager or designee may authorize an alternate location of said structure for demonstrated cause.

(J) *Swimming Pools.*

- (1) Swimming pools which are open and unenclosed, or covered by a screen enclosure or a screen enclosure not covering a swimming pool, may occupy a required rear or side yard, subject to the following conditions:
 - (a) Minimum front setbacks shall be at the front building line.
 - (b) Minimum side setbacks shall be ten (10) feet from each side lot line.
 - (c) Minimum rear setbacks shall be ten (10) feet from rear lot lines.
 - (d) A walk space at least eighteen (18) inches in width shall be provided between pool walls and fences or screen enclosure walls.
 - (e) All setback distances shall be measured from the waters edge.
- (2) Pool enclosures.
 - (a) Unless a pool is entirely screened in, it shall be surrounded by a protective wall or fence of at least four (4) feet in height.
 - (b) Chain link fencing shall be at least eleven (11) gauge, with a maximum distance between wires of two (2) inches.
 - (c) Any enclosure, other than standard chain link fencing, shall be shown in complete detail on plans submitted for a building permit.
 - (d) Such detail shall include the spacing between the vertical and horizontal wires, spacing and slope of louvers, spacing of posts and such other details as may be required by the city.
- (3) Gates and latches.
 - (a) Fence and wall gates must close automatically by spring hinges and must be provided with a positive stop at the closed position.
 - (b) The direction for swing of such gates shall be away from the pool during gate opening.
 - (c) Fence and wall gates shall have an automatic latch located so that it is not accessible from the outside by pre-school age children.
 - (d) Automatic latches shall be as required by the Florida Building Code.
 - (e) All gates or latches shall be constructed to provide for their use in conjunction with use of a padlock.
 - (f) A padlock shall be in place before final inspection or approval will be given for the pool enclosure.
- (4) Screen enclosures.
 - (a) Screen enclosures shall be of a type approved by the building and zoning department.
 - (b) Screen enclosure doors shall automatically close and lock by hydraulic closers or an approved equivalent.
 - (c) Enclosure door knobs shall not be located less than five (5) feet, six (6) inches above grade.
 - (d) Automatic closing and locking devices on screened doors, fences or gates shall be properly adjusted.
 - (e) Gates and doors shall swing shut freely and lock from any position.

(f) Minimum for screen enclosures shall be:

	RT-6	All Other districts
front	25 feet	*
rear	10 feet	10 feet
side, interior	0 feet	7.5 feet
side, street	15 feet	*

* setbacks required are set forth in sections 20-3.5 E, 20-3.5 F, and 20-3.5 G.

(g) Screen enclosures shall not be included in the computation of the total building area or required pervious area; cement slabs within a screen enclosure are included in the computation of required pervious area.

(5) Portable pools.

(a) Portable pools, four (4) feet or less above grade, are not subject to the enclosure requirements in this section.

(b) Any steps or ladders leading up to such a pool shall be properly enclosed with fence and gate conforming to the requirements of this section.

(K) *Whirlpool Spas.*

(1) Open, enclosed or screen enclosures covering whirlpool spas may occupy required rear or side yards, subject to the requirements of this section.

(2) Impervious coverage shall be as per Section 20-3.5.

(3) Minimum front setback shall be at the rear of the front building line.

(4) Minimum side setbacks shall be five (5) feet each and minimum rear setbacks shall be twelve and one-half (12.5) feet.

(5) In instances where a screen enclosure or wall serves as a structural part of the spa, the side setback shall be not less than five (5) feet and the rear setback shall be not less than ten (10) feet from the lot line.

(6) Spas shall be subject to the protective enclosure requirements applicable to swimming pools.

(L) *Boats and Trailers.*

(1) Accessory storage of boats, other than those generally accepted to be of a rowing or paddling type, shall be permitted only on a trailer.

(2) Storage of camp trailers shall not be permitted in required front yard setback areas.

(M) *Tennis Courts.*

(1) Minimum front yard setbacks for tennis courts shall be at the rear of the front building line.

(2) Minimum rear and side yard setbacks for tennis courts shall not be less than fifteen (15) feet each.

- (3) Courts shall be completely enclosed by a chain link fence of at between ten (10) and twelve (12) feet in height.
- (4) Court lighting is prohibited in RS districts or on lots adjacent thereto.

(N) *Canopy Carports.*

- (1) New canopy carports shall be approved by the board and may be constructed as accessory structures in the front yard setback in residential districts, provided that they:
 - (a) Shall not exceed ten (10) feet in height measured from grade to the uppermost point of the carport cover.
 - (b) Shall not exceed twenty (20) feet in either length or width.
 - (c) Shall be located at least five (5) feet from the front property line and seven and one-half (7.5) feet from any side property line, except where existing lot widths are fifty (50) feet or less, in which case no side setback requirement shall apply, provided written consent of the adjacent property owner is furnished to the city.
 - (d) Shall have all four (4) sides left open if the structure is freestanding and three (3) sides open if attached to a principal building.
 - (e) Shall have a flexible, weather-proof, canvas or canvas-like cover which shall be maintained in good condition and free from holes, tears and fading.
 - (f) Shall, if it becomes deteriorated, be restored to its original condition or replaced with a new cover by its owner which complies with the requirements of this section.
 - (g) Shall not remain coverless or have a deteriorated cover for more than fifteen (15) calendar days following notification by the city that the cover condition is in violation of this section.
- (2) Canopy carports existing prior to or on the effective date of this Code and located in front yard setback areas in residential districts shall be deemed conforming accessory structures, provided that they:
 - (a) Shall have a permit from the Building and Zoning Department.
 - (b) Shall comply with all applicable maintenance requirements for new carports.
 - (c) Shall be used solely for the storage of operable vehicles or boats.
 - (d) Shall have all four (4) sides left open if the structure is freestanding and three (3) sides open, if attached to a principal building.

(O) *RO Restrictions.*

- (1) In addition to all other requirements, a continuous visual buffer shall be provided whenever an RO use abuts or faces directly (within fifty (50) feet) a property zoned for single-family residential purposes. To accomplish this, the normally required perimeter landscaped buffer shall be increased from five (5) to eight (8) feet in width and trees from Table 20-3.6(O)(5) shall be planted according to the spacing listed. These trees shall be a minimum of ten (10) to twelve (12) feet tall immediately after planting.
- (2) No structure shall be constructed or altered to produce a store front, display window, or any other feature that would detract from residential character except that, in areas where RO zoned property abuts the MetroRail right-of-way, it shall be left to the discretion of the **environmental review and preservation board** as to whether strict compliance shall be necessary on that side abutting the MetroRail right-of-way, providing that all other sides are residential in character.
- (3) A decorative wall or fence of masonry, reinforced concrete, precast concrete, chain link, wood, or other like material that will be compatible with the main structure, five (5) feet in height shall be erected along all interior property lines, including the rear property line; provided, however, that in the event that the rear property line abuts a secondary road, said wall shall be set in ten (10) feet from the official right-of-way of the secondary road, and said ten (10) feet shall be

landscaped; provided, further, in the event that the interior side property line abuts the same or more liberal zoning district, the requirement for the wall along said common interior property line shall not apply. Walls within or extending into the required twenty-five-foot front setback area shall be no more than four (4) feet in height. Further, individual buildings shall not be connected by fences, walls, breezeways or any other structures which make the building appear to have a single facade more than eighty (80) feet in width, provided that buildings may be connected by a breezeway at the first level only of no more than eight (8) feet in width.

- (4) No accessory buildings, or storage of supplies, heavy equipment, or large vehicles shall be permitted anywhere on the lot. In addition, air conditioning equipment may not be placed in the required front setback area.
- (5) Table 20-3.6 (O)(5).

Tree Species and Required Spacing for Continuous Visual Buffer*

	Required Spacing
Aralia (<i>Polyscias balforiana</i>)	3'
Beauty Leaf (<i>Callophyllum antillanum</i>)	10'
Buttonwood (<i>Conocarpus erectus</i>)	5'
Carrotwood (<i>Cupaniopsis</i> spp.)	10'
Madagascar Olive (<i>Noronhia emarginata</i>)	10'
Pink Trumpet Tree (<i>Tabebuia pallida</i>)	10'
Spicewood (<i>Calyptrocalyx pallen</i>)	10'
Vitex (<i>Vitex gnus castus</i>)	10'
Wax Myrtle (<i>Myrica cerifera</i>)	10'
Yew (<i>Podocarpus</i> spp.)	10'

* Or substitute to be approved by the **Environmental Review and Preservation Board**.

* Or substitution to be made from Commission approved tree list submitted by the Tree Committee.

(P) *Home Occupations.*

- (1) Home occupations shall be permitted in an occupied residential unit provided they comply with the following:
 - (a) Occupational activities at the residential unit shall be clearly incidental and subordinate to the residential activities.
 - (b) All employees working at the residential unit shall all reside and occupy the residential unit as their primary residence.
 - (c) No goods for resale or services shall be dispensed directly on the site.
 - (d) No goods shall be displayed for sale or as samples on the site.
 - (e) No customers shall be serviced in person on the site in any way nor shall the occupation be conducted in any way which would necessitate customers visiting the site.
 - (f) All goods, material and/or equipment, other than motor vehicles, which are used off the site shall not be stored on the site.
 - (g) No signs relating to the home occupation or any business shall be located on the site.
 - (h) There shall be no change in the outside residential character of the building or premises, including swale area, as a result of the conduct of such home occupation.
 - (i) There shall be no increase in traffic at the site as a result of the occupation.
 - (j) There shall be no increased demand on city services at the site as a result of the occupation.
 - (2) Home occupations which do not conform to all of the above standards shall be prohibited.
 - (3) Permission to have a home occupation shall require the submission of a home occupation license application to the Building Department. The application must be accompanied by:
 - (a) If the applicant for a home occupation does not own the property on which the business will be operated, a notarized statement of authorization to conduct the business on the premises from the property owner must be submitted along with the application form before a license is issued.
 - (b) A sworn affidavit on a form prepared by the City, which form confirms that the home occupation will conform to all of the standards contained herein and agreeing that the City, upon probable cause to believe that there is a violation of one or more of the standards so stated, may inspect the property to determine if there is a violation. Failure to allow an inspection will result in the automatic cancellation of the certificate of use and occupational license. Failure to correct code violations, after notice, will also result in the cancellation of the certificate of use and occupational license.
 - (4) An occupational license and annual certificate of use shall be obtained for any home occupation.
- (Q) *Screening and Soundproofing of Exterior Heating, Ventilating, Air Conditioning Equipment, and Other Mechanical Equipment.*
- (1) Air-cooled condensing and/or compressor equipment, water cooling towers, and any other similar mechanical or service equipment or apparatus installed or replaced on the roof of any building erected shall be screened from view by a parapet wall or such other screening device as shall be approved by the **environmental review and preservation board**. Such screening shall be constructed so as to conceal the equipment visible in elevation. The requirement of approval by the **environmental review and preservation board** shall not apply to replacement equipment if existing screening is in place and found sufficient by the Planning Director.
 - (2) Air-cooled condensing (excluding window and wall units), and/or compressor equipment, water cooling towers, liquid propane gas tanks, irrigation pumps, pool equipment, and any other similar mechanical or service equipment or apparatus installed or replaced on the ground or on

a building (other than on its roof) shall be screened from view, at ground level outside the subject property, by the use of landscaping or such other screening device as shall be approved by the **environmental review and preservation board**. The requirement of approval by the **environmental review and preservation board** shall not apply to replacement equipment if existing screening is in place and found sufficient by the Planning Director.

- (3) It shall be unlawful to operate mechanical equipment including air-cooled condensing, and/or compressor equipment, and any other noise producing equipment in an all residential, institutional, commercial and industrial zoned property, when such equipment emits noise which exceeds the following noise levels, measured at the receiving property line nearest to the source; such sound levels shall be measured by City of South Miami staff or other representatives designated by the City Manager with a sound level meter manufactured according to standards prescribed by the American National Standards Institute:

Maximum Permitted Sound Level in Decibels dBA

Receiving Land Use	At Property Line or Beyond Between 10:00 PM—7:00 AM	At Property Line or Beyond Between 7:00 AM—10:00 PM
Single-family	55 dBA	60 dBA
Multifamily, Institutional, Parks and Noise - Sensitive Zones (Hospitals, Schools, Nursing Homes, Church, Court or Public Library)	60 dBA	65 dBA
Retail Commercial (Offices, Retail, Restaurants and Movies)	65 dBA	65 dBA
Wholesale Commercial and Industrial	70 dBA	75 dBA

- (4) The above sound levels shall be applicable to existing, replacement or new mechanical equipment including air-cooled condensing and/or compressor equipment, mechanical equipment, and any other noise producing equipment.
- (5) The city's existing commercial buildings shall meet the requirements of this subsection and mitigate excessive noise levels upon the issuance of a notice of violation by the City of South Miami Code Enforcement Office.
- (6) Sound proofing shall be effective for the life of the equipment. If sound proofing device/equipment is determined not to be adequate, the owner shall be required to mitigate or replace the equipment and/or sound proofing material as necessary to reach acceptable sound levels.
- (7) Soundproofing for larger equipment serving commercial buildings shall consist of at a minimum a barricade or complete ventilated enclosure lined on the inside with a sound blocking (including landscaping) and sound absorbent material, in order to reduce sound to an acceptable level.

- (8) Installation of any fixed barricades or enclosures must be installed with applicable permits.
 - (9) Measurement of sound levels at a specific location shall be the average of three (3) readings each taken for a period of thirty (30) seconds during the day or night hours when subject equipment is in continuous operation.
 - (10) These regulations shall not apply to generators or other equipment used during a declared state of emergency or during intermittent power outages; this exemption to maximum sound levels shall end when electric power is restored.
- (R) *Screening and Landscaping of Refuse Enclosures and Containers for the Storage of Refuse in Commercial and Multifamily Residential Zoning Districts.* When plans for new commercial or multifamily residential construction, or plans for an addition to an existing commercial or multifamily residential structure and plans for the renovation of an existing commercial or multifamily residential structure, where the cumulative cost of the addition or renovation exceeds fifty (50) percent of the assessed value of the existing commercial or multifamily residential structure, are submitted, then all such plans shall make provisions for a refuse enclosure and containers for storage of refuse, in accordance with the following provisions:
- (1) The refuse enclosure shall be located in the required rear setback area or required side setback area of the property.
 - (2) The refuse enclosure shall be placed at least five (5) feet from any property line, but not within any triangle of visibility or utility easement.
 - (3) The refuse enclosure shall be located such that garbage or trash trucks will not block the intersections of streets or alleys while servicing containers.
 - (4) The refuse enclosure shall consist of:
 - (a) A concrete pad or impervious pavers as a base which is designed to prevent seepage of any sanitizing chemical or liquid waste into the ground or into any stormwater drainage system;
 - (b) Minimum five-foot-high enclosure walls. The height of walls must be equal to or greater than the contemplated height of refuse containers; and
 - (c) An access gate which screens all refuse containers from view. The height of gates must be equal to or greater than the contemplated height of refuse containers.
 - (5) An impervious surface shall be provided between the enclosure and street or alley from which the containers will be serviced, and shall be maintained in good condition.
 - (6) Landscaping, hedges and trees shall be provided as set forth in Section 20-4.5, Landscaping requirements, in the same manner as prescribed for vehicular use areas, and shall constitute a landscape buffer of at least five (5) feet in width.
 - (7) Plans may include a refuse container room in lieu of a refuse enclosure, provided that the container room:
 - (a) Shall be located on the rear or side of the structure;
 - (b) Shall be easily accessible for servicing; and
 - (c) Shall be fully enclosed and include doors which may be secured and locked to prevent vandalism or other damage.
 - (8) Refuse container rooms and refuse enclosures shall be subject to review and approval by both the director of building, zoning and community development and the director of public works prior to permit approval.
- (S) *Accessory Storage of Recreational Vehicles.*
- (1) *Definitions.*

Recreational Vehicle (RV). Shall mean a vehicle self-propelled or capable of being towed and primarily designed, constructed or converted to provide temporary living quarters for camping or recreational travel. Recreational vehicles shall include, but not be limited to, trailers, off road vehicles, trailer coaches, camping trailers, full-tent trailers, motor homes and mini-motor homes. A boat shall not be considered a recreational vehicle as defined and regulated by this section.

(2) *Storage Regulations.*

- (a) No recreational vehicle shall be parked upon the streets or other public places of the city between the hours of 7:00 p.m. on one day and 7:00 a.m. of the next day, except as provided below.
- (b) No recreational vehicle shall be used as a place of abode or dwelling while parked within the city, either on public or private property. Exceptions to this provision may be made in the case of city approved special events, or during a city declared state of emergency.
- (c) An RV shall not be used as temporary living quarters and may be parked in the open, on sites containing a residence, subject to the following conditions:
 - (i) No more than one (1) such RV shall be parked on such site.
 - (ii) Such parking shall be limited to such RV owned or leased by the occupant-owner or occupant-lessee of the site concerned. A guest of the occupant-owner or occupant-lessee of the site concerned with the parking of such RV by guest shall be limited to a period not to exceed fourteen (14) days.
 - (iii) The location for such parked RV shall be in the rear yard or in the side yard to the rear of a line established by the front setback line and to the rear setback line wherever possible, but in no event in front of such front setback line. Such RV may be located in the side setback provided that a six-foot high wall, fence or landscaping is installed along the area adjacent to the parked RV and shall be set back from the rear property line at least ten (10) feet.
 - (iv) The RV parking area shall be maintained in a clean, neat and presentable manner.
 - (v) The RV shall be in a usable condition at all times and shall, at all times, have attached a current vehicle registration license plate.
 - (vi) No major repairs or overhaul work on such RV shall be made or performed on the site, (or any other work performed thereon which would constitute a nuisance under existing ordinances).
 - (vii) When parked on the site, such RV shall not be used for living or sleeping quarters, or for housekeeping or storage purposes and shall not have attached thereto any service connections lines, except as may periodically be required to maintain the RV and appliances.
 - (viii) Such RV shall not exceed the maximum length, width, height and weight permitted under applicable provisions of the motor vehicle laws of the State of Florida; provided, however, the maximum length shall not exceed forty (40) feet and the maximum height shall not exceed fifteen (15) feet.
 - (ix) Such RV shall be secured so that it will not be a hazard or menace during high winds or hurricane.
- (d) A recreational vehicle may not be used as a commercial vehicle as defined by this Code or the City Code.

(T) *General Requirements and Standards for Permanent Generators in Residential Zone Districts.*

- (a) *Intent and Purpose.* The intent and purpose of this section is to regulate the use and installation of permanent generators in residential zone districts using standards listed herein.
- (b) *Definitions.* For purposes of this section, the following definitions shall apply:

Decibel— A logarithmic measure of sound. Pertaining to generators, the required decibel level of the generator shall be listed in the generator manual or be measured by a sound engineer or other qualified individual as approved by the Building Department.

Decibel measurement— Decibels shall be measured according to industry standards by a qualified individual at the abutting property line.

Externally-filled generator— A permanent generator which receives fuel from an external source, thus needing to be manually refueled in order to work properly. This is accomplished through pouring fuel into an intake area (e.g. gasoline) or connecting containers of fuel to an intake valve (e.g. propane).

Internally-filled generator— A permanent generator which receives fuel from an internal source. This is accomplished through a permanent connection to a fuel source, thus avoiding manual refueling (e.g. natural gas).

(c) *Submittal Requirements.*

- (1) Installation of permanent generators in two-family, townhouse, or multi-family zone districts shall be subject to all requirements set forth in this Section and shall also be required to receive approval via the Special Use process, in accordance with procedures set forth in Section 20-5.5.
- (2) Installation of permanent generators in all residential zones shall undergo the following process:
 - (1) Planning Department Submittal:
 - (a) Site plan drawings and specifications shall be submitted showing the location of the property, the placement of the generator on the property, location of all doors, windows and other openings into the dwelling and each distance from the generator, measurements and placement of exhaust of the generator, setback from abutting property(ies), and screening type, size, and measurements.
 - (b) A copy of the generator's use manual, listing specifications for the generator.
 - (c) Any other information as deemed necessary by the Planning Department.
 - (2) *Building Department Application*— Upon sit plan and screening approval by the Planning Department, an application and submittal process to the Building Department shall have the following requirements:
 - (a) Enumerated list of each electrical device that will be input into the generator, the required amount of voltage needed to power the electrical device, and calculations showing the output of the generator is not exceeded by the input of electrical devices.
 - (b) Proof of purchase of an indoor, battery-powered carbon monoxide detector.
 - (c) Signed affidavit by a licensed electrician stating the installation will follow the requirements of this ordinance, any other applicable city ordinances, the National Electric Code, the Florida Building Code, and any other requirement of law having jurisdiction over the process listed herein.
 - (d) Approved Planning Department information listed in (C)(1) of this ordinance.
 - (e) Any other information as deemed necessary by the Building Department.
- (3) If the generator is an externally fuel filled generator, then the applicant shall submit the following to the Planning Department and the Building Department:
 - (a) Description and specifications of the type of containers that will be used to store the fuel.
 - (b) The area at the dwelling where the fuel will be stored.

- (c) Fuel containers shall be kept outside pursuant to the "South Florida Fire Prevention Code", Chapter 14—Article III of the Miami-Dade County Code of Ordinances and shall be held in an approved area and properly screened.
- (d) *Criteria.*
 - (1) *Location.* Permanent generators shall only be permitted on improved property with a principal structure and installed behind the front facade of the structure.
 - (2) *Setbacks.* The generator shall be installed a minimum of 12.5 feet from the side and rear property lines.
 - (3) *Noise.* The maximum noise output from the generator cannot exceed 65dB (decibels) at the minimum setback.
 - (4) *Emissions.*
 - (a) Generator shall be located at a minimum distance away from any window, door, or other opening into the dwelling as set forth in the Florida Building Code.
 - (b) Generator's exhaust shall be located at a minimum distance away from any window, door, or opening into the dwelling as set forth in the Florida building Code, and a minimum of fifteen (15) feet from any window, door, or opening of adjacent properties.
 - (c) A battery-powered carbon monoxide detector shall be purchased and placed at the nearest window, door, or opening into the dwelling.
 - (d) The United State Environmental Protection Agency (EPA) and the California EPA Air Resources board test and certify small engines for minimal emissions:
 - (i) If the proposed generator is EPA or CARB certified, the generator shall be deemed to meet safe emissions standards.
 - (ii) If the generator is not EPA or CARB certified, the Building Department shall make a determination if the generator submitted by the applicant will result in emissions performance which are equivalent to the above standards.
 - (5) *Electrical requirements, generally:*
 - (a) Electrical permit for the installation of the generator shall be obtained by the licensed electrician or the electrician's agent.
 - (b) The input of electrical devices into the generator shall not exceed the output of the generator.
 - (c) Any change in electrical inputs into the generator shall receive prior approval from the Building Department and shall be performed by a licensed electrician. Applicant shall resubmit all necessary items listed in Section (C) herein.
 - (d) the generator shall be certified by the Underwriters Laboratory (UL) for electrical safety.
 - (6) *Gas Supply, internally:*
 - (a) An internal gas supply into a generator shall be installed by an appropriate licensed professional and the professional shall obtain all proper and necessary permits.
 - (b) All specifications and information concerning an internal gas feed shall be submitted with all other necessary information required.
 - (7) *Gas Supply, externally:*
 - (a) In order to assure safety from fumes, spillage, and other safety precautions, the Building Department shall examine and have the power to approve:
 - (i) Type of fuel;

- (ii) Fuel storage containers; and,
 - (iii) Outdoor fuel holding area.
- (b) The Planning Department will examine site plans for an outside fuel storage area and appropriate screening.
- (c) The applicant shall submit all information required under (D)(2)9(g) of this ordinance.
- (e) *Usage.* The use of permanent generators shall be permitted only during the following:
 - (1) General power outage.
 - (a) Shut off immediately after utilities are restored.
 - (2) Testing.
 - (a) Shall be as set forth in the manufacturer's specification for the installed unit.
 - (b) Only during the period 9:00 a.m. to 5:00 p.m.
 - (c) Testing shall not exceed thirty (30) minutes.
- (f) *Fees.*
 - (1) A fifty dollar (\$50.00) fee shall be paid to the Planning Department as part of the site plan inspection.
 - (2) Additional fees shall be established pursuant to Ordinance No. 15-04-1822, as amended, "Processing Fee Schedule", of the City of South Miami.
 - (3) If the generator is externally filled, or does not meet emissions certifications standards, the Planning Department or Building Department may have to assess additional fees to the applicant for research into whether or not the generator meets safe emissions standards.
- (g) *Final Inspection.*
 - (1) Applicant shall setup a final site plan inspection with the Planning Department within seven (7) days of final installation and screening of permanent generator and outdoor fuel storage area, where applicable.
 - (2) No later than six (6) months following the approval for a permanent generator, the applicant shall schedule a final inspection with the Department for verification and acceptance of the final work authorized.
 - (3) Failure to meet final inspection deadlines shall:
 - (a) Prohibit the installation and use of the permanent generator, and
 - (b) Cancel the application process and force applicant to reapply to the Planning Department and Building Department and pay all appropriate fees, or
 - (c) Force the applicant to immediately remove the generator from the property with notice, if there is no compliance.
- (U) *Outdoor Lighting Spillage.*
 - (A) *Purpose and Intent.* It is the purpose of this section to establish a minimum standard for the provision and use of outdoor lighting on public and private property and in residential areas in order to assure night-time safety and security for private property while at the same time protecting adjacent properties from intrusive light conditions.

All outdoor lighting fixtures installed on private and public property after the effective date of this ordinance shall comply with this ordinance. This ordinance does not apply to interior lighting. However, overly bright inside light emitted outdoors from any structure will be subject to control by this ordinance if it is determined by the code administrator that it creates a nuisance glare or a disabling glare as defined by this ordinance.

(B) *General Requirements.*

- (1) All outdoor lighting affecting residential zoned districts, (RS, RT, RM, PUD-R) shall be designed so that any overspill of lighting onto other properties shall not exceed one-half ($\frac{1}{2}$) foot candle (vertical) and one-half ($\frac{1}{2}$) foot candle (horizontal) illumination on other properties. However, any special requirements concerning lighting for the categories listed below shall take precedence.
 - (a) Lighting specified or identified in a specific use permit.
 - (b) Lighting required by federal state, or county law.
- (2) For residential properties, including multiple residential properties not having common areas, all outdoor lighting must be shielded and shall not exceed one thousand two hundred sixty (1,260) lumens.
- (3) Light trespassing onto residential property is prohibited except for lights associated with street, roadway or public safety lighting.
- (4) External illumination of displays, buildings and architectural features shall be performed with a luminaire or luminaries with a total rating, of all luminaries combined, of not more than two thousand (2,000) initial lumens. Lighting shall be specifically targeted at particular architectural features and shall not project beyond such features.

(C) *Measurement.*

Horizontal measurements shall be taken at a height five (5) feet above, or immediately above any barrier, at or near the property line of the affected property and the vertical measurement shall be taken at or near the property line of the affected property, or at a location on the affected property that provides the highest reading.

(D) *Definitions as used in this section.*

1. *Accent lighting* means any directional lighting which emphasizes a particular object or draws attention to a particular area.
2. *Foot candle* means a measure of luminance or light intensity received on an area of a surface that is a sphere with a one (1) foot radius, or how bright the light is one (1) foot away from the source. The foot candle is equal to one (1) lumen per square foot.
3. *Disabling glare* means lighting that impairs visibility and creates a potentially hazardous situation for any person, including pedestrians and motorists.
4. *Lamp* or *Bulb* means the light-producing source installed in the socket portion of a luminaire or fixture.
5. *Light pollution* means general sky glow caused by the scattering of artificial light in the atmosphere and resulting in decreased ability to see the natural night sky.
6. *Light trespass* means light emitted by a fixture that shines beyond the property on which the fixture is installed.
7. *Lumen* means a measurement of the total amount of visible light emitted by a source
8. *Luminaire* or *Fixture* means a complete lighting unit including the lamps or bulbs, together with the parts required to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.
9. *Nuisance glare* means light that creates an annoyance or aggravation but does not create a potentially hazardous situation.
10. *Shielding* means that no light rays are emitted by a fixture above the horizontal plane running through the lowest point of the fixture where light is emitted.

11. *Spotlight or Floodlight* means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

(E) *Requirements for Residential Landscape Lighting.*

1. Shall comply with the above requirements.
2. Shall not be aimed onto adjoining properties.

(F) *Lighting Exceptions.* It is recognized by the City that there are certain uses or circumstances not otherwise addressed in this Article. The following types of lighting shall be exempt from, and are not regulated by, this ordinance but shall be placed and directed to minimize the detrimental effects of glare on motorists, pedestrians and abutting lots:

- (a) Lighting within the public right-of-way or easement for the principle purpose of illuminating streets or roads. No exception shall apply to any lighting within the public right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public right-of-way or easement, unless regulated with a street lighting ordinance.
- (b) Lighting for public monuments or statuary.
- (c) Lighting solely for signs as regulated under Section 20-4.3, Sign Regulations.
- (d) Temporary lighting used on construction sites, where the hours during which construction is permitted is permissible under the zoning ordinance or through special provision approved by the City.
- (e) One (1) partially shielded or unshielded luminaire at the main entry, which may not exceed four hundred twenty (420) lumens.
- (f) Any other partly shielded or unshielded luminaires not exceeding four hundred twenty (420) lumens.
- (g) Low voltage landscape lighting aimed away from adjacent properties and not exceeding one thousand fifty (1,050) lumens.
- (h) Low voltage landscape lighting controlled by an automatic device that is set to turn the lights off at one (1) hour after the site is closed to the public or at a time established by the City.
- (i) Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding one thousand two hundred sixty (1,260) lumens.
- (j) Open flame gas lamps.
- (k) Lighting installed with a vacancy sensor, where the sensor extinguishes the lights within fifteen (15) minutes after the area is vacated.
- (1) Temporary lighting for theatrical, television, performance areas, or construction sites.
- (m) Underwater lighting in swimming pools and other water features.
- (n) Temporary lighting and seasonal lighting provided that individual lamps are less than ten (10) watts and seventy (70) lumens.
- (o) Lighting that is used only under emergency conditions.
- (p) Outdoor recreational facilities, provided that no such facility shall be illuminated after 10:30 p.m.

(V) *Commercial Activity Conducted Outside of a Building.*

- (1) No commercial activity with the exception of those uses and activities listed in Sections (3) and (4) below shall be allowed to be conducted outside of a building, unless a proper permit is issued pursuant to the regulations set forth in this section.

- (2) Private property. Outside retail merchandise display set out on private property shall be permitted subject to the following limitations and conditions;
- (a) The outside merchandise display may only include items which are sold inside the building of the business; the business must have a valid current business tax receipt (occupational license);
 - (b) A restaurant may not have an outside display of retail merchandise;
 - (c) The outside display of retail merchandise may not be placed on any vehicular parking spaces or in any area which blocks access to or from a required vehicular parking area;
 - (d) The outside merchandise display may only occupy a maximum square footage of ten (10) percent of the gross square footage occupied by the business inside the building; the posted permit as required by subsection (j) below, shall indicate the square footage of the business inside the building and the square footage occupied by the outside display of retail merchandise. Additional parking spaces are required for all additional square footage of outdoor display;
 - (e) The outside merchandise display may only include retail merchandise that can be immediately carried away by a customer after purchase; merchandise which requires delivery to the customer or requires being carried by hand truck or similar device is prohibited from being displayed outside the business;
 - (f) The outside merchandise may only be displayed while the business is open and must be removed on or before the close of business for each calendar day;
 - (g) Retail merchandise display set out on private property must obtain a permit from the Code Enforcement Department as set forth in the City's Schedule of Fees;
 - (h) The outside display of retail merchandise permit regulations will be enforced using procedures set forth in the Code of Ordinances;
 - (i) The outside display of retail merchandise permit may be revoked by the City Manager upon finding that one (1) or more conditions of these regulations were violated, or that the outside display of retail merchandise is being operated in a manner which constitutes a public nuisance or in any way constitutes a reasonable risk of potential liability to the City;
 - (j) Any business purchasing an outside display of retail merchandise permit consents to abide by the limitations and conditions set forth in this ordinance and shall display the required permit so that it is visible on the outside of the building during any period when there is an outside display of retail merchandise; a copy of this ordinance shall be furnished to all businesses purchasing an outside display of retail merchandise permit.
- (3) Recognized outside uses. The following permitted and licensed uses are recognized as businesses which must conduct commercial business outside of a building; however, the placement of retail merchandise outside of a building by the listed businesses shall nevertheless comply with the provisions or require adherence to the requirements, limitations and conditions concerning displays of merchandise outside of a business:
- (a) Agricultural farming activities on public property;
 - (b) Vehicle repair and detailing;
 - (c) Vehicle sales;
 - (d) Motor vehicle service stations;
 - (e) Bicycle rentals, sales, and service;
 - (f) Commercial nurseries;
 - (g) Outdoor dining/seating areas when part of a permitted and licensed restaurant.

- (4) Special events exempted. Retail sales and activities associated with special events such as, but not limited to, art fairs, art festivals, fund raising events, and special promotion programs which have received a Special Events Permit from the City shall not be required to obtain a permit for the outside display of retail merchandise as set forth in this ordinance.
 - (5) Reserved.
 - (6) Limited effective area.
 - (a) The rights and privileges granted by this ordinance are available only to properties located within the Zoning Use Districts of SR, NR and TODD-MU5.
 - (b) A business establishment may only place outdoor displays on private property.
- (W) *Solar Requirements.*
- (1) *Applicability.* All new construction of single-family residences with living area greater than one thousand one hundred (1,100) square feet, townhouses, and any multi-story residential building where a section of roof can be reasonably allocated, as determined by the Director of the Building Department or the Planning and Zoning Department, to a separately metered dwelling unit (hereinafter referred to as "qualifying multi-story residential building"), that apply for preliminary approval (or final approval if no preliminary approval was obtained) by the **Environmental Review and Preservation Board** on or after September 18, 2017 shall design and construct the roof so as to withstand the weight of all product approved roofing material with the weight of solar collectors and shall install at least the minimum amount of solar collectors required in subsection (2) of this section (W). This requirement shall also apply to existing residential buildings as described above, if an alteration or addition is made that either increases the square footage of the principal structure by seventy-five (75) percent or greater, or that replaces seventy-five (75) percent or more of the existing sub-roof (any portion of the sub-roof that is necessarily replaced due to damage from a natural disaster shall not be included in the calculation of this percentage).
 - (2) *Minimum Required Installation.* Solar collectors shall be installed in at least the following amounts, provided a sufficient solar zone exists to accommodate them as determined by the certification of an architect or engineer who shall also certify the total size of available solar zone in square feet:
 - i. A minimum of two and three-quarters (2.75) kW nameplate photovoltaic capacity per one thousand (1,000) square feet of living area provided there is sufficient space within the available roof top solar zone; or
 - ii. One hundred seventy-five (175) square feet of solar collectors per one thousand (1,000) square feet of roof area.
 - iii. Sufficient solar collectors to fill the available solar zone, to the extent that such construction is allowed by the Florida Building Code.
 - (3) *Avoiding the Creation of Shade.* Structures shall be designed in such a way so as to maximize the available solar zone and for structures which have been designed by an architect or engineer, the plans submitted shall include a certificate from the architect or engineer of record certifying that the design of the structure has maximized the available solar zone. Obstructions which are not located on the roof or another part of the building, such as landscaping or a neighboring building are not subject to these placement requirements.
 - (4) *Minimum Specifications for Solar Collectors.*
 - i. Solar photovoltaic systems: Photovoltaic collectors satisfying the requirements of this section shall be at rated at no less than ten (10) watts DC faceplate capacity per square foot.
 - ii. Solar thermal systems: Single-family residential solar domestic water heating systems shall be OG-300 System Certified by either the Solar Rating and Certification Corporation (SRCC) or the International Association of Plumbing and Mechanical Officials (IAPMO).

- iii. Solar photovoltaic systems and solar thermal systems shall be installed in accord with all applicable state code requirements, including access, pathway, smoke ventilation, and spacing requirements, all applicable local code requirements, and manufacturer's specifications.
- (5) *Approval and Compliance.* All solar installations shall be permitted through the City. The plans shall demonstrate that the requirements of the City code and the Florida Building Code are satisfied and the engineer or architect of record shall sign and seal the plans indicating compliance. Subsequent review approval shall be carried out through the standard review processes for residential construction. Inspection shall be performed by the Building Department as per the City's permit requirements for solar power or water heating installations. Enforcement of this subsection shall be carried out by the City including the Code Enforcement Division.

(Ord. No. 1-90-1444, 1-2-90; Ord. No. 2-90-1452, 7-24-90; Ord. No. 12-90-1452, 7-24-90; Ord. No. 21-91-1486, 8-20-91; Ord. No. 30-91-1494, 12-17-91; Ord. No. 1-92-1496, 1-7-92; Ord. No. 15-92-1510, 9-1-92; Ord. No. 30-92-1525, 11-3-92; Ord. No. 6-93-1535, 6-1-93; Ord. No. 7-94-1556, § 1, 4-19-94; Ord. No. 14-94-1563, § 2, 9-7-94; Ord. No. 21-94-1571, §§ 1—5, 12-20-94; Ord. No. 22-94-1572, § 1, 12-20-94; Ord. No. 13-96-1613, §§ 1, 2, 7-30-96; Ord. No. 16-97-1637, § 1, 6-3-97; Ord. No. 12-00-1714, § 3, 4-18-00; Ord. No. 27-01-1758, § 1, 10-16-01; Ord. No. 27-05-1849, § 1, 8-16-05; Ord. No. 32-05-1854, § 1, 9-6-05; 09-06-1877, § 1, 3-7-06; Ord. No. 30-06-1898, § 1, 12-5-06; Ord. No. 24-08-1959, § 1, 7-29-08; Ord. No. 50-08-1985, § 1, 10-21-08; Ord. No. 08-09-2000, § 1, 6-2-09; Ord. No. 17-11-2090, § 1, 4-19-11; Ord. No. 25-11-2098, § 2, 9-6-11; Ord. No. 11-12-2127, § 1, 8-21-12; Ord. No. 29-12-2145, § 1, 12-4-12; Ord. No. 11-14-2189, § 1, 5-20-14; Ord. No. 14-16-2247, § 1, 6-21-16; Ord. No. 23-16-2256, § 2, 9-20-16; Ord. No. 14-17-2284, § 2, 7-18-17)

20-4.3 - Sign regulations.

- (A) *Purpose and Intent.* Regulations affecting the design, erection and maintenance of signs are established for the purpose of ensuring equitable means of graphic communication, while maintaining a harmonious and aesthetically pleasing visual environment within the city. It is recognized that signs form an integral part of architectural building and site design and require equal attention in their design, placement and construction.
- (B) *Applicability and Definitions.* No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered or relocated, until a permit has been authorized and issued by the Building and Planning Department pursuant to this Code and the required submittals in Section 20-4.3(J). Signs in all zoning districts, except for PUD districts, shall be subject to the regulations in this section. Permitted sign regulations for PUD districts are referenced in those sections of this Code. Words and phrases used in this section shall have the meanings set forth below.

Beacon. Shall mean any light with one single, vertical beam directed into the atmosphere.

Pole Sign, portable commercial parking lot. Shall mean a single freestanding pole, not exceeding an overall height of six feet. The pole sign is restricted to the international parking symbol of P inside a circle with an area not exceeding 2.5 sq. ft. The sign shall have a reflective surface.

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

Sign, address identification. Shall mean a sign which gives the name of the owner or occupant and/or the postal address of the property in numerical or written form.

Sign, animated. Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Sign, awning. Shall mean any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not an awning.

Sign, building marker. Shall mean any sign indicating the name of a building and date and incidental information about its construction (e.g., historical plaques).

Sign, changeable copy. Shall mean any sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign.

Sign, construction. Shall mean a sign which is displayed on the premises only during the progress of actual construction work which indicates the ultimate character of the development and those firms or individuals involved in its creation.

Sign, detached (Also Freestanding or pole). Shall mean any sign supported by one or more poles or other structures that are placed on, or anchored in, the ground and that are independent from buildings or other structures.

Sign, directional. Shall mean a sign which transmits information which facilitates vehicular access to and from off-street parking or drive-in facilities.

Sign, directory. Shall mean a single line listing of each distinct business holding a valid occupational license (whether individual, partnership, or corporate) within a multi-occupant building. This listing may include the floor and/or suite number within the building.

Sign, display panel. Shall mean any sign located beside the entrance to the business containing a listing of merchandise offered, like food and beverage offerings for restaurants. This listing may change from time to time.

Sign, flat. Shall mean any sign attached to and erected parallel to the face of, or erected or painted on the outside wall of, a building and supported throughout its length by such a wall or building. Flat signs may not project more than nine (9) inches beyond the surface of a building wall in any direction, including permitted projections beyond the top of parapet.

Sign, garage sale. Shall mean a temporary sign erected on private property for the purposes of notifying the public of a garage sale.

Sign, free-standing (See "Sign, detached").

Sign, freestanding menu board. Shall mean a sign with a listing of food and beverage offerings for drive-in patrons of restaurants. Menu board signs may include microphones and speakers for customer use within the menu board sign structure.

Sign, hanging. Shall mean any sign which is displayed over a public sidewalk or pedestrian way and supported from a projected canopy, awning, arcade ceiling, bracket or roof overhang.

Sign, landscape. Shall mean a detached sign appropriately landscaped in a park-like manner and designed to be compatible with adjacent architecture.

Sign, marquee. Shall mean a sign which is attached to and projects more than nine (9) inches from the surface of a building. Any sign attached to, in any manner or made a part of a marquee. A marquee is any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Sign, mural. Shall mean any painted image or graphic which is applied to a building or structure, where no portion projects more than three (3) inches from the surface of the principal building.

Sign, name plate. Shall mean a sign identifying the owner or occupant of the premises or the street address of the premises and located on an entry door or directly adjacent thereto.

Sign, pole (See "Sign, detached").

Sign, political or campaign. Shall mean a sign erected to advocate the candidacy of a party or individual for elective office or an issue, cause or referendum.

Sign, portable commercial parking lot. Shall mean an A-frame sign which is permitted for licensed commercial parking lots and may be located on either public or private property.

Sign, portable outdoor dining. Shall mean an A-frame sign which is permitted for restaurants which are licensed to provide outdoor dining areas on either public or private property.

Sign, portable. Shall mean a sign of any size, type or material which is attached to a vehicle or structure and can be moved from place to place on wheels, skids or similar means; and all signs converted to A- or T-frames, sandwich board signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used for normal day-to-day operations.

Sign, project identification. Shall mean a sign relating to a multiple-family unit residential project and identifying the accepted name of the project, but which does not include rental or sales information or tenant or owner names.

Sign, projecting. Shall mean any sign affixed to a building or wall in such a manner that its leading edge extends more than nine inches beyond the surface of such building or wall.

Sign, real estate. Shall mean a sign which indicates a property is for sale, rent or lease.

Sign, roof. Shall mean a sign which is fastened to and supported by or on the mansard or shed roof of a building; or any sign erected or constructed as an integral part of, or essentially integral part of, a normal roof structure; or any sign supported by the roof structure.

Sign, snipe. Shall mean a sign of any material, including paper, cardboard, wood and metal, when such sign is tacked, nailed or attached in any way to trees, utility poles or other objects and where such sign does not apply to premises whereon it is located.

Sign, temporary. Shall mean any sign of lightweight fabric or similar material that is mounted to a pole or a building at two or more edges. National flags, state or municipal flags, or the official flag of any institution shall not be considered temporary signs or banners. All temporary signs shall be approved by the Planning and Zoning Department which may consider the type of lettering, color, location or compatibility of the proposed sign.

Sign, tow away zone. Shall mean a sign posted on private property that warns the public that parking is restricted by the private owners and gives information concerning the tow away policy established for the premises with a private towing company.

Sign, window or door glass identification. Shall mean a sign with any display of characters or letters on a single window or door glass, or such sign which is behind and visible through such a window or door glass, including both temporary information signage and permanently erected signage.

(C) *Exceptions from the Permit Application Requirements found under Section 20-4.3(J).* The following signs or displays may be erected without a permit or review by the City, but shall comply with all structural and safety requirements of the Building Code; however, all electrical installations and modifications may only be initiated upon issuance of a valid electrical permit:

- (1) City erected signage on City property, private property or public rights-of-way, and any official Federal, State, County or City traffic information, warning or danger signs, handicapped parking and all other signage required by any applicable codes.
- (2) One national flag of the United States of America and, in addition, three other flags of choice (see subsection (3) below). Maximum flag size is 8-foot by 5-foot. Proper flag etiquette must be followed.
- (3) National flags or flags of political subdivisions of the United States, or bona fide civic, charitable or fraternal organization flags, and one business/company logo flag limited to one (1) flag per property. Maximum flag size is 8-foot by 5-foot. Proper flag etiquette must be followed.
- (4) Changing of copy on permitted bulletin boards, display encasements or marquees, provided that no change is made in the size or character of the sign.
- (5) Signs on trucks, buses and other vehicles, while in use in the normal course of business.
- (6) Street address identification signs that do not exceed one (1) square foot in area.
- (7) Construction, name plate, real estate, information window signs, one non-illuminated permanent window sign which is one (1) square foot or less in area, political or campaign signs, tow away zone signs, and garage sale signs.
- (8) Religious symbols such as crosses or other traditional religious symbols associated with religious structures shall not be considered as signage when included as part of structures being made use of as a place of religious observance.
- (9) Decorative neon trim in windows and decorative neon as an architectural feature.
- (10) Temporary signs as regulated under Section 20-4.3(1); however, a temporary sign permit is required, pursuant to the policy established by the Planning and Zoning Department.

(D) *Illumination.*

- (1) No sign shall be either directly or indirectly illuminated unless permitted within this Code. Illumination is specified under each sign category in Section 20-4.3(I).
- (2) When a sign is permitted to be illuminated directly, it may also be illuminated indirectly.
- (3) Directly illuminated signs may give forth light or be designed to reflect light from one or more sources erected for the purpose of providing light for the sign, provided that lighting is positioned so that none of the light shines onto an adjacent property nor into the eyes of motorists or pedestrians.

- (4) Indirectly illuminated signs may not produce light from within, nor be of neon, nor be neon-lighted, but such signs may be illuminated by a light source not a part of, or attached to, the sign itself.
- (5) No reference to illumination shall be construed to mean that all types of illumination are prohibited for that particular category of sign.
- (6) All signs which are electrically illuminated shall require a separate electrical permit and inspection.
- (7) Electrical equipment and housing, wiring and conduit, tracks and nondecorative fixtures utilized in connection with any illuminated sign shall be concealed from public view.
- (E) *Prohibited Signs and Sign Characteristics.* No sign shall be constructed, erected, used, operated or maintained which:
 - (1) Blinks, flashes, rotates or displays intermittent lights similar to or resembling flashing lights customarily associated with danger or customarily used by police, fire or other emergency vehicles.
 - (2) Uses the words "stop" or "danger" or implies the need or requirement for stopping; or which is a copy or imitation of an official sign. Prohibition of the words "stop" or "danger" does not apply in instances when such words are used in descriptive lines of advertising, so long as they are not used to copy or imply any official traffic warning.
 - (3) Creates a blended background of colored lights with traffic signal lights which might confuse motorists when viewed from a distance of up to three hundred (300) feet.
 - (4) Projects over any public street, sidewalk or alley in a single-family residential zoning district.
 - (5) Is a snipe sign on either public or private property.
 - (6) Is a balloon or blimp.
 - (7) Is located on the roof, except for signs located on mansard or shed roofs where such signs are permitted.
 - (8) Advertises products, services or establishments not available on premises.
 - (9) Is located on a back lit and translucent awning.
 - (10) Is a flat or hanging sign not providing adequate clearance above public walkways as required by the Land Development Code and the Florida Building Code.
 - (11) Blocks egress, ingress, light or ventilation to a site.
 - (12) Conveys the impression that property or structures can be used for purposes not permitted by this Code or other regulations.
 - (13) Is a pennant, streamer or other fluttering, spinning or similar type sign, including all animated signs.
 - (14) Is portable or movable, including those signs that are tied down with metal straps, chaining or otherwise temporarily anchored to an existing structure or other similar method of anchoring, excluding permitted PORTABLE OUTDOOR DINING signs.
 - (15) Is a sign painted or affixed in any manner to any vehicle, trailer or truck or similar transportable device and which is used to advertise a place of business or activity as viewed from a public right-of-way, except for:
 - (a) Commercial vehicle signs when such vehicles are operational and used daily for delivery or service purposes and not used or intended for use as portable signs, and
 - (b) Buses, taxis or similar common carrier vehicles which are licensed or certified by Miami-Dade County or other governmental agencies.

(F) *Compliance Required.*

- (1) BUILDING MARKER, BEACON, CHANGEABLE COPY, DIRECTORY, DISPLAY PANEL, FLAT, MURAL, NAME PLATE, PROJECT ID, MANSARD OR SHED ROOF, TEMPORARY, INFORMATION WINDOW and PERMANENT WINDOW signs shall comply with setbacks of existing facilities or required yard setbacks for new facilities and must be directly affixed to a building surface.
- (2) All signs shall comply with the structural, electrical and safety requirements of the Florida Building Code and all other applicable codes.
- (3) All signs shall comply with the triangle of visibility requirements of Section 20-3.6G.
- (4) All signs shall comply with the Code regulations applicable to nonconforming uses.
- (5) The premises owner, tenant or erector of the sign shall be held responsible for any compliance violations.
- (6) ADDRESS IDENTIFICATION, CONSTRUCTION, DETACHED, DIRECTIONAL, GARAGE SALE, LANDSCAPE, MENU BOARD, POLITICAL and REAL ESTATE signs may be double-sided; however, permitted area is computed from the physical dimensions of the sign for one side only. Such signs may be permitted in required yard setbacks, but shall not be permitted on or over any public street or right-of-way.
- (7) AWNING SIGNS, HANGING SIGNS, MARQUEE and PROJECTING signs are permitted to project over the public right-of-way, eighteen (18) inches from any curb line and provide a minimum unobstructed, clear space of seven and one-half (7.5) feet between grade and the bottom of the sign; and signs must be firmly secured or fastened.
- (8) HANGING, MARQUEE and PROJECTING signs are permitted to be double-sided and erected perpendicular to the address street front of the establishment advertised.
- (9) PORTABLE OUTDOOR DINING signs are permitted to be double-sided and may be located within the leased area of public sidewalks by restaurants licensed to serve patrons on public sidewalks or located on private property under the control of such restaurants.

(G) *Removal Procedures.*

- (1) Any sign or sign structure which is neglected, decrepit, dilapidated, not well maintained or in violation of these regulations shall be removed, after due notice to the owner or lessee of the site or sign is given.
- (2) The City shall remove or cause to be removed, at the owner's expense, any sign erected or maintained in conflict with this Code if the owner or lessee of either the site or the sign fails to correct the violation within five (5) working days after receipt of written notice of the violation. Sign removal by the City shall not affect any proceedings instituted prior to the removal of such sign.
- (3) Any sign previously associated with a vacated premises shall be:
 - (a) Removed from the premises by the owner or lessee no later than one (1) month from the time such activity ceases to exist; or
 - (b) Altered by the owner or lessee within the same time period so that the sign shall not display any information pertaining to the activity formerly associated with the vacated premises.

(H) *Permitted Sign Schedule.*

- (1) Signs shall be permitted in the various zoning districts in accordance with the following schedule.
- (2) Whenever a business is an existing non-conforming use; such an establishment shall be permitted to erect signage as if the business were located where the use is permitted.

- (3) LANDSCAPE and PROJECTING SIGNS must be reviewed by the **Environmental Review and Preservation Board**. Required submittals shall be per Section 20-4.3(J).
- (4) ADDITIONAL SIGNS as described under Section 20-4.3(L) may be permitted upon the **approval of the Environmental Review and Preservation Board**.
- (5) ALL SIGNS to be permanently erected, constructed, posted, painted, altered or relocated on a designated historic structure or a "contributive" building must be reviewed by the Historic Preservation Board prior to the issuance of a building permit for such signage.

(I) *[Zoning Districts.]*

(1) *RS-Single Family Residential Districts.*

Sign Type	Conditions
ADDRESS ID	One (1) ADDRESS IDENTIFICATION SIGN per premises permitted, not to exceed one (1) square foot in area. Direct illumination is permitted.
BUILDING MARKER	One (1) BUILDING MARKER SIGN per premises permitted, not to exceed two (2) square feet in area.
CONSTRUCTION	One (1) CONSTRUCTION SIGN per lot, not to exceed four (4) square feet in area nor six (6) feet in height to be erected only during the progress of actual construction.
GARAGE SALE	One (1) GARAGE SALE SIGN is permitted per single-family residential dwelling unit, two-times only, for two weekends including Friday only, per each calendar year, not to exceed two (2) square feet in area. Said sign may only be erected on the private property where the garage sale is to be located from sunrise to sunset.
POLITICAL	One (1) POLITICAL OR CAMPAIGN SIGN may be permitted as provided in Miami-Dade County Code of Ordinances.
REAL ESTATE	One (1) REAL ESTATE SIGN per lot, not to exceed two (2) square feet in area with three "riders" permitted.

(2) *RT-Townhouse Districts.*

Sign Type	Conditions
ADDRESS ID	One (1) ADDRESS IDENTIFICATION SIGN per premises permitted, not to exceed one (1) square foot in area. Direct illumination is permitted.
BUILDING	One (1) BUILDING MARKER SIGN per premises permitted, not to exceed two (2)

MARKER	square feet in area.
CONSTRUCTION	One (1) CONSTRUCTION SIGN per lot, not to exceed four (4) square feet in area nor six (6) feet in height to be erected only during the progress of actual construction.
DIRECTIONAL	Two (2) DIRECTIONAL SIGNS per lot, not to exceed two (2) square feet in area per sign nor four (4) feet in height. Indirect illumination permitted.
GARAGE SALE	One (1) GARAGE SALE SIGN is permitted per single-family residential dwelling unit, two-times only, for two weekends including Friday only, per each calendar year, not to exceed two (2) square feet in area. Said sign may only be erected on the private property where the garage sale is to be located from sunrise to sunset.
POLITICAL	One (1) POLITICAL OR CAMPAIGN SIGN may be permitted as provided in Miami-Dade County Code of Ordinances.
PROJECT ID	One (1) PROJECT IDENTIFICATION SIGN per lot, not to exceed four (4) square feet in area. Indirect illumination is permitted.
REAL ESTATE	One (1) REAL ESTATE SIGN per lot, not to exceed six (6) square feet in area. For sites of five (5) acres or more in area, such signs shall not exceed twenty-four (24) square feet in area.
TOW AWAY ZONE	TOW-AWAY ZONE SIGNS are permitted per Florida Statutes.

(3) *RM-Multi-Family Residential Districts.*

Sign Type	Conditions
ADDRESS ID	One (1) ADDRESS IDENTIFICATION SIGN per premises permitted, not to exceed one (1) square foot in area. Direct illumination is permitted.
BUILDING MARKER	One (1) BUILDING MARKER SIGN per premises permitted, not to exceed two (2) square feet in area.
CONSTRUCTION	One (1) CONSTRUCTION SIGN per project, not to exceed sixteen (16) square feet in area nor eight (8) feet in height for sites of less than five (5) acres in area to be erected only during the progress of actual construction. For sites of five (5) acres or more in

	area, such signs shall not exceed thirty-two (32) square feet in area nor eight (8) feet in height to be erected only during the progress of actual construction.
DIRECTIONAL	Two (2) DIRECTIONAL SIGNS per lot, not to exceed two (2) square feet in area per sign nor four (4) feet in height. Indirect illumination is permitted.
POLITICAL	One (1) POLITICAL OR CAMPAIGN SIGN may be permitted as provided in Miami-Dade County Code of Ordinances.
PROJECT ID	One (1) PROJECT IDENTIFICATION SIGN per lot, not to exceed four (4) square feet in area. Indirect illumination is permitted.
REAL ESTATE	One (1) REAL ESTATE SIGN per lot, not to exceed six (6) square feet in area. For sites of five (5) acres or more in area, such signs shall not exceed twenty-four (24) square feet in area.
TOW AWAY ZONE	TOW-AWAY ZONE SIGNS are permitted per Florida Statutes.

(4) *RO-Residential Office Districts.*

Sign Type	Conditions
ADDRESS ID	One (1) ADDRESS IDENTIFICATION SIGN per premises permitted, not to exceed one (1) square foot in area. Indirect illumination is permitted.
BUILDING MARKER	One (1) BUILDING MARKER SIGN per premises permitted, not to exceed two (2) square feet in area.
CONSTRUCTION	One (1) CONSTRUCTION SIGN per project, not to exceed four (4) square feet in area nor six (6) feet in height to be erected only during the progress of actual construction.
DIRECTIONAL	Two (2) DIRECTIONAL SIGNS per lot, not to exceed two (2) square feet in area per sign nor four (4) feet in height per sign. Direct illumination is permitted.
FLAT	One (1) FLAT sign not to exceed six (6) square feet in area, nor six (6) feet in length, to be located on the postal address side of the building. Signage is not permitted on side streets facing residences.

NAME PLATE	One (1) NAME PLATE identification sign per licensed business establishment, not to exceed one (1) square foot in area. Indirect illumination is permitted.
POLITICAL	One (1) POLITICAL OR CAMPAIGN SIGN may be permitted as provided in Miami-Dade County Code of Ordinances.
REAL ESTATE	One (1) REAL ESTATE SIGN per lot, not to exceed six (6) square feet in area. For sites of five (5) acres or more in area, such signs shall not exceed twenty-four (24) square feet in area.
TEMPORARY	One (1) TEMPORARY sign may be permitted by special permit issued by the Planning and Zoning Department. Only one (1) sign is permitted per calendar year for each licensed business establishment. Each sign shall be permitted for no more than 30 days, except that this time limit may be extended by the Planning and Zoning Department twice, for 30 days each, where total duration, including all approved extensions, shall not exceed 90 days. A temporary sign may be permitted up to 30 square feet in area. A temporary sign must be firmly affixed to the front face of a building.
TOW AWAY ZONE	TOW-AWAY ZONE SIGNS are permitted per Florida Statutes.

(5) *All Other Zoning Districts.*

Sign Type	Conditions
ADDRESS ID	One (1) ADDRESS IDENTIFICATION SIGN per premises permitted, not to exceed one (1) square foot in area.
AWNING	One (1) AWNING SIGN per each awning is permitted, not to exceed five (5) square feet in area for every ten (10) linear feet of awning, on the vertical edge of an awning, where no individual character may exceed six (6) inches in height; additionally, one (1) company logo is permitted per separate awning, not to exceed 50% of the vertical height of the awning structure.
BUILDING MARKER	One (1) BUILDING MARKER SIGN per premises permitted, not to exceed two (2) square feet in area. Indirect illumination is permitted.

BEACON	Two (2) BEACONS per premises permitted, as part of the architectural design of the principal structure.
CHANGEABLE COPY	One (1) detached bulletin board, not to exceed ten (10) square feet in area, is permitted in each yard area facing a street. Indirect illumination is permitted.
CONSTRUCTION	One (1) CONSTRUCTION SIGN per project, not to exceed sixteen (16) square feet in area nor eight (8) feet in height for sites of less than five (5) acres in area to be erected only during the progress of actual construction. For sites of five (5) acres or more in area, one sign facing each public street, such signs shall not exceed thirty-two (32) square feet in area nor eight (8) feet in height to be erected only during the progress of actual construction. Indirect illumination is permitted.
DIRECTIONAL	DIRECTIONAL SIGNS, not to exceed five (5) square feet in area per sign nor four (4) feet in height. Direct illumination is permitted.
DIRECTORY	One (1) DIRECTORY SIGN is permitted per building. Directory signs must be attached to a lobby, hallway, or arcade. A directory sign must be located within ten (10) feet of the building's main entrance. Lettering on directory signs may be of a removable style, but no character may exceed one and one-half (1.5) inches in height. The total area of any directory sign shall be no greater than six (6) square feet in area. Indirect illumination is permitted.
DISPLAY PANEL	One (1) DISPLAY PANEL permitted per establishment, not to exceed four (4) square feet in area. Indirect illumination is permitted.
FLAT	FLAT SIGNS with a total aggregate sign area, not to exceed twenty (20) percent of the area of any building face; for the purposes of sign regulation, there shall be considered to be only four (4) facades to any building; no single sign shall exceed two hundred (200) square feet in area. Direct illumination is permitted.
HANGING	One (1) HANGING SIGN per establishment, not to exceed three (3) square feet in area each. Signs shall be uniform in size and design within a single property, but may vary in lettering style and color, provided that they are compatible and coordinated with other signs for individual establishments in the same development. Indirect illumination is permitted.
LANDSCAPE	One low-profile landscape sign may be permitted per project when approved by the Environmental Review and Preservation Board; the landscape sign shall be a detached, low-profile sign which is either of a single-face or double-face design; the landscape sign shall not exceed four (4) feet in height from grade, nor twenty

	(20) square feet in area; and the landscape sign must be appropriately landscaped in a park-like manner, designed to be compatible with adjacent architecture of the surrounding premises. Direct illumination is permitted.
MARQUEE	One (1) MARQUEE SIGN may be permitted, not to exceed ten (10) square feet in area per ten (10) linear feet of street frontage. Direct illumination is permitted. Said sign shall replace permitted flat signs on that building face where affixed.
FREE STANDING MENU BOARD	One (1) MENU BOARD SIGN shall be permitted at each drive-through to a licensed RESTAURANT, not to exceed thirty-five (35) square feet in area nor seven and one-half (7.5) feet in height. A menu board sign may exceed the maximum allowable square footage by up to 10 square feet if the facade of the sign is not significantly visible from a public street, or if visible, screening or landscaping acceptable to the city's ERPB be provided up to the height of the sign. Direct illumination is permitted. Sign may be detached.
MURAL	One (1) MURAL SIGN is permitted per licensed premises where text and logos are limited to 20% of a single facade; graphic, including texts and logos, are limited to 30% of this same single facade area; scenic murals are not limited regarding area, but are limited to same single facade as any graphic ural, text and logos (if any are used).
NAME PLATE	One (1) NAME PLATE identification sign per licensed business establishment and professional license holder, not to exceed one (1) square foot in area per nameplate. Direct illumination is permitted.
POLITICAL	One (1) POLITICAL OR CAMPAIGN SIGN may be permitted as provided in Miami-Dade County Code of Ordinances.
PORTABLE SIGN FOR OUTDOOR DINING	One (1) PORTABLE SIGN per restaurant which is licensed to serve patrons in outdoor dining areas on either public or private property. Said sign shall not exceed four (4) feet in height nor six (6) feet in area, and may only be located within leased area of public sidewalks or on private property. Sign must be removed every night at closing.
PROJECTING SIGN	One (1) PROJECTING SIGN is permitted as a replacement for any permitted FLAT SIGN; signage area must be same as FLAT SIGN, when approved by the Environmental Review and Preservation Board.
REAL ESTATE	One (1) REAL ESTATE SIGN per lot, not to exceed six (6) square feet in area. For sites of five (5) acres or more in area, such signs shall not exceed twenty-four (24)

	square feet in area.
ROOF (MANSARD)	One (1) MANSARD OR SHED ROOF SIGN may be permitted for each business establishment which has a mansard roof. Said sign may be up to thirty (30) percent of the mansard roof area, but must be contained within the face of the mansard roof, parallel to the face of the building, and may not extend beyond any edge of the roof. Indirect illumination permitted. Direct illumination is permitted.
SEARCH LIGHTS	One (1) SET OF SEARCH LIGHTS permitted per licensed business for special events, not to be operated or remain lighted after 11 p.m.
SIGNS FOR COMMERCIAL PARKING LOTS	One (1) PORTABLE SIGN per entrance/exit of a licensed commercial parking, lot, not to exceed a total of four signs. The sign shall not exceed three feet in height nor six square feet in area, and shall be located within private property. One (1) PORTABLE POLE SIGN per site is permissible only during the hours of operation.
TEMPORARY	One (1) TEMPORARY sign may be permitted by special permit issued by the Planning Division. Only one (1) sign is permitted per calendar year for each licensed business establishment. Each sign shall be permitted for no more than 30 days, except that this time limit may be extended by the Planning Division twice, for 30 days each, where total duration, including all approved extensions, shall not exceed 90 days. A temporary sign may be permitted up to 30 square feet in area. A temporary sign must be firmly affixed to the front face of a building.
TOW AWAY ZONE	TOW-AWAY ZONE SIGNS are permitted per Florida Statutes.
WINDOW, INFO.	INFORMATION SIGNS IN DISPLAY WINDOWS shall be limited to ten (10) percent of the total glass area of each window in which such signs are placed; this calculation does not include the area of permanent painted or neon signs in windows; glass area shall be calculated as the area of the opening in the face of the building which contains the window component; individual panes within a mullioned window are calculated together as a single glass area for signage purposes. Permanent signs shall not be permitted under this category.
WINDOW, PERM.	PERMANENT PAINTED OR NEON SIGNS IN DISPLAY WINDOWS, limited to ten (10) percent of the total glass area in which they are located; this calculation does not include the area of information signs in windows; glass area shall be calculated as the area of the opening in the face of the building which contains the window component; individual panes within a mullioned window are calculated together as a single glass area for signage purposes. Direct illumination permitted. Illuminated signage may only include the name of the business establishment.

	Direct illumination is permitted.
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- (6) Properties along South Dixie Highway and along Bird Road (SW 40 Street) may have additional signage as follows:

Sign Type	Conditions
DETACHED SIGNAGE	(a) A minimum street frontage of one hundred (100) linear feet for one pole sign is required; an additional pole sign shall be permitted on property with three hundred (300) linear feet of street frontage or greater on property under single ownership; (b) direct illumination permitted; (c) each permitted sign shall not exceed thirty-five (35) square feet in area nor twelve (12) feet in height from grade; and (e) signs shall not extend into public rights-of-way.
MURALS	One (1) MURAL SIGN is permitted per licensed premises where text and logos are limited to 30% of a single facade which is facing or is primarily visible from South Dixie Highway; graphics, including texts and logos, are limited to 40% of this same single facade area; scenic murals are not limited regarding area, but are limited to same single facade as any graphic mural, text and logos (if any).

- (J) *Permit Application Requirements.* Applications for all signs, excluding signs under subsection (C), shall contain the following:

- (1) Survey or an accurate site plan of the lot depicting the location of all public and private streets, existing signage locations, buildings, parking lots, driveways, and landscaped areas;
- (2) An accurate indication on the site plan of the proposed location of each proposed sign;
- (3) Properly dimensioned and scaled drawings and descriptions showing sign proportions, location of each sign on the buildings, color scheme, lettering or graphic style, material, lighting, and other information which depicts the proposed sign;
- (4) Completed building permit application and electrical permit application (if needed); and
- (5) Building permit and electrical drawings as required by the Florida Building Code.

- (K) *Nonconforming Signs.*

- (1) All existing signs, legal when originally installed, may remain as legal, non-conforming signs (referred to as "grandfathered"). Any "grandfathered" sign may be repaired; however, any alterations, modifications, changes of copy, or expansions will be considered a new sign.
- (2) Signs erected, constructed, posted, painted, altered, or relocated without a permit shall be brought into compliance or removed. If such signs are not brought into compliance or removed after notification by the City, the City may remove said signs and charge the owner of the property for the removal.

- (3) Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. The City shall have the right to recover from the owner or person placing such a sign the full cost of removal and disposal of such sign.
- (L) *Additional Signage.* Other types of signs, not expressly permitted by regulations stated in Section 20-4.3(I), may be approved by the Environmental Review and Preservation Board (ERPB) when the following conditions are met:
 - (1) That the proposed sign is not prohibited by Section 20-4.3(E);
 - (2) That the proposed sign conforms to the Florida Building Code and other code regulations, as applicable;
 - (3) That the proposed additional sign on the building does not occupy more than 30% of the facade on which it is proposed to be installed or more than 20% of any window area; and
 - (4) Detached signs may be permitted on any commercial property with the approval of the Environmental Review and Preservation Board, including detached signs that exceed the permitted location and height standards set forth in Section 20-4.3(I).
- (M) *Computations.* The following principles shall control the computation of sign area and sign height:
 - (1) *Computation of Area of Individual Signs.* The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the sign content, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting structure clearly incidental to the display itself or any other clearly incidental decorative element;
 - (2) *Computation of Area of Multi-faced Signs.* The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than three (3) feet apart, the sign area shall be computed by the measurement of one of the faces; and
 - (3) *Computation of Height.* The height of a sign shall be computed as the distance from grade as defined in this Code to the top of the highest component of the sign or supporting structure.
- (N) *Banners over Rights-of-Way.*
 - (1) Organizations wishing to display a banner over rights-of-way in the City of South Miami must submit a "Banner Request" application to the Planning Department at least thirty (30) days in advance of the banner installation date. event.
 - (2) The city manager will review all requests and will determine whether the request conforms to the following guidelines:
 - (a) Only not for profit organizations may display banners;
 - (b) Banners for no more than three (3) special events shall be displayed at any given time;
 - (c) Banners may only be displayed ten (10) to fourteen (14) days before the advertised event takes place, and banners must be removed within five (5) days after the end of the event.
 - (d) Banner design, artwork, color, size, proposed location and wording must be approved by the city manager, and must be submitted along with request.
 - (3) The organization displaying a banner must provide proof of public liability insurance naming the City of South Miami as additionally named insured for the period of time banner is displayed.
 - (4) The organization requesting the banner shall pay a fee established in the city's adopted fee schedule. in advance, or the actual cost incurred by the city to hang and remove the banner,

whichever is greater. Local entities within the City of South Miami, or events that are held within the municipal boundaries of the city will be eligible for a 50% discount of the established fee. The city commission may adjust this fee from time to time in order to reflect the current costs of installation. The city or one (1) of the firms approved by the city to hang and remove the banners will be the only entities performing this task.

- (5) Banners shall be dropped off for installation and picked up after removal at the City's Public Works Department at times determined by the Public Works Department. It is the applicant's responsibility to collect their banners within five (5) business days following the event. The Public Works Department shall dispose of all banners not picked up by the applicant within the specified time frame. Banners not delivered and/or picked up in a timely manner may incur an additional fee for installation or storage.

(Ord. No. 1-91-1466, 1-15-91; Ord. No. 9-92-1504, 5-19-92; Ord. No. 4-93-1533, 6-1-93; Ord. No. 18-93-1544, §§ 2, 3, 11-16-93; Ord. No. 19-96-1619, § 1, 10-1-96; Ord. No. 6-98-1654, § 3, 4-21-98; Ord. No. 9-99-1683, §§ 2, 3, 5-4-99; Ord. No. 22-01-1753, § 1, 10-2-01; Ord. No. 10-07-1911, § 1, 5-1-07; Ord. No. 02-10-2027, § 1, 1-14-10; Ord. No. 17-11-2090, § 1, 4-19-11; Ord. No. 15-13-2162, § 1, 7-2-13)

Sec. 20-4.5.1 - Tree protection.

A. *Tree Permit Applications, Requirements and Review, Fees.* Except as provided herein, no tree may be removed relocated, trimmed or pruned without a permit and mitigation as provided for in this section which may be issued or denied notwithstanding any recommendation to the City Manager for approval by the **Environmental Review and Preservation Board**. Only the City Commission may approve the removal, relocation or replacement of a heritage or champion trees. A tree in a landscape plan, planted to provide temporary shade until adjacent trees reach maturity may be designated as a "temporary shade tree", and which may be trimmed back or removed at such time as the surrounding trees require additional access to sunlight.

- (1) *Permit Required.* A tree permit shall be required for the removal or relocation of any tree within the City. The removal of trees that are prohibited or exempted by Section 20-4.5.1(N) shall require a permit, in advance of any such removal, but no fees shall be charged for said permit. A tree permit shall also be required for the pruning or trimming of more than one-third (1/3) of the canopy of a tree. No person, agent or representative thereof, directly or indirectly, shall cut down, remove, relocate, or effectively remove any tree on any property, without first obtaining a tree permit as hereinafter provided. No building permit for any work on the subject site, including new construction, additions, carports, pools, decks, fences, driveways, parking lots, tennis courts, demolition, or similar work, shall be issued by the Building Department unless the Planning Department has determined that a valid tree removal, relocation or trimming permit has been issued in accordance with this section. Miami-Dade County retains authority for all applications for Mangroves and natural forest communities work.
- (2) *Application Requirements.* Permit applications shall include the name of the property owner, address where tree work will be performed, tree species and diameter, nature of the work, and reason for removal of a tree. The permit application shall be signed by the property owner and, if applicable, its authorized agent. Applications for tree removal shall also include a scaled drawing of the site showing tree size and location, and a statement of how any other regulated trees are to be protected during any approved tree removal and any associated construction or clearing, or grade changes. The city manager or designee shall attempt to verify the information contained in the application and shall either approve or deny the application as to each regulated tree proposed to be removed. Applications for removal of Heritage trees, which cannot be relocated, may only be approved by resolution of the City Commission.
- (3) *Criteria for Tree Removal, Relocation, and Replacement.* Replacement trees are required to be planted to mitigate Specimen tree removal and \$1,000 shall be paid into the City's Tree Trust Fund in addition to any required mitigation.
- (4) *Imposition of additional conditions.* The city manager or designee, as appropriate, may impose other reasonable conditions where need is demonstrated. Such conditions may include restrictions on percentage of canopy removed or the prohibition of tree removal from certain portions of the site under consideration. The city manager, as appropriate, shall be guided by, but not restricted to, the following criteria in imposing such additional conditions:
 - (a) The need to provide buffers to adjacent developed property;
 - (b) The need to protect soils highly susceptible to soil erosion as identified by the soil survey of the county;
 - (c) The need to protect slopes in excess of ten percent
 - (d) The need to protect existing wetlands, floodplains and flood channels and other environmentally sensitive areas as shown on existing maps, photographs and other reliable and available sources;
 - (e) Any or all of the following conditions may be required:
 - (i) The applicant may be required to redesign the project to preserve specimen tree(s), or any other tree determined by the City Manager to be of substantial value due to its

species, size, age, form and/or historical significance, and to provide an alternate plan, when feasible, which shall include the preservation of said tree(s) and design any alterations within the scope and intent of the initially proposed plan.

- (ii) Where practical, specimen trees, or any other tree determined by the City Manager to be of substantial value due to its species, size, age, form and/or historical significance, that is proposed for removal shall be relocated on or off-site. The applicant shall adhere to acceptable tree relocation specifications, in accordance with ANSI A300 Standards.
 - (iii) If it is impractical to relocate said tree(s) either on or off-site because of viability concerns, the applicant shall be required to replace all trees permitted to be removed in accordance with the tree mitigation requirements in tree removal Section of this ordinance.
 - (iv) The City Manager may require that the applicant provide a written report from a Certified Arborist before making any determinations in conjunction with this section. The City Manager and City Arborist may also require monitoring and periodic reporting by a Licensed Landscape Architect or Certified Arborist during construction to assure tree preservation.
- (5) Applications shall be made on the form provided for that purpose and shall include a written statement indicating the reasons for the permit. The following documentation and all applicable fees shall accompany each application.
 - (a) For applications for tree removal in conjunction with new construction, including additions, pools, driveways, parking spaces, sidewalks, recreational facilities, and decks, a tree survey drawn to scale identifying the species and listing the height, spread and diameter of all existing trees shall be provided. Said survey shall be prepared, signed and sealed by a Professional Land Surveyor, licensed in the State of Florida.
 - (b) For applications for tree removal in conjunction with any other activity requiring a building permit, or for any other tree removal, a site plan prepared, signed and sealed by a Professional Land Surveyor, licensed in the State of Florida drawn to scale identifying the species and listing the height, spread and diameter of all existing trees shall be provided. Said site plan may be limited to the immediate area of the proposed work, and photographs of the existing trees within said area may be acceptable in lieu of tree identification regarding species, height, spread and diameter, provided those photographs permit identification by the City Arborist.
 - (c) A tree disposition plan that is prepared, signed and sealed by a Florida licensed professional who holds an Architect, Landscape Architect or Land Surveyor license, that is drawn to scale, and that provides the numbering, identifying, and listing all existing trees and specifying the condition of each tree and whether said trees are to remain, to be removed and/or to be relocated. This plan shall also illustrate the location of all existing structures and/or all proposed new construction, as applicable, the location of any overhead and/or underground utilities and the new locations of existing trees to be relocated on site.
 - (d) A tree mitigation plan prepared in accordance with the tree mitigation Section of this ordinance.
- (6) All of the required plans, data or other information required with the application shall be included on the proposed development plan or on the supporting documents submitted with the plan or the plat. The following requirements apply:
 - (a) Decisions on tree removal shall be based on a qualitative tree survey performed by a landscape architect licensed to practice in the State of Florida under CH 481 FS, and evaluated by the City. The landscaping plan shall show all trees to be preserved, provide for protective tree barriers that meet the requirements of this tree protection ordinance, and specify the details of the mitigation required in this section.

- (b) The requirements for mitigation of regulated trees approved for removal as part of development plan or subdivision plat review are as follows:

Category	Mitigation
Specimen trees, in fair or better condition	Mitigation payment based on tree appraised value, limited to three trees per acre averaged over the entire site. If more than three trees per acre in this category are located on the site then the trees with the highest tree appraised value throughout the site shall be used to calculate the payment. Heritage trees proposed for removal in excess of the overall average of three per acre shall require mitigation trees on an inch-for-inch on a diameter basis.
Specimen trees of other than high quality species, in fair or better condition	Mitigation trees on an inch-for-inch diameter basis.
Any Specimen trees in less than fair or better condition; and any other regulated tree	Mitigation trees consisting of two trees of high quality shade species established for each tree removed.

- (7) When the replacement planting requirements of this ordinance cannot be met, the City shall collect funds according to the City's tree value mitigation chart which shall be deposited in the Tree Trust Fund.

B. Review of Application.

- (1) Removal and mitigation of regulated trees subject to subdivision or development plan approval. When tree removal or relocation is contemplated in conjunction with any development requiring approval of a final plat or final waiver of plat, upon receipt of approval of the plat, prior to final site plan approval, a permit limited to activities necessary to provide for site preparation shall be considered and either approved or denied.
- (2) Upon receipt of a completed application, the Planning Department and the City Arborist, shall review said application for compliance with the regulations as set forth in this Section. Such review shall include a field inspection of the site, photographic record of the trees on the site and referral of the application to other departments or agencies as necessary, and shall ensure that the applicant takes all steps reasonably necessary to preserve or relocate existing trees prior to receiving a tree permit. If the tree permit is being requested in conjunction with or to make way for construction for which site plan approval is required, no action shall be taken on the tree permit application until the site plan is approved. Within 15 calendar days after site plan approval, if applicable, or the receipt of a completed application, the Planning Department shall issue a notice of its intended decision on a preliminary approval of an application. If the request for a tree permit is for an unhealthy, damaged, or dying tree, or if the tree poses a threat to persons or property, documentation of such condition by the City Arborist shall be included in the preliminary approval of the application.

- (3) Preliminary approval for an application involving tree removal activity shall be granted only if the City finds that all reasonable efforts have been undertaken in the architectural layout and design of the proposed development to preserve existing trees and to otherwise enhance the aesthetic appearance of the development by the incorporation of trees in the design process. Upon the issuance of a preliminary approval, root pruning of trees designated to be relocated may be immediately commenced pursuant to the preliminary approval; provided, however, that no actual removal of a tree shall take place until issuance of the final tree permit.
 - (4) Notice. At the end of the next business day following the completion of the Preliminary Approval review of an application for a tree permit, the Planning Department shall notify the applicant of the Planning Department's intent to issue the Preliminary Approval ("Notice of Intent"). The applicant shall post the Notice of Intent, on or adjacent to the property, in a location visible to the general public for at least ten (10) continuous calendar days prior to final permit issuance and shall, in writing, notify the Planning Department that the Notice of Intent was posted and include the date of the posting and photographic evidence of the same. The Notice of Intent must state the date of the issuance of the notice, the date of the posting of the notice and shall advise the public that any objection substantiated by a licensed arborist, certified under oath, that the trees to be removed or relocated do not meet the requirements of this tree protection ordinance ("Certificate of Non-compliance"), must be made by filing a notice of appeal and the original Certificate of Non-compliance with the City Clerk within ten (10) calendar days of the date of the posting of the notice. The appeal shall be in accordance with Section 13-27 of the City Code, other than as to the time for filing the appeal, which under these circumstances is ten (10) days.
- C. *Issuance of Permit.* If no appeal is filed with the City Clerk, as stated in the posted Notice of Intent, on or before the end the 10 calendar day notice period referred to above in subsection (5), the permit may be issued. The tree permit shall be posted by the applicant on the property where it is clearly visible to the general public, commencing on the date of its issuance, and it shall remain posted until the authorized work is completed. The property owner shall be responsible for insuring that the tree permit is displayed until the city declares in writing that the authorized work is completed and the permit has been honored without damage to trees.
- (1) The property owner shall provide the City Manager with a performance bond in a form approved by the City Attorney, if required by the City Manager:
 - (a) The City Manager may require the posting of a performance bond to guarantee compliance with all conditions, limitations, and restrictions of the tree permit, including, but not limited to, planting of all required replacement trees.
 - (b) The bond shall be equivalent to one hundred fifty percent (150%) of the estimated replacement cost of the trees to be removed at maturity or any other permitted activity and, with the written consent of the City Manager, may be in the form of a letter of credit from an FDIC insured institution, surety, cash, or certificate of deposit.
 - (c) All performance bonds shall remain in force for a minimum of either one (1) year after the actual completion date of the permitted activity (to ensure that any replanted trees which perish are replaced), or until viability of all replanted trees has been achieved, whichever occurs last.
 - (2) All tree permit applications which remain incomplete for a period of one hundred twenty (120) days shall expire and be null and void at the end of that period of time. A new tree permit application shall be required for all work previously proposed under a permit application which has expired or that has been denied or rejected. Approved permits shall expire, if work as specified, is not commenced within one hundred and eighty (180) days of issuance of the permit.
- D. *Fees.* Fees shall be as set forth in this ordinance or as established in the City's Fee Schedule, the latter of which shall take precedence in the event of a conflict. Applications submitted by government agencies for tree removals solely in areas dedicated to public use may, at the discretion of the City Commission, be exempted from application fees and permit fees.

- E. *Final Inspection.* No later than 18 months following the completion of the authorized work, the applicant shall schedule a final inspection with the City Arborist for verification of compliance with authorized work including any required maintenance of the foliage.
- F. *Tree Trust Fund.*
- (1) There is hereby created a Tree Trust Fund, the purpose of which is to acquire, protect, and to plant trees on public property.
 - (2) Disbursement from Tree Trust Fund. Monies obtained for the Tree Trust Fund shall be disbursed for the acquisition, maintenance, management, protection, or planting of trees on public property or for the preservation of trees through the purchase of lands. This fund shall not be used for or toward the installation of new trees that would already be required for a development.
 - (3) Source of monies for the Tree Trust Fund. Said Tree Trust Fund shall consist of contributions in lieu of, or in conjunction with, required replacement plantings under this tree protection ordinance. The City shall collect funds designated for the Tree Trust Fund when the replacement planting requirements of this ordinance cannot be met and from other sources.
 - (4) Minimum species diversity standards. When more than ten (10) trees are required to be planted, a diversity of species shall be required. The number of species to be planted shall be based on the overall number of trees required. The applicant shall be required to meet the minimum diversity standards as may be set by the City from time to time.
- G. *Tree Mitigation.* All tree mitigation required by this ordinance shall be accomplished in accordance with the requirement set forth in the Miami-Dade County Landscape Manual and or Miami-Dade County Chapter 24-49, as well as in compliance with the provisions of this Section. All replacement trees shall be a minimum of a Florida Grade 1 per the grades and Standards of the State of Florida.
- (1) *Prohibited/Exempt Plant Species.* Mitigation shall not be required for the removal of any prohibited species unless it meets the canopy exception for prohibited plant species.
 - (2) *Tree Quality.* Trees installed as mitigation in accordance with this section shall conform to, or exceed, the minimum standards for Florida Number One as provided in the most current edition of "Grades and Standards for Nursery Plants, Part I and II," prepared by the Florida Department of Agriculture and Consumer Services. Trees shall be planted according to sound nursery practices as illustrated in the Landscape Manual and Landscape code Chapter 18A of the MDC code.
 - (3) *Off-Site Mitigation.* If the total number of trees required as mitigation cannot be reasonably planted on the subject property, the applicant may enter into agreement with the City, to plant excess number of replacement trees on public property within the City or at the option of the City to make a payment to the Tree Trust Fund in accordance with the schedules herein.
 - (4) *Tree Trust Fund.* If the total number of trees required as mitigation cannot be reasonably planted on the subject property, or at the City's direction, as an alternative to the off-site mitigation provided in the Tree removal Section of this ordinance, the applicant shall contribute to the City's Tree Trust Fund the sum of five hundred dollars (\$500.00) per inch DBH required as mitigation in accordance with the Tree removal Section of this ordinance.
- H. *Mitigation Methods.*
- (1) Unless otherwise specified in this tree protection ordinance, where mitigation is required, it shall be allowed by two methods, mitigation trees (on an inch-for-inch basis or as otherwise specified) and mitigation payment. The amount of mitigation is as specified herein below.
 - (2) Mitigation trees shall be of high quality shade species as identified on the South Miami tree list, meeting the specifications of and sited in accordance with the requirements of this tree protection ordinance. The installation of new trees for a development as required by this chapter may count as mitigation for trees removed from the site, except where those removed trees are of a high-quality species. The preference is for mitigation trees to be planted on the site, but

where it is demonstrated that no acceptable space is available, mitigation trees may be planted offsite within city limits. In these instances, the required mitigation trees may be established on a different site within the city limits approved by the city manager or designee, or the city manager or designee may allow a payment in an amount to be made to the city Tree Trust Fund in an amount as set forth in this ordinance.

- (3) Payment shall be made prior to receipt of tree permit, or at such other time as specified in a development order. Mitigation payments received by the city shall be deposited in the city Tree Trust Fund.

I. *Tree Preservation During Development and Construction.*

- (1) *Tree Protection During Construction.* A photographic record of the trees within the proposed barrier area shall be made by the City Arborist before any permit, including a demolition permit, is issued. Trees shall be protected during construction through the use of protective barriers in accordance with the Miami Dade County Landscape Manual or other nationally recognized arboricultural standards approved by the city manager or designee shall be used as guidelines for tree protection, planting, pruning and care during development and construction.
- (2) Trees that are to remain on site or to be relocated, shall be clearly identified with a tag, including an identification reference to the tree survey required as part of the landscape plan or tree permit. A protected area within the drip line of the tree or within a radius of 10 feet measured from the tree trunk, whichever is greater, shall be maintained around trees to remain in accordance with the Landscape Manual, unless the city's certified arborist City Manager otherwise determines in writing that a smaller or larger protected area is acceptable for each tree, or an alternative tree protection method is approved.
- (3) During demolition and/or development, including installation of irrigation systems or any other underground installations, protective barriers shall be placed around each tree and shall remain in order to prevent the destruction or damaging of roots, stems or crowns of such trees, and to prevent the deposition of any fill or compaction to the drip zone of the tree. The barriers shall remain in place and intact until such time as approved landscape operations begin; however, barriers may be removed, subsequent to written permission from the City after an onsite inspection, temporarily to accommodate construction needs, provided that the manner and purpose for such temporary removal will not harm the trees. The trees shall be properly irrigated throughout the building process. Persons who cause tree damaged during construction shall be subject to the penalties set forth in the provisions of Section 20-4.5.1(L). Understory plants within protective barriers shall be protected.
- (4) *Barriers required.* Prior to clearing, demolition, or other construction activities, the city manager or designee shall determine which trees, if any, require protection. Protective barriers shall be constructed, as necessary, to prevent the destruction or damaging of regulated trees that are located within 50 feet of any construction activity or storage of equipment and materials. Barrier placements along subdivision streets are regulated in accordance with the provisions of this section. Trees identified for preservation which are destroyed or severely damaged shall be mitigated in accordance with this section prior to issuance of a certificate of occupancy or use. To avoid conflicts between barrier placements and demolition and construction activities, barriers shall be drawn to scale on the demolition, grading and paving sheets of the development plan.
- (5) *Barrier zones.* All regulated trees in areas of demolition or construction that have not been permitted nor designated for removal by either the terms of the permit or approved development order shall be protected by barrier zones erected and inspected prior to construction of any structures, road, utility service or other improvements. Barricades shall comply with the following:
 - (a) Protective barriers shall be plainly visible and shall create a continuous boundary around trees or vegetation clusters in order to prevent encroachment by machinery, vehicles or stored materials. To further protect tree roots, a layer of wood chips at least eight inches thick shall cover the soil within the barricade. Barricades must be at least three feet tall and

must be constructed of either wooden corner posts at least two by four inches buried at least one foot deep, with at least two courses of wooden side slats at least one by four inches with colored flagging or colored mesh attached, or constructed of one-inch angle iron corner posts with brightly colored mesh construction fencing attached. Heritage trees shall be protected by galvanized chain link fencing a minimum of 48 inches high, 11-gauge wire, two-inch mesh size secured with 17/8 inch line posts no further than 10 feet apart secured at a depth of three feet below soil line. Corners shall be secured with 23/8 inch line posts secured to a depth of four feet below soil line.

- (b) Barriers shall be placed at the greater of the following:
 - (i) At or outside the dripline for all heritage and champion trees and all regulated pine and palm trees;
 - (ii) At a minimum of two-thirds of the area of the dripline for all other regulated species; or
 - (iii) At the tree root plate.
- (c) If complying with the above placement of barriers is found to unduly restrict development of the property, the city manager or designee, or the appropriate reviewing board may approve alternative barrier placements or methods of protection provided that at least fifty (50) percent of the area under the canopy dripline remains undisturbed (no grade change or root cut) and further provided that there shall be no disturbance to the tree root plate. Protective barriers may not be removed or relocated without such approval.
- (d) No grade changes shall be made within the protective barrier zones without prior approval of the city manager or designee. Where roots greater than one inch in diameter are damaged or exposed, they shall be cut cleanly and re-covered with soil within one hour of damage or exposure.
- (e) Protective barriers shall remain in place and intact until such time as landscape operations begin. If construction needs dictate a temporary removal (for less than twenty-four (24) hours), the city manager or designee, may approve or deny the temporary removal of protective barriers.
- (f) Landscape preparation in the protected area shall be limited to shallow disking of the area. Disking shall be limited to a depth of four inches unless specifically approved otherwise by the city manager or designee.
- (6) No gas, oil, fill, equipment, building materials or building debris shall be placed within the areas surrounded by protective barriers, nor shall there be disposal of any waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other materials harmful to trees or understory plants within the areas surrounded by protective barriers.
- (7) Trees shall be braced in such a fashion as to not scar, penetrate, perforate or otherwise inflict damage to the tree.
- (8) Natural grade shall be maintained within protective barriers. In the event that the natural grade of the site is changed as a result of site development, such that the safety of the tree may be endangered, tree wells or retaining walls may be required.
- (9) Underground utility lines shall be placed outside the areas surrounded by protective barriers. If said placement is not possible, disturbance shall be minimized by using techniques such as tunneling.
- (10) Fences and walls shall be constructed to avoid disturbance to any protected tree. Post holes and trenches located close to trees shall be dug by hand and adjusted as necessary, using techniques such as discontinuous footings, to avoid damage to major roots.
- (11) If any preserved tree is not alive and healthy three (3) years after the certificate of occupancy is granted, it shall be removed and replaced with the tree or trees that originally would have

been required by this code. The area that was preserved to accommodate the preserved tree shall be maintained in an unpaved condition and the replacement trees established in this area.

- (12) The Planning Department shall maintain, and make available to the public, descriptions and illustrations of tree preservation and protection practices which will assist in assuring that preserved trees survive construction and land development.
- (13) *Inspections.* The city manager or designee shall conduct periodic inspections of the site before work begins and/or during clearing, construction and/or post-construction phases of development in order to ensure compliance with these regulations and the intent of this section.
- (14) *Denial; conditions.* The city manager or designee may deny a proposal for development because one or more champion or heritage trees have not been preserved or adequately protected, or may require special conditions of approval that may include but are not limited to the following:
 - (a) Requiring the trees to be protected with chain-link barricades.
 - (b) Requiring a soil aeration system in the vicinity of tree roots as needed, particularly where fill will be added over roots of preserved trees or where compaction may reduce the availability of water and oxygen to tree roots.
- (15) *Native trees.* At least Fifty (50) percent of trees on the required landscape plan should be native species. Cultivars of native trees are considered native species.
- (16) *Pruning.* All trees may be pruned to maintain shape and promote their shade-giving qualities and to remove diseased or dying portions in areas where falling limbs could be a hazard to people or property. Tree pruning shall be done in accordance with the most current version of the American National Standard for Tree Care Operations "Tree. Shrub and Other Woody Plant Maintenance" (ANSI A300) and "Pruning. Trimming. Repairing. Maintaining, and Removing Trees. and Cutting Brush-Safety Requirements" (ANSI Z133). The pruning or trimming of any tree shall be in accordance with guidelines in the Landscape Manual. No more than twenty-five (25) percent of a tree's living canopy shall be removed within a one-year period. No more than twenty-five (25) percent of the crown should be removed at one time. On young trees, limb removal shall leave no more than thirty-three (33) percent of the trunk bare of branches. So that shade trees can grow with sturdy structure, the top branch or leader shall not be removed. Hooks or climbing spikes shall not be used to climb trees unless the tree is being taken down. Mature trees overgrowing vehicular use areas shall be pruned to allow the passage of emergency vehicles. Excessive pruning, pollarding, or pruning of trees into round balls of crown or branches, which results in an unnecessary reduction of shade and promotes weak branch attachments is prohibited.
- (17) The practice known as "Hat-racking" is not permitted and shall be considered a violation of Section 20-4.5 and Section 20-4.5.1.
- (18) Any other tree abuse, or activity that can effectively destroy a tree, shall also be considered a violation of this section.

J. *Authority to Supervise, Enforce, Modify, and Supplement Regulations.*

- (1) *Planning Department.* It shall be the duty of the Planning Department to coordinate with the City's Arborist and public works personnel to ensure compliance with the regulations contained herein and to cooperate with, and assist the code enforcement personnel in the prosecution of any violation of this section.
- (2) *Code Enforcement Division.* It shall be the duty of the Code Enforcement Division ("Code Enforcement") to prosecute violations of the regulations contained herein. The Code Enforcement Division may prosecute violations in conjunction and cooperation with the Planning Department or on its own initiative.
- (3) *Police Department.* In instances in which a person is found cutting or otherwise causing the destruction of a tree without a permit, in addition to the Code Enforcement agency, the South

Miami Police Department shall require such person or persons to cease such operations until the necessary permit is obtained.

- (4) *City Manager.* The city manager is hereby authorized to enter into agreements with the owners of private property located within the city for the purpose of acquiring easements to plant trees on such property and in consideration for such agreement the private property owner shall acquire ownership of such trees as the city may plant; provided, however, that any such agreement shall limit the duration of the easement to a time period of two years and shall limit the property interest acquired by the city to that distance sufficient to allow the planting and initial maintenance of trees, but in no case to exceed a maximum of a 22-foot setback from the property line or right-of-way held by the city. Provided further, that under such agreement the private property owner shall agree to subsequently maintain the trees planted thereon and shall also agree to hold the city harmless for any liability attributable to the planting or presence of the trees on the private property.
- (5) *Special Master.* The Special Master hearing any appeal or protest of a penalty issued pursuant to this section shall determine if a violation of this tree protection ordinance has been committed and shall not have discretion to lessen the fine set by this ordinance.

K. *Enforcement.*

- (1) *Jurisdiction.* The City shall have jurisdiction for the proper and effective enforcement of this section. The City shall have the right to inspect subject properties in accordance with the approved tree permit and the provisions of this section.
- (2) *Individual Enforcement.* Each tree removed without a tree permit shall constitute a separate and distinct violation and shall be the subject of individual enforcement.
- (3) *Tree Viability After Project Completion.* If the City determines that any tree, that is required to be planted pursuant to a tree permit, is not viable, alive, and growing, one year after all associated development activity on the property is completed, the City shall require that said tree be replaced with the same tree species and size which was originally planted or relocated, as per the approved tree permit or may assess penalties as prescribed in this section for illegal tree removal. Such penalties shall be deposited in the Tree Trust Fund.
- (4) Any person who violates this tree protection ordinance shall be required to pay a fine and shall be, in addition to paying a fine, required to mitigate in accordance with the tree mitigation requirements of this ordinance.
- (5) *Withholding of a New Building Permit.* The removal of any tree in violation of this section shall constitute grounds for withholding new building permits for the subject property until the violation has been corrected, including the payment of all fines and the planting of all trees required as mitigation, pursuant to this section has occurred to the satisfaction of the City. Alternatively, in order to obtain the new building permit, the person in violation may post a performance bond pursuant to 255.05 of the Florida Statutes naming the City of South Miami as Obligatee. The bond shall be in the amount of ten percent of the construction cost or ten percent of the appraised value of the property, whichever is greater. The bond will be maintained in place until the violation has been corrected, pursuant to this section.
- (6) *Withholding of a Certificate of Occupancy.* The Planning Department shall not approve the zoning inspection required for a temporary or final Certificate of Occupancy until all violation of this section have been corrected, including the payment of all fines and the planting of all trees required as mitigation, pursuant to this section.
- (7) *Occupational License.* The occupational license of any person who performs any services in the City and who violates this ordinance shall be suspended, or if yet to be issued, shall not be issued, until the violator has complied with this ordinance, paid all fines incurred and complied with all requirements for tree mitigation.
- (8) *Remedies Cumulative.* The remedies provided in this section shall be cumulative to all remedies provided by law and/or equity, and the election of one shall not preclude the other.

- (9) *Costs and Fees.* In the event the City institutes any civil action to enforce the terms of this section in a court of competent jurisdiction, the City shall be entitled to recover the fines imposed pursuant to the violation(s), the cost of trees required as mitigation, the costs associated with the investigation and prosecution, inclusive of a reasonable attorney's fee for prosecuting attorney, together with any equitable and legal remedies deemed reasonable and proper by the court.

L. *Penalties, Remedies Cumulative.*

- (1) *Fine.* Any person, and each agent thereof, including the owner, who, without an appropriate permit required by this ordinance, relocates, trims or removes a tree, and/or orders, instructs or allows others to relocate, trim or remove a tree in violation of this ordinance shall (i) comply with the tree mitigation requirements of this ordinance in the form of replacement trees or, if replacement is not possible, shall pay the amount required in lieu of replacement and (ii) shall pay a fine of two hundred fifty dollars (\$250.00), per violation. Where there are two (2) or more penalties for the same offence, all the penalties shall apply, unless found to be excessive by a court of competent jurisdiction and then the more stringent enforceable penalty or penalties shall apply. All fines and monetary mitigation payments shall be deposited into the Tree Trust Fund. Each tree removed, relocated or trimmed without an appropriate permit, shall constitute a separate and distinct violation, subject to a separate fine and mitigation. If the violator fails to timely complete the requirements of this ordinance for tree mitigation ("Tree Mitigation Violation"), the violator shall pay an additional fine of two hundred fifty dollars (\$250.00) for each day thereafter until the mitigation is completed. The fine for any repeated violation of this ordinance by the same person shall increase to five hundred dollars (\$500.00) for each repeated violation. The fine for a repeated Tree Mitigation Violation by the same person shall be five hundred dollars (\$500.00) per day. The owner of the property where the violation occurred shall be jointly and severally liable for the same fine as the person who removed, relocated or trimmed a tree without an appropriate permit. All of the fines provided for in this ordinance may be increased or decreased by and as set forth in the City's Schedule of Fees and Fines.
- (2) *Tree Mitigation Required.* In addition to the monetary fine established above, the planting of replacement trees shall be required. If the total number of trees required as mitigation cannot be reasonably planted on the subject property by the sole determination of the City Manager who shall be guided by the principal of tree protection and tree preservation, the applicant shall contribute into the City's Tree Trust Fund in an amount based upon the chart below or as otherwise provided more stringently in this section. Mitigation that is required by this ordinance shall be completed within sixty (60) days after the violator has received a citation and shall be in addition to any and all other applicable requirements or sanctions.
- (3) *Irreparable or Irreversible Violations.* In the event the Special Master finds that the unauthorized removal, relocation, or trimming of any tree is irreparable or irreversible in nature, he shall impose a fine not less than two thousand dollars (\$2,000.00) and not to exceed five thousand dollars (\$5,000.00) per violation, plus mitigation as required in this chapter. In determining the amount of the fine in excess of two thousand dollars (\$2,000.00), the Special Master shall consider, the following factors:
- (a) The gravity of the violation;
 - (b) Any actions taken by the violator to correct the violations; and
 - (c) Any previous violations committed by the violator.

- M. *Tree Mitigation Value.* This tree value mitigation chart shows the following values which are intended to be minimum levels of replacement for each size of tree removed. This chart and/or the values in the chart may be amended by the City's Fee Schedule from time to time.

Diameter of Tree removed	Number 2" DBH		Diameter 4" DHB		In lieu of Replacement
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2" — 3"	2	or	1	or	\$1,000
4" — 6"	4	or	2	or	\$2,000
7" — 12"	8	or	4	or	\$4,000
13" — 18"	12	or	6	or	\$6,000
19" — 24"	16	or	8	or	\$8,000
25" — 30"	20	or	10	or	\$10,000
31" — 36"	24	or	12	or	\$12,000
37" — 42"	28	or	14	or	\$14,000
43" — 48"	32	or	16	or	\$16,000
49" or greater	40	or	20	or	\$20,000

The above formula approximates the following example:

For every five hundred (500) Square feet of canopy removed, a hardwood tree replacement of at least twelve (12) feet tall would be required. For instance, if two thousand three hundred (2,300) square feet of tree canopy were removed, the replacement requirement would be four (4) 12-foot tall trees and one (1) 8-foot tall tree or at the minimum level of financial contribution, at five hundred dollars (\$500.00) or one dollar and five cents (\$1.05) per square foot of canopy, whichever is greater. This example would require a minimum of two thousand five hundred dollars (\$2,500.00).

- N. *Exemptions.* The following are prohibited and controlled plant species that are exempt from the general tree protection provisions of this section. A no-charge permit will be issued for removal of prohibited and/or invasive non-native plants species.
- (1) Any tree growing in a botanical garden or a licensed plant or tree nursery business.
 - (2) Upon determination in writing by the City Manager that tree permitting requirements will hamper private or public work to restore order to the City after a declared state of emergency by the City Commission.
 - (3) The removal of any tree during or following an emergency such as an act of nature or a life safety issue. The city reserves the right to require mitigation once the life safety issue is resolved.
 - (4) Removal of any dead tree

- (5) Exemption from mitigation. On properties with canopy cover exceeding 50% of the total lot coverage, canopy covering up to ten (10) percent of the lot may be removed per calendar year without mitigation, provided the total canopy cover does not drop below fifty (50) percent.
- (6) A living tree of the following prohibited or nuisance plant species except when present in a dense distribution or substantial canopy coverage deemed to be of significant importance to the aesthetic or environmental benefit to the area as determined by the City Manager:

PROHIBITED NUISANCE PLANT SPECIES	
COMMON NAME	SCIENTIFIC NAME
Australian Pine	Casuarina spp.
Bischofia	Bischofia javanica
Brazilian Pepper	Schinus terebinthifolius
Carrotwood	Cupaniopsis anacardiodes
Castorbean	Ricinus communis
Chinaberry	Melia azedarach
Chinese Tallow Tree	Sapium sebiferum
Ear Tree	Enterolobium cyclocarpum
Earleaf Acacia	Acacia auriculiformis
Eucalyptus	Eucalyptus spp
Guava	Psidium quajava/P. littorale
Indian Laurel, Laurel Fig, Malay Banyan, Chinese Banyan, Glossy Leaf Banyan	Ficus microcarpa
Indian Rosewood, Sissoo	Dalbergia sissoo
Java Plum	Syzygium cumini
Lead Tree	Leucaena leucocephala

Mahoe, Sea Hibiscus	Hibiscus tiliaceus/Talipariti tiliaceum
Melaleuca	Melaleuca quinquenervia
Norfolk Island Pine	Araucaria heterophylla
Orchid Tree	Bauhinia variegata
Poison Wood	Metopium toxiferum
Red beadtrees, Red Sandalwood	Adenanthera pavonina
Schefflera, Umbrella Tree	Schefflera actinophylla/Brassaia actinophylla
Seaside Mahoe	Thespesia populnea
Shoe-button Ardisia	Ardisia elliptica
Silk Oak	Grevillea robusta
Solitaire Palm	Ptychosperma elegans
Tree Bamboo	Bambusa spp.
Tropical Almond	Terminalia cattapa
Weeping Fig	Ficus benjamina
Woman's Tongue	Albizia lebeck

INVASIVE, NONNATIVE PLANT SPECIES	
Common Name	Scientific Name
Air potato	Dioscorea bulbifera

Arrow bamboo	<i>Pseudosasa japonica</i>
Brazilian pepper	<i>Schinus terebenthifolius</i>
Catclaw vine	<i>Macfadyena unguis-cati</i>
Chinaberry	<i>Melia azedarach</i>
Chinese privet	<i>Ligustrum sinense</i>
Chinese tallow tree	<i>Sapium sebiferum</i>
Chinese wisteria	<i>Wisteria sinensis</i>
Climbing fern	<i>Lygodium iaponicum</i> and <i>Lvgodium microphyllum</i>
Cogon grass	<i>Imperata cylindrical</i>
Coral ardesia	<i>Ardisia iaponica</i>
Coral berry	<i>Ardisia crenata</i>
Elephant's ears	<i>Xanthosoma sagittifolium</i>
Glossy privet	<i>Ligustrum lucidum</i>
Golden raintree	<i>Koelreuteria paniculata</i> and <i>Koelreuteria bipinnata</i>
Golden bamboo	<i>Phyllostachys aurea</i>
Henon bamboo	<i>P. nigra</i> cv. "Henon"
Hydrilla	<i>Hydrilla verticulata</i>
Hygrophia	<i>Hygrophia polysperma</i>
Japanese ardisia	<i>Ardisia iaponica</i>
Japanese honeysuckle	<i>Lonicera japonica</i>

Japanese paper mulberry	Brousonettia papyrifera
Kudzu	Pueraria lobata
Mimosa	Albizia julibrissin
Miramar weed	Hvgrophila polysperma
Oyster plant	Tradescantia spathacea
Palm leaf bamboo	Sasa palmata (Arundinaria palmata)
Skunk vine	Paederia foetida
Tropical soda apple	Solanum viarum
White-flowered small-leaved spiderwort	Tradescantia fluminensis
Wandering spiderwort	Tradescantia spp.
Wild taro	Colocasia esculenta

O. *Street Trees.*

- (1) *Street trees.* Street trees shall be planted along the sides of all streets within a development and on the development side of any contiguous street. Street trees shall be planted for every thirty (30) to fifty (50) feet of street frontage, depending on the canopy area needed for the tree species. The widths of driveways along a street shall be subtracted from the linear feet of street frontage length for the purposes of calculating the number of required street trees. In no case shall trees of species with spreading crowns (e.g., live oaks) be spaced closer together than twenty-five (25) feet or shall trees of any species be spaced farther apart than sixty (60) feet. Alleys are exempt from this requirement for street trees. Street tree diversity is to be attained city-wide in order to reduce the effect of loss of street tree species due to insect or disease outbreaks, even though street tree diversity may not be attained on an individual street.
- (2) Street trees shall be high quality shade trees and shall be planted in tree lawns with a minimum width of eight (8) feet, or within tree wells with minimum four-foot by four-foot surface openings.
- (3) On-street parking spaces may be located between street trees, as long as the required number of trees are planted along the street frontage, and the minimum rootzone volume is provided for each tree.
- (4) Tree wells may be enclosed with pavers or other hardscape materials above the required rootzone volume. The landscape architect shall present a recommendation regarding the need for the installation of an aeration system necessary to conduit water and oxygen to the roots of trees within tree wells.

- (5) Where possible, street trees shall be planted between the street and the public sidewalk. Street trees may be planted between the sidewalk and adjacent buildings only where the location of existing or proposed utility lines along the street, or the clear zone requirements of the public works department or other maintaining agency, prevent the location of trees between the street and sidewalk. Where street trees are approved to be planted between the sidewalk and adjacent buildings, the trees may be located as close as five (5) feet away from building face.
- (6) The reviewing board, or the city manager or designee, may require the adjustment of the prescribed build-to line in order to accommodate the required street trees and ensure that the trees will meet separation requirements from utility lines, buildings, and paved areas.
- (7) Where possible, developments shall be designed to preserve as street trees any existing champion, specimen, or heritage trees which are located in the right-of-way or on private property within twenty (20) feet of the right-of-way. Where these trees are preserved, no new construction or grading shall occur within the tree root plate, and new buildings shall be designed so that no more than twenty-five (25) percent of the crown of the trees is removed. The area underneath the canopy of the preserved trees shall be exempt from tree planting requirements, and the required distances between street trees may be modified.
- (8) A minimum ten-foot separation shall be provided between street trees and street stormwater inlets, except where bioretention inlets that incorporate trees are utilized.
- (9) Where the required street trees would overlap with trees that are required to satisfy perimeter landscaping requirements for vehicular use areas, only the requirements for the vehicular use area must be met.
- (10) Size and spacing. Street trees shall be of a species typically grown in Miami-Dade County that normally mature to a height of at least twenty (20) feet. Street trees shall have a clear trunk of four (4) feet, an overall height of twelve (12) feet and a minimum caliper of two (2) inches at time of planting, and shall be provided along all roadways at a maximum average spacing of thirty (30) feet on center, except as otherwise provided in this Chapter. Street trees are not required when a colonnade open to the public is located within four (4) feet of the edge of the roadway. Street trees may be placed within the swale area or shall be placed on private property where demonstrated to be necessary due to right-of-way obstructions as determined by the Public Works Department or the appropriate authority within the municipality. The City may require root barriers as per City rules.
- (11) The maximum average spacing of thirty (30) feet for multiple single-family units shall be based on the total lineal footage of roadway for entire projects and not based on individual lot widths.
- (12) Power lines. Where the height and location of overhead power lines require the planting of low growing trees, street trees shall have a minimum height of eight (8) feet, a minimum caliper of one and one-half (1.5) inches at time of planting, and shall meet the following requirements:
 - (a) Single trunk trees clear of lateral branches to four (4) feet and/or multi-trunk trees or tree/shrubs, as referenced in the Landscape Manual, cleared of foliage to a height of four (4) feet.
 - (b) A maximum average spacing of twenty-five (25) feet on center.
 - (c) Maturing to a height and spread not encroaching within five (5) feet of overhead power distribution lines.
 - (d) Under high voltage (50kV and above) transmission lines installed independent of underbuilt distribution lines, tree height and spread shall not exceed the minimum approach distances specified in the current ANSI (American National Standards Institute) Z133.1 Standards, as referenced in the Landscape Manual.
- (13) *Palms*. Palms which meet all of the following requirements shall count as a required street tree on the basis of one (1) palm per tree.

- (a) Minimum canopy of fifteen (15) feet spread at maturity.
 - (b) Provided at an average maximum spacing of twenty-five feet (25) feet on center.
 - (c) Fourteen (14) foot minimum overall height or minimum caliper of four (4) inches at time of planting.
 - (d) It is provided however that queen palms (*Syagrus romanzoffiana*) shall not be allowed as street trees. No more than thirty (30) percent of the minimum tree requirements may be met by palms.
- (14) Fifty (50) percent of the required trees and/or palms shall be native species.
- (15) In order to prevent adverse environmental impacts to existing native plant communities, only existing Cabbage Palms (*Sabal palmetto*) may be used to satisfy minimum tree and native plant requirements, except that Cabbage Palms which are rescued from government approved donor sites, transplanted within the site, or commercially grown from seed shall be counted towards the minimum tree and native plant requirements.
- (16) When trees are requested by a property owner to be planted within the right-of-way, the requesting property owners shall execute a covenant provided by the City to provide for the maintenance of such trees subsequent to planting. Where the State, County, or municipality determines that the planting of trees and other landscape material is not appropriate in the public right-of-way, they may require that said trees and landscape material be placed on private property.
- (17) Where trees are planted on private property, they shall be placed within seven (7) feet of the edge of the dedicated right-of-way or within seven (7) feet of the edge of the roadway and/or inside edge of a sidewalk on private roads and shall be maintained by the private property owner such that the trees do not interfere with the activities of the right-of-way.
- (18) Consideration shall be given to the selection of trees, plants and planting site to avoid serious problems such as clogged sewers, cracked sidewalks, and power service interruptions.
- (19) Street trees are not required along a colonnade which is open to the public and which is located within four (4) feet of the edge of the roadway.
- (20) Street trees in the Hometown District Overlay shall be located per the street tree requirements set forth under Section 20-7.
- (21) *Planting in Relation to Utility Lines.* The ultimate, mature height and width of a tree to be planted shall not exceed the available overhead growing space as limited by the tree touching the overhead obstacle. A list of small trees and palms which may be permitted to be planted adjacent to utility lines is available in the University of Florida IFAS "Trees and Powerlines" document.
- (22) *Emergency Provisions.* In the event that the City Manager determines that any tree in the City may constitute a hazardous condition so as to endanger the public health, safety and general welfare unless it is immediately removed or pruned, the City Manager, or his designee, may verbally authorize the removal of such tree following an onsite inspection of the subject tree without the securing of a removal permit as required by this section. The provisions and requirements of this chapter may be temporarily stayed by a majority vote of the City Commission following the occurrence of a hurricane, tornado, flood, or other natural disaster.

(Ord. No. 29-14-2207, § 1, 12-17-14)

20-4.6 - Environmental review standards.

The following standards shall be utilized by the **environmental review and preservation board** in their review and evaluation of all site and landscape plans as required by this Code.

(A) *Natural Environment.*

- (1) Proposed development shall be designed in such a manner so as to preserve and protect existing environmentally-sensitive lands and natural resources, such as and including soils, ground water, surface water, shorelines, vegetative communities, fisheries and wildlife habitats.
- (2) Natural landscaping shall be retained, insofar as is practical, and additional landscaping shall be added, if necessary, to improve the overall visual quality of the proposed development.

(B) *Buildings and Other Structures.* Proposed structures shall be related harmoniously to the natural terrain, existing buildings and surrounding neighborhood.

(C) *Circulation and Parking.*

- (1) With respect to vehicular and pedestrian circulation, special attention shall be given to the location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement of parking areas.
- (2) Such areas shall be safe and convenient and not detract from the design of proposed buildings and neighboring properties.

(D) *Storage.*

- (1) Exposed storage utility areas, utility buildings and structures and similar accessory areas and structures shall be subject to such placements, screen plantings or other screening methods as shall be required to prevent their being incongruous with existing or contemplated environment or surrounding properties.

(Ord. No. 15-92-1510, 9-1-92; Ord. No. 12-96-1612, § 2, 7-30-96; Ord. No. 19-96-1619, §§ 6, 7, 10-1-96)

Editor's note— Section 2 of Ord. No. 12-96-1612, adopted July 30, 1996, renumbered § 20-4.6(E) and (F) as § 20-4.9.

20-5.7 - Rezoning and text amendments.

- (A) *Multiple Properties.* Multiple properties in any single application for a rezoning shall be contiguous to one another or accompanied by a unity of title agreement.
- (B) *City Initiated Applications.* An application for a rezoning or text amendment may be initiated by the city commission, planning board, **environmental review and preservation board** or city administration.
- (C) *Intergovernmental Notice.* When an application for a proposed rezoning involves a property located within five hundred (500) feet of the jurisdictional limits of the county or City of Coral Gables, notice of such application, specifying the date, time and place of any scheduled public hearings, shall be transmitted to the planning departments or governing bodies of said jurisdictions.
- (D) *Rezoning Reapplication.* No reapplication for a rezoning shall be accepted by the city within twelve (12) months of the date of final disapproval by the city commission of a previous application for a change in zoning involving the same or substantially the same property, unless evidence is submitted to and accepted by the city commission which justifies such reconsideration.
- (E) *Application Requirements.* With the complete application, applicants shall also submit a letter of intent, a property survey by a registered surveyor and a document indicating the written sworn consent of the owners of at least seventy-five (75) percent of the subject property or persons with a contract to purchase conditioned on rezoning approval. Such consent may be given by duly authorized agents of owners and agency shall be evidenced by a proper written power of attorney.
- (F) *Neighborhood Awareness.* All applications for a rezoning shall be accompanied by a map which reflects all properties and the names of all property owners within a five hundred (500) foot radius of the subject property. A notarized affidavit shall be presented to the Planning and Zoning Department within five (5) business days of submittal of an accepted application, attesting that the applicant gave notice of the proposed application to all the property owners within the noted five hundred (500) foot radius by regular U.S. mail with the exception of the abutting, or contiguous, property owners, who shall be made aware via Certified Mail. The affidavit shall be accompanied by a copy of the notification letter together with copies of the Certified Mail receipts.

(Ord. No. 11-90-1451, 8-21-90; Ord. No. 18-09-2010, § 1, 8-18-09; Ord. No. 17-11-2090, § 1, 4-19-11)

20-5.11 - Site plan review approvals.

- (A) *Applicability.* Site plans shall not require a public hearing but shall be submitted for review and approval by the **environmental review and preservation board** prior to the issuance of a permit for:
- (1) Any new building or other structure which is visible from any public or private street; and
 - (2) Any material alterations to an existing building or other structure which is visible from any public or private street.
- (B) *Standards and Guidelines.* The **environmental review and preservation board** shall review the following aspects of all site plans:
- (1) Scale, color, texture and appropriateness of all proposed buildings and other structures;
 - (2) Quantity, quality and arrangement of all proposed landscaping and open space features;
 - (3) Overall compatibility of the proposed development with the existing and desired character of the property and neighborhood in which located; and
 - (4) The installation of sidewalks along all arterial roadways and compliance with the city's sidewalk policies and requirements.
- (C) *Review and Approval.*
- (1) The **environmental review and preservation board** shall review the proposed site plan at its first regularly scheduled meeting following proper filing of such material.
 - (2) All approved site plans shall bear an official city stamp and the signature of the board chairman presiding at the meeting when such plans were approved.
 - (3) If a site plan is denied or modifications are recommended, the board shall, if possible, make specific findings as to the reasons for such denial or modifications, and recommend appropriate changes to the applicant.
- (D) *Review Exceptions.* Notwithstanding any other regulations of this Code, the **environmental review and preservation board** shall not review any additions or alterations to single family residential dwellings, except for the installation of sidewalks along all arterial roadways and compliance with the city's sidewalk policies and requirements.
- (E) *General Application Requirements.*
- (1) Plans and supporting data as specified in this section shall be submitted with each application.
 - (2) Preliminary plans may be submitted for **environmental review and preservation board** review prior to final plan submittal.
 - (3) Final plans must be submitted prior to a decision of the **environmental review and preservation board**.
 - (4) Required information shall include the title of the project, name of developer, name of planner, architect, engineer, north arrow, date, scale and legal description of the property.
 - (5) The architectural plans for construction of new buildings must be signed and sealed by a Florida registered architect.
- (F) *Existing Site Characteristics.* Information shall be shown reflecting the following existing features of the subject property:
- (1) Property survey by registered surveyor;
 - (2) Rights-of-way and easements;
 - (3) Structures and uses;
 - (4) Photographs of surrounding properties; and

- (5) Zoning districts.
- (G) *Existing Tree Survey.*
 - (1) Except for applications involving single-family dwellings, a tree survey shall be submitted with each site plan approval application.
 - (2) The survey shall give the location, size and specie of all existing trees with more than a three (3) inch DBH caliper trunk size and shall be signed and sealed by a registered surveyor.
- (H) *Proposed Site Plan.* The following information, indicating the proposed character of the developed property, shall be submitted.
 - (1) Name, address and phone of owner and designer;
 - (2) Property lines;
 - (3) Rights-of-way and easements;
 - (4) Structures and uses;
 - (5) Parking spaces, accessways, driveways, sidewalks, wheel stops and curbs;
 - (6) Curb cuts and median openings;
 - (7) Lighting and irrigation systems;
 - (8) Fences and walls;
 - (9) Storm sewers; and
 - (10) Dumpster locations.
- (I) *Proposed Landscape Plan.* The following landscaping information shall be submitted:
 - (1) Proposed trees, shrubs, grass and other vegetation including their location, height, shape, size and type by both common and botanical classifications.
 - (2) Proposed berms, water courses and topographic features, including their location, height, size and shape.
- (J) *Proposed Buildings and Structures.* All proposed structures, fences and walls shall be shown in elevation drawing reflecting their location, size, color, height and construction material.
- (K) *Tabular Summary.* A tabular summary, as required by the building and zoning department, shall be submitted.
- (L) *Expiration.* Final approval by ERPB shall lapse after six (6) months if no permit is applied for.

(Ord. No. 12-90-1452, 7-24-90; Ord. No. 3-94-1552, § 1, 3-1-94; Ord. No. 12-96-1612, § 7, 7-30-96; Ord. No. 19-96-1619, § 8, 10-1-96; Ord. No. 10-08-1945, § 1, 3-18-08; Ord. No. 26-08-1961, § 1, 7-29-08; Ord. No. 17-11-2090, § 1, 4-19-11)

20-5.12 - Planned unit development approvals.

- (A) *Review Procedures.* Upon receipt of a complete application for the approval of a planned unit development, the building and zoning department shall review the application and submit its findings and recommendations to the **environmental review and preservation board** within thirty (30) calendar days from receipt of the application. All procedures and requirements specified below shall apply to applications for planned unit developments.
- (B) ***Environmental Review and Preservation Board Review.***
- (1) The board shall, within thirty (30) calendar days following receipt of the complete application and staff recommendations, formally meet and consider the preliminary development concept plan for the proposed planned unit development.
 - (2) Prior to such meeting, the board may meet with the applicant to review the request at a special meeting.
 - (a) Three (3) working days' notice of such meeting shall be given by posting notice at City Hall.
 - (b) The board, at the chairman's discretion, may consider questions from the public.
 - (3) Preliminary development concept plan review may occur only at a special or regular board meeting, subject to three (3) working days notice.
 - (4) The **environmental review and preservation board** shall make a recommendation on the application at least seven (7) calendar days prior to the date of the scheduled planning board public hearing.
- (C) *Planning Board Action.*
- (1) Within forty-five (45) calendar days after receipt of an application, the planning board shall hold a public hearing on the application.
 - (2) Notice of such hearing shall comply with all requirements of state law and this Code.
 - (3) Within fifteen (15) calendar days after such public hearing, the planning board shall transmit its recommendations to the Ceity Ceommission.
- (D) *City Commission Action.*
- (1) Within ninety (90) calendar days of receipt of the recommendations of the planning board, the Ceity Ceommission shall hold a public hearing on an application for a planned unit development.
 - (2) Notice of such hearing shall comply with all requirements of state law.
 - (3) The Ceity Ceommission shall approve, deny or approve with conditions, modifications, safeguards or stipulations appropriately and reasonably related to the intent, purposes, standards and requirements of the planned unit development regulations contained in Section 20-3.7 of this Code.
- (E) *Final Plans and Reports.*
- (1) Final plans shall be in accord with preliminary plans as approved by the Ceity Ceommission.
 - (2) Minor changes may be permitted by the city manager, if such changes meet the same physical design requirements as the approved final plans.
- (F) *Changes in Final Plans and Reports.*
- (1) *Major Changes.*
 - (a) Any proposed change which would have the effect of increasing densities or redistributing square footage or altering the height or use of a development is a major change.

- (b) An applicant for a major change shall schedule a preliminary conference with the building and zoning department. The department may accept the application, recommend changes to the application or deny the application.
 - (c) Upon acceptance, the application shall be further considered at another preliminary conference with members of the **environmental review and preservation board**, a representative from the department and the applicant.
 - (d) The application shall then be completed and submitted to the **environmental review and preservation board** for consideration. The **environmental review and preservation board** shall submit recommendations for approval, approval with conditions or denial to the planning board within seven (7) calendar days of its review.
 - (e) The planning board shall receive a complete application and the department shall post and publish public hearing notices. Public hearings shall be held before both the planning board and Ceity Ceommission.
 - (f) If the application is approved by the Ceity Ceommission, it shall be submitted to the **environmental review and preservation board** for final aesthetic approval.
- (2) *Minor Changes.*
- (a) Applications for a minor change shall be submitted to the building and zoning department. If the director agrees that the change is minor, he or she shall report on the application to the city manager.
 - (b) The city manager shall make a final decision on the application and communicate the decision to the applicant. The director shall place a copy of the application and decision in the planned unit development file. If the city manager approves the application, notice of the approval also shall be transmitted to the Ceity Ceommission.
 - (c) A fifteen (15) day waiting period shall apply for all minor changes.
- (G) *Application Requirements.* Applications for approval of a planned unit development shall include:
- (1) *Required Documents.* All plans, maps, designs, studies and reports which may reasonably be required to make the determinations required by these regulations.
 - (2) *Ownership Report.* A report identifying all property ownership and beneficial interest within the boundaries of the proposed planned unit development and giving evidence of unified control of the entire area.
 - (a) The report shall state agreement of all owners or holders of beneficial interest to proceed with the proposed development according to the terms of any final special permit approving the planned unit development, including such modifications as may be set by the Ceity Ceommission; and
 - (b) The report shall conform in the process of development to the preliminary development concept plan and to proposals for staging of development.
 - (3) *Property Survey.* A survey of the proposed development showing property lines and ownerships; and existing features, including streets, alleys, easements, utility lines, existing land use, general topography and physical features.
 - (4) *Preliminary Concept Plan.* A preliminary concept plan which shall include:
 - (a) Names of proposed development, developer and planner.
 - (b) Scale (1" = 20'), date, north arrow.
 - (c) Location, height, floor area, residential density of existing structures, if any; and location, orientation, height, floor area, residential or other density, and use of proposed structures or portions of structures.

- (d) Conceptual site plan, floor plan and elevations of all buildings, uses and improvements as intended to be located, constructed and used.
 - (e) Points of egress and ingress for pedestrian, vehicular, transit and service traffic, and circulation patterns within and around the proposed development.
 - (f) Location, character and scale of parking and service facilities (area and number of off-street parking spaces, character of mass transit related facilities, location of principal service areas for major structures or complexes, etc.).
 - (g) Relation of adjacent land uses and zoning districts to the proposed planned unit development, including, where view protection is an objective, location of principal public view points into or through the proposed planned unit development.
 - (h) Existing lots or blocks, if any, and general pattern of proposed lots or blocks, if any.
 - (i) Location of existing and proposed systems for pedestrian use or common enjoyment (excluding automotive uses); scale of such systems; indication of open space, open air and internal components.
 - (j) Where determined necessary, a professional market analysis and an analysis of the economic impact of the proposed development may also be required.
 - (k) Any additional information deemed necessary.
- (5) *Special Reports.* Special surveys, approvals, preliminary approvals (as appropriate to the particular case) or reports (such as a report for a Development of Regional Impact) required by county, state or federal governments where a proposed planned unit development is dependent upon such special surveys, approvals or preliminary approvals or reports.
 - (6) *Phasing Reports.* Where a planned unit development is to be constructed in stages, indications as to the nature of the planned unit development, uses, location and floor areas, residential or other densities to be developed, and timing of beginning of development of the first stage; and similar information on succeeding stages; provided, that in lieu of an indication of specific timing, initiation of succeeding stages may be made dependent upon completion of all or substantial portions of earlier stages.
 - (7) *Common Area Reports.* Proposals concerning the establishment of areas, facilities and improvements for the common use of the occupants or employees of or visitors to the planned unit development shall give adequate assurances to the city that such areas, facilities and improvements will be continued, operated and maintained without future expense to the taxpayers of the city.
 - (8) *Restrictive Covenants.* Proposals concerning restrictive covenants, if any, to be recorded with respect to property included in the planned unit development.
 - (9) *Submittal Requirements.* Materials submitted with an application for a major change or a minor change to a previously approved planned unit development shall include:
 - (a) Letter of intent containing statement of need and justification for changes.
 - (b) Copy of approved final plan and report.
 - (c) Copy of proposed final plan and report.
- (H) *Revocation of Planned Unit Developments Approval.*
 - (1) *Revocation Procedures and Standards.*
 - (a) *Revocation procedures:* Planned unit development approvals may be revoked by resolution of the Ceity Ceommission. Prior to passing a resolution revoking a planned unit development approval, the Ceity Ceommission shall hold at least one public hearing which shall be advertised in accordance with the requirements of state law and in accordance with the advertising required by Section 20-5.12(D)(2). Prior to holding a public hearing to

revoke a planned unit development approval, the Ceity Ceommission shall request a recommendation from the planning board which shall hold its own public hearing on the subject prior to giving its recommendation. The planning board's public hearing shall be advertised in accordance with the requirements of state law and in accordance with the advertising required by Section 20-5.12 (C)(2). In addition, the owner(s) of record of the subject property shall be notified by registered mail at least sixty (60) days prior to the planning board's first hearing on the subject. If the planning board fails to hold a public hearing or fails to give a recommendation within one hundred twenty (120) days of being requested by the Ceity Ceommission to do so, then the Ceity Ceommission may proceed to advertise and hold its own public hearing and to take action without the planning board's recommendation, provided that the owner(s) of record of the subject property have been notified by registered mail at least once and at least sixty (60) days prior to the Ceity Ceommission 's first public hearing.

- (b) *Revocation standards:* In considering a planned unit development revocation, the planning board and the Ceity Ceommission shall evaluate all relevant information which may come to their attention. A planned unit development approval which meets all requirements for approval under existing comprehensive plan and zoning designations applicable to the subject property shall not be revoked. However, there shall be no vested interest in a planned unit development approval per se and any planned unit development approval that is inconsistent with existing comprehensive plan or zoning designations may be revoked; indeed, such inconsistency may be deemed sufficient grounds for revocation of any planned unit development approval. The phrase "any planned unit development approval" in the preceding sentence shall include approvals for projects which have been fully or partially constructed. In the case of such projects, the revocation of the planned unit development approval shall not in any way cancel any vested right which may apply to the already completed buildings and structures themselves.

(Ord. No. 12-90-1452, 7-24-90; Ord. No. 3-93-1532, 5-4-93; Ord. No. 17-11-2090, § 1, 4-19-11)

20-5.13 - Building permit approvals.

(A) *General Provisions.*

- (1) No person shall erect, construct, reconstruct, excavate for a foundation, alter or change the use of any structure or improvements of land except in conformity with this Code and upon issuance of a building permit indicating what is to be allowed.
- (2) No construction material and equipment shall be placed on any premises, lot or proposed building site prior to building permit issuance.
- (3) A building permit shall not be required for any construction, repair or work in single-family residential districts, provided that:
 - (a) No inspection is required by the city;
 - (b) No approval is **required by the ERPB**; and
 - (c) All other zoning requirements are followed.
- (4) Regulation enactment or amendment.
 - (a) No building permit, lawfully issued prior to the effective date of this Code or any amendment thereto and in full force and effect at said date, shall be invalidated by passage of this Code or any such amendment.
 - (b) Such permit shall be valid, subject only to the following:
 - i. Building permit provisions;
 - ii. Applicable codes, ordinances, rules and regulations in effect at the time the permit was issued; and
 - iii. Expiration of the permit is not less than sixty (60) days from the effective date of this Code, unless actual construction has begun and continued pursuant to permit terms.

(B) *Procedures.*

- (1) Application for a building permit shall be made to the building and zoning department.
- (2) Two (2) sets of plans shall be submitted. One set shall be returned to the applicant either as approved or disapproved and the other shall be retained by the city.

(C) *Expiration of Building Permit.*

- (1) If work authorized by any building permit has not begun within six (6) months from the date of issuance, said permit shall be considered null and void and a new permit, consistent with all provisions of this Code, shall be required. Construction shall be deemed to have begun at the time of completion of the foundation.
- (2) If work authorized by any building permit has not been substantially completed within two (2) years from the date of issuance, said permit shall be considered null and void and a new permit, consistent with all provisions of this Code, shall be required.

(D) *Application Requirements.*

- (1) All applications for a building permit shall contain those plans, specifications and information as required by the Florida Building Code.
- (2) All applications for a nonresidential development of five thousand (5,000) square feet or more in area which is required to go before the **Environmental Review and Preservation Board** at a public hearing shall also submit a scale model of the proposed development. The model shall be at a scale of not less than one inch equal to twenty feet (1" = 20') and at least reflect the following structural and site characteristics:
 - (a) Facade colors,

- (b) Facade textures,
 - (c) Parking facilities, and
 - (d) Landscaping.
- (3) Such scale model shall remain on display in the City Hall throughout the entire application process or for such time as the city may desire.

(Ord. No. 17-11-2090, § 1, 4-19-11)

20-5.23 - Satellite antenna procedures.

- (A) *Satellite Earth Station Antennas.* That plans of satellite earth station antennas shall be submitted with each application for a building permit, which shall include a site plan indicating the height, diameter, color, location, setbacks, foundation details, landscaping and screening, and that such plans shall be subject to **approval by the ERPB** and that such antennas shall be subject to the following standards:

(1) *Location:*

- (a) In all RS, RT-6 and RT-9 Districts only ground-mounted antennas shall be permitted and such antennas shall be located in the rear yard of that property or in the interior side yard and not visible from the street.
- (b) In all other districts, roof-mounted antennas shall be permitted, provided, however, that such antennas shall be screened from ground view by a parapet or some other type masonry wall or screening. The minimum height and design of such parapet, wall or screening shall be subject to **approval by the ERPB**.
- (c) Ground-mounted antennas shall also be permitted in the RM-18, RM-24 and commercial districts subject to the applicable provisions of this section.

(2) *Landscaping:*

- (a) Ground mounted antennas shall be screened by landscaping from view from the street and adjacent property owners so that such antennas are not visible between ground level and eleven (11) feet above ground level as shall be **approved by the ERPB**.
- (b) In order to reduce the height of the required plant material, berms may be employed in conjunction with the landscaping plan. All plant material, size (at installation), quantity and spacing shall be specified on the landscaping plan or site plan.

(3) *Diameter:*

- (a) The diameter of such antennas shall not exceed ten (10) feet in all RS, RT-6 and RT-9 Districts.
- (b) The diameter of such antennas shall not exceed fifteen (15) feet in all other districts.

(4) *Height:*

- (a) Ground-mounted antennas shall be limited to a maximum height of eleven (11) feet above grade in all RS, RT-6 and RT-9 Districts and a maximum of fifteen (15) feet above grade in all other districts.
- (b) Roof-mounted antennas shall be limited to a maximum height of five (5) feet above the roof line or radius of the "dish bowl" in RS, RT-6 and RT-9 districts with a maximum of fifteen (15) feet in all other districts.

(5) *Setbacks:*

- (a) Ground-mounted satellite antennas in the most extended position shall conform to the following minimum setbacks:
 - i. *Rear and Side:* In all RS, RT-6 and RT-9 Districts fifteen (15) feet and in all other districts, rear and side setbacks shall be provided as are required for the principal building on the building site.
 - ii. *Setbacks from Power Lines:* Satellite antennas or any appurtenances thereto, shall be located not less than eight (8) feet from any powerline over two hundred fifty (250) volts.
- (b) In no case shall such satellite antennas be located closer to the front or side street of a lot or building site than the main or principal building.

- (c) Where such a satellite antenna is located on a building site which is fronting upon two or more streets, the antenna shall maintain the same setback as required for the principal building along each such street.
- (6) *Impervious Coverage:* The impervious coverage of such antennas shall be counted in computing the impervious coverage for auxiliary and accessory use structures located upon the building site.
- (7) *Color:* Such satellite antennas and their appurtenances shall be non-reflective black, green or the same color as the wall to which it is attached (if not freestanding) and, to the extent possible, shall be compatible with the appearance and character of the neighborhood.
- (8) *Number Permitted:* Only one (1) satellite antenna shall be permitted for each principal building. Roof top antennas of three (3) feet or under shall not be limited, but they shall be screened from view with screening **approved by the environmental review and preservation board**.
- (9) *Installation:*
 - (a) The installation or modification of all satellite antennas shall be in accordance with all applicable construction and safety codes and procedures and shall meet the requirements of the Florida Building Code.
 - (b) Roof-mounted antennas shall be anchored to the roof and shall conform with the requirements of the Florida Building Code.
 - (c) All antennas and appurtenances shall be so constructed and installed so as to withstand the forces due to wind pressure as provided for under the Florida Building Code, and all applications shall include signed and sealed drawings by a professional engineer.
- (10) *Maintenance:* Such satellite antennas, appurtenances, landscaping and screening shall be kept and maintained in good condition.
- (11) *Existing Antennas:* All antennas installed prior to February 5, 1991, will be grandfathered in under the following conditions and must be brought into compliance by May 5, 1991 (ninety (90) days):
 - (a) A certified statement by a professional engineer be provided that the existing antenna is installed to the specifications of the Florida Building Code and not an undue hazard to the community; and
 - (b) Appropriate screening shall be done as shall be approved by the city.

(Ord. No. 10-90-1450, 8-21-90; Ord. No. 4-91-1469 (a.k.a. Ord. No. 10-90-1450-A), 2-5-91; Ord. No. 24-98-1672, § 1, 11-17-98; Ord. No. 17-11-2090, § 1, 4-19-11)

20-6.1 - Administrative entities.

(C) **Environmental Review and Preservation Board.**

(1) *Establishment and Membership.*

- (a) An **environmental review and preservation board** is hereby created which shall consist of nine (9) members who reside or work in the City, except as provided in ii. below.
 - i. In accordance with the City Charter, Article II, Section 8, A, each City Commissioner shall appoint one (1) person to serve as a representative on the Board and all members of the Board in excess of five (5) shall be appointed by three (3) affirmative votes of the City Commission based on recommendations submitted by any City Commissioner.
 - ii. Board membership shall include at least one (1) registered landscape architect licensed to practice in the State of Florida. If it is determined by the City Commission that the position of landscape architect cannot be filled by a qualified individual who resides or works in the City, the residency requirement may be waived by the Commission and the position of landscape architect may be filled by a qualified individual who does not reside or work in the City.
 - iii. Board membership shall include two (2), but no more than four (4), architects licensed to practice in the State of Florida.
 - iv. Members of the **environmental review and preservation board** may not work for the City or be employed by any company that has contracts with the City.
 - v. Members shall serve for a term of two (2) years.
- (b) Any member of the board shall be automatically removed for missing five (5) regular meetings in a row, or nine (9) meetings in a twelve-month period.
 - i. The Planning and Zoning Director shall keep a record of meetings missed.
 - ii. The Planning and Zoning Director shall advise the City Commission and the member being removed that such member has been automatically removed.

(2) *Organization.*

- (a) Meetings.
 - i. The board shall hold two (2) regular meetings each month, on the first and third Tuesday of each month.
 - ii. Meetings shall not be held if no plans, specifications or items are submitted for review.
 - iii. Agendas of all meetings shall be posted at City Hall not less than three (3) working days prior to any meetings.
- (c) The board shall elect from its membership a chair and vice-chair for a one-year non-successive term, respectively.
 - i. The chair shall normally preside at all meetings of the board.
 - ii. In the absence or recusal of the chair, the vice-chair shall preside.
- (d) A temporary chair may be elected at any meeting when both the chair and vice-chair are absent or recused.

(3) *Powers and Duties.*

- (a) The board shall have all such powers and duties as are granted by this Code.

- (b) The board shall review and and make recommendations for approval, disapproval or modification on all site plans, projects and specifications as required under the board's mandatory review pursuant to this Code.
 - (c) The board shall review the scale, color, texture and appropriateness of all proposed buildings, additions, and other structures; the quantity, quality and arrangement of all proposed landscaping and open space features; and the overall compatibility of the proposed development with the existing character of the neighborhood and make a recommendation to the City Commission for approval, disapproval or modification.
 - (d) ~~The board shall have the power and the duty to hear and decide matters, specifically prescribed by and in accordance with the terms of this Code.~~
 - (e) The board shall conduct any other function which may be designated or assigned by act of the City Commission.
 - (f) Notwithstanding any other provisions of this Code, the **Environmental Review and Preservation Board** shall not review any additions or alterations to single-family dwellings, unless in the opinion of the Planning and Zoning Director it would significantly affect the character of the neighborhood residence.
 - (g) Notwithstanding any other provisions of this Code, the **Environmental Review and Preservation Board (ERP)** shall review and make a recommendation to the City Commission for approval, disapproval or modification for all new construction, painting, remodeling, landscaping and signage projects to be performed by this municipal government (the City), prior to any permits being issued or any work being performed.
- (4) *Procedures.*
- (a) Quorum and voting.
 - i. A quorum shall be three (3) members.
 - ii. An affirmative vote of a majority of the members present shall be required to pass upon any matter on which the board is required to act under this Code.
 - (b) The board shall keep a permanent record of all proceedings before it.
 - (c) Meetings of the board shall be public and notification of such meetings shall be given in accordance with Code provisions. If any scheduled meeting is not held (whether for lack of quorum or otherwise), then all applications scheduled for such meeting shall be heard and decided by the Planning and Zoning Director of the Building, Zoning, **and Community Development Department???** (or the director's designee) no later than the end of the next business day after the scheduled meeting was to have been held. The director's decision, if for approval, **shall constitute ERP approval.** The seven-day appeal period begins the day after the director's decision.
 - (d) All approved plans and specifications shall bear the official signature of the chair presiding at the meeting at which such plans and specifications are approved.
 - (e) If a set of plans is denied, or modification is recommended, the board shall, to the greatest extent possible, make specific findings as to the reasons for denial and modification, and recommend appropriate changes, if possible.
 - (f) Financial interest.
 - i. Any member of the board who has a special financial interest, direct or indirect, in any matter before the board shall make that interest known and shall abstain from participation therein in any manner.
 - ii. Willful failure to disclose such financial interest shall constitute malfeasance in office and shall render the action voidable by the City Commission.

(D) *Historic Preservation Board.*

(1) *Establishment and Membership.*

- (a) A Historic Preservation Board is hereby created which shall consist of nine (9) members who reside or work in the City.
- i. Each City Commissioner shall appoint one (1) person to serve as a representative on the Board, and all remaining members of such Board or committee in excess of five (5) shall be appointed by three (3) affirmative votes of the city commission based on recommendations submitted by any City Commissioner. Reappointments and/or replacements are to be made in the identical manner as the original appointments.

Reappointments and/or replacements are to be made in the identical manner as the original appointments if the entire Board is to be replaced, otherwise, any commission member may nominate a member for a vacancy by way of a proposed resolution.
 - ii. All members shall be familiar with the purposes of preserving and protecting districts, structures or sites having historic or archeological worth.
 - iii. Board membership shall include two (2) registered architects licensed to practice in the State of Florida. If it is determined by the city commission that the positions of architect cannot be filled by a qualified individual who resides or works in the city, the residency requirement may be waived by the commission and the position of architect may be filled by a qualified individual who does not reside or work in the city. The Board shall include one (1) member who is a licensed Florida attorney ("attorney/member"). If it is determined by the City Commission that the position of attorney cannot be filled by a qualified individual who resides or works in the city, the residency requirement may be waived by the commission and the position of attorney may be filled by a qualified individual who does not reside or work in the city. If the City cannot locate a qualified attorney who is willing to sit on the Board, then the City Commission may fill the attorney/member seat by appointing anyone else who is otherwise qualified to be a member of the Board.
 - iv. Members shall serve for a term of two (2) years.
- (b) Any member of the Board shall be automatically removed for missing three (3) regular meetings in a row or five (5) meetings in a twelve-month period.
- i. The Planning and Zoning Director shall keep a record of meetings missed.
 - ii. The Planning and Zoning Director shall advise the City Commission and the member being removed that such member has been automatically removed.

(2) *Organization.*

- (a) Meetings.
- i. The Board shall hold one (1) regular meeting each month on the last Monday of each month, except in June.
 - ii. Meetings shall not be held if no designation reports, plans, specifications or scheduled matters are to be submitted and/or initiated by the Board for review.
 - iii. Agendas of all meetings shall be posted at City Hall not less than three (3) working days prior to any regularly scheduled meetings, excluding workshops.
- (b) The Board shall elect from its membership a chair and vice-chair for a one-year non-successive term, respectively.
- i. The chair shall normally preside at all meetings of the Board.
 - ii. In the absence of the chair, the vice-chair shall preside.
- (c) A temporary chair may be elected at any meeting when both the chair and the vice-chair are absent or recused.

(3) *Powers and Duties.*

- (a) The Board shall have all such powers and duties granted by state law, Miami-Dade County Code and this Code.
- (b) The Board shall review and recommend approval, disapproval or modification of all applications for final approval by the City Commission of historic district and historic site designations, and site plans and specifications, and Certificates of Appropriateness, as required under this Code.
- (c) The Planning and Zoning Department shall maintain and update files from the Miami-Dade County Historic Survey within the city for the purpose of determining and promoting those districts and sites of special historic or archeological value or interest.
- (d) The Board shall make recommendations to the City Commission on the designation of historic districts and sites, and archeological sites, pursuant to this Code.
- (e) The Board shall endeavor to improve and expand the Miami-Dade County Historic Survey with additional sites, information, oral histories and any other material as may be available, and periodically, to reevaluate the survey to determine whether changing times and values warrant recognition of new or different, historic and/or archeological districts and sites.
- (f) The Board shall, in reference to specific historic districts or sites, or archaeological sites, recommend to the City Commission the use of preservation incentives, including tax incentives and advantages.
- (g) The Board shall make recommendations to the City Commission concerning application for and the utilization of grants from federal and state agencies, or from private groups and individuals, and utilization of city funds to promote the preservation of historically significant districts and sites and archaeologically significant sites.
- (h) The Board shall recommend contact of public and private organizations and individuals, engage in historic and archeological preservation education, and undertake all reasonable and proper means to promote preservation of historically and archaeologically significant properties which are proposed for, or under threat of, demolition, destruction or significant degradation.
- (i) The Board shall evaluate and comment upon decisions by request of other public agencies affecting the physical development and appearance of historically significant districts and sites and archaeologically significant sites, or upon the request of the City Commission.
- (j) The Board shall recommend approval of historic and archeological markers for properties within the city.
- (k) The Board shall advise the city commission on matters related to the use, administration and maintenance of city-owned historically significant properties.
- (l) The Board shall promote and encourage communication and exchange of ideas and information between the Board and owners of historically and archaeologically significant properties, potential developers, public officials, financial institutions, and other interested persons.
- (m) The Board shall have the responsibility to advise the City administration and City Commission on various matters, in accordance with the terms of this Code.
- (n) The Board shall conduct any other function which may be designated or assigned by act of the City Commission.

(4) *Procedures.*

- (a) Quorum and voting.
 - i. A quorum shall be three (3) members.

- ii. An affirmative vote of a majority of the members present shall be required to pass upon any matter on which the Board is required to act under this Code.
 - iii. In instances when the Board considers a designation report, a quorum shall consist of three (3) members, at least one (1) of whom shall be an architect.
- (b) The Planning and Zoning Department shall keep a permanent record of all proceedings before it.
- (c) Meetings of the Board shall be public and notification of such meetings shall be given in accordance with Code provisions. If any scheduled meeting is not held, then all applications scheduled for such meeting, except designation reports, shall be heard and decided by the Director of the Planning and Zoning Department (or the director's designee) no later than the end of the next business day after the scheduled meeting was to have been held. The director's decision, if for approval, shall constitute Historic Preservation Board approval.
- (d) All approved designation reports shall bear the official signature of the chair presiding at the meeting at which such reports are approved.
- (e) Reserved.
- (f) Financial interest.
 - i. Any member of the Board who has a special financial interest, direct or indirect, in any matter before the Board shall make that interest known and shall abstain from participation therein in any manner.
 - ii. Willful failure to disclose such financial interest shall constitute malfeasance in office and shall render the action voidable by the City Commission.
- (g) The City's staff, the Director of the Miami-Dade County Office of Historic Preservation, and private parties may make recommendations to the Board for the initiation of designations of historic districts and individual historic sites, whether residential, commercial, industrial or other types of sites. The recommendation shall be addressed to the Board and delivered to the City Clerk by United States mail, facsimile transmission, or e-mail. The Board, in its discretion, may make its own recommendation to the City Commission for the adoption, amendment to or rejection of such suggestions which shall be treated as an application. See Chapter 16-A: Sec. 16-3.1 (4)(a)(2). In such event, the Board shall notify the Planning Director who shall provide due notice to affected parties.

(Ord. No. 11-90-1451, 8-21-90; Ord. No. 20-93-1546, §§ 1, 2, 11-16-93; Ord. No. 18-95-1591, § 1, 10-5-95; Ord. No. 6-96-1606, § 2, 5-7-96; Ord. No. 9-96-1609, § 1, 5-21-96; Ord. No. 12-96-1612, §§ 1, 6, 7-30-96; Ord. No. 19-96-1619, § 5, 10-1-96; Ord. No. 17-97-1638, § 1, 6-3-97; Ord. No. 12-00-1714, § 5, 4-18-00; Ord. No. 8-03-1792, § 1, 5-20-03; Ord. No. 10-03-1794, § 2, 5-20-03; Ord. No. 04-04-1811, § 1, 5-4-04; Ord. No. 06-04-1813, § 1, 6-8-04; Ord. No. 20-05-1842, § 1, 6-14-05; Ord. No. 22-07-1923, § 1, 8-21-07; Ord. No. 20-08-1955, § 2, 6-3-08; Ord. No. 33-09-2025, § 1, 12-8-09; Ord. No. 24-10-2049, § 1, 9-7-10; Ord. No. 17-11-2090, § 1, 4-19-11; Ord. No. 42-11-2115, § 1, 12-6-11; Ord. No. 06-12-2122, § 1, 5-15-12; Ord. No. 12-12-2128, § 1, 8-21-12; Ord. No. 3-13-2150, § 1, 1-8-13; Ord. No. 9-13-2156, § 1, 3-19-13; Ord. No. 03-14-2181, § 1, 3-18-14; Ord. No. 27-14-2205, § 1, 11-6-14; Ord. No. 24-16-2257, § 1, 9-20-16; Ord. No. 30-16-2263, § 1, 11-15-16; Ord. No. 32-16-2265, § 1, 11-15-16; Ord. No. 34-16-2267, § 1, 11-15-16; Ord. No. 17-17-2287, § 2, 9-28-17)

20-6.2 - Appeals and Review.

- (A) **ERP** Decisions; Time; Standing to Appeal. All decisions and recommendations of the **Environmental Review and Preservation Board (ERP)** shall be posted on the City Hall bulletin board immediately following the **ERP** meeting. An applicant may apply for a building permit after two (2) working days (excluding Saturdays, Sundays and legal Miami-Dade County holidays) following the day of the **ERP** meeting, at which the application was given final approval, if all other requirements for the permit have been met.
- (1) An appeal of an **ERP** final decision or recommendation may be taken to the City Commission if filed within thirty (30) days of the **ERP** final decision or before a building permit is issued, whichever comes first. The appeal shall be filed with the City Clerk upon a form prescribed therefor. Appeals may be filed by the applicant, a property owner, business owner, or resident of the City, the City administration, or any interested citizens living in an abutting municipality or unincorporated area, and within five hundred (500) feet of the property under review.
 - (2) An appellate review by the City Commission may reverse the decision of the **ERP** in whole or in part, modify the decision, or remand the matter back to the **ERP** with instructions.
 - (3) Record on Appeal: The evidence on appeal shall be limited to the record which shall consist of the transcript of the proceedings and any documents that were presented at the pertinent meeting ("record on appeal"). The City Clerk shall prepare the record on appeal after the appellant delivers the pertinent transcript. Unless waived in writing by all of the parties to the appeal, the preparation of the transcript is a prerequisite to the appeal. The transcript shall be delivered to the City Clerk at least thirty (30) days prior to the hearing on the appeal. The failure of the appellant to timely deliver the transcript shall be grounds for the dismissal of the appeal or, if good cause is shown for the delay and an extension of time is granted by the City Clerk for the preparation of the transcript, the hearing date for the appeal or review, as well as all other schedule of events, such as service of briefs, shall be extended accordingly notwithstanding any other provision of this ordinance to the contrary.
 - (4) Briefs: The appellant shall prepare a written statement of the issues and an argument ("brief") which shall be filed with the City Clerk, and delivered ("served") by hand, facsimile transmission, e-mail or other acceptable electronic transmission, at least twenty (20) days before the hearing on the appeal or Commission review. The opposing party ("appellee"), which may include the City, may also prepare a brief, if desired, which shall be filed with the City Clerk and served on the appellant at least six (6) days before the scheduled appellate hearing. The appeal shall be limited to the issues raised in the briefs.
 - (5) Appellate Costs: The person who files an appeal, shall pay the applicable appellate filing fee as set forth in the City's Fee Schedule. The appellant (which term shall include the person who files an appeal and the City if the review is instituted by resolution), shall pay the cost of transcribing the testimony and statements made at the pertinent **ERP** meeting. The person, including the City, if deemed to be the prevailing party on the most significant appellate issues, shall be reimbursed the appellate costs, including the cost of the transcript, by the non-prevailing party or parties. If there is more than one (1) non-prevailing party, the costs shall be shared equally between or among them.
- (B) *Stay of Proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the City Commission finds that there is competent substantial evidence to support the finding of facts and conclusions in the certificate of the officer, department director, City employee or board (hereinafter collectively referred to as "Officer") from whom the appeal is taken, that a stay would, in the Officer's opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Code.
- (C) *Restraining Orders.* If certification occurs in accordance with subsection (B) above, proceedings may not be stayed except by a restraining order, which may be granted by the City Commission or by a court of record on application, on notice to the Officer from whom the appeal is taken and on due cause shown.

- (D) *Appeal Hearing.* The City Commission shall hear and enter a decision on all appeals within sixty (60) days of the date of filing said appeal, and shall provide due notice of the appeal to the parties.
- (E) *Commission Action.* The City Commission may reverse, affirm or modify any order, requirement, decision or determination appealed from and shall make any order, requirement, decision or determination that, in the City Commission's opinion, ought to be made in the circumstances.
- (F) *Modification Allowed.* When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a Code provision, the City Commission may, in passing upon appeals, vary or modify any regulation or provision of the Code relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of the Code is observed, public safety and welfare secured, and substantial justice done.
- (G) *Prior Denials.* The City Commission shall not be required to hear an appeal or application previously denied if it finds that there has been no substantial change in conditions or circumstances bearing on the appeal or application.

(Ord. No. 27-92-1522, 11-3-92; Ord. No. 10-93-1538, 7-20-93; Ord. No. 4-94-1553, § 1, 3-1-94; Ord. No. 12-09-2004, § 1, 7-21-09; Ord. No. 15-12-2131, § 1, 9-4-12)

20-7.3 - Review procedure.

- (A) *Pre-Application Conference.* All applicants filing an application for a development permit (ADP) within the Hometown District shall first attend a meeting with the director of building, zoning and community development or other designated official (director) to discuss and analyze the proposed application in a non-binding forum.
- (B) *Application for Development Permit.* The contents of an ADP shall be as provided in Chapter 20 of the Code, except that all such application shall include the following items:
 - (1) Application Form: completed, signed, and notarized.
 - (2) Surveys: Two (2) signed and sealed surveys, showing existing structures, boundaries, rights-of-way and easements of record.
 - (3) Fee: Assessed per fee schedule at time application is filed.
 - (4) Site Plan: Three (3) copies of the site plan (see site plan requirements).
 - (5) Building Elevation Drawings: Three (3) copies of the drawings. Building elevations may be schematic in nature, but shall be drawn to scale, be properly dimensioned, and shall indicate proposed building materials and exterior surfaces and finishes. All drawings shall demonstrate treatment of required elements.
- (C) *Completeness.* ADP shall be reviewed for completeness per Section 20-5.4 of the Code.
- (D) *Review.* A complete ADP shall be reviewed by the Director. If the ADP is determined to be in conformance with the Hometown District Standards, the application shall be processed for approval pursuant to the applicable provisions of the Code and the development permit issued by the director without further review by the planning board, **ERP** or the city commission.
- (E) *ADP Not Conforming to HD Standards.* If the ADP includes a use that requires approval as a special use, or if the ADP does not conform to the Hometown District Standards (other than nonconformance with the Architectural Standards), the application shall be processed as provided in Sections 20-5.5 through 5.9, as appropriate.
- (F) *ADP Not Conforming to HD Architectural Standards.* ADPs not conforming to the Architectural Standards shall be reviewed by the **ERP** pursuant to the site plan review process established in Section 20-5.11 of the Code.
- (G) *Established Nonconforming Uses.* The provisions of Sections 20-3.3(B) and 20-4.8 shall apply to established nonconforming uses within the HD boundaries.

(Ord. No. 19-93-1545, § 1, 10-19-93)

20-7.5 - Definitions.

Terms used throughout this article shall take their commonly accepted meaning unless otherwise defined in the Code. When there are conflicts between the Code and this article, this article shall control terms requiring interpretation specific to this article as follows:

Accessway: A street or driveway which traverses a parcel providing access to an abutting street, alley, or other vehicular use area.

ADP: Application for development permit: An application for any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance or any other official action of the city having the effect of permitting land development.

Alley: A 20'—24' wide way providing access to the rear of lots and buildings.

Arcade/colonnade: A covered, open-air walkway at standard sidewalk level attached to or integral with the building frontage; structure overhead is supported architecturally by columns or arches along the sidewalk; required to extend beyond the build-to line. These standards permit encroachment by habitable spaces on upper floors over any arcade along a city street, or elsewhere if approved by the entity controlling the right-of-way.

Building depth: The absolute distance between the outer wall surface of the building frontage and the outer wall surface of the rear wall of the building.

Building frontage: The side of a building which faces the primary street.

Build-to line: An alignment established a certain distance from the property 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.

Clear zone: In the corners created by the intersection of two (2) streets, the area outside of an established radius which shall be kept clear of obstructions to emergency vehicles. A smaller corner curb radius may occur within a clear zone.

Contributive buildings: Buildings officially identified on the regulating plan for their architectural merit, historic significance, or effectiveness at creating quality public spaces; these properties are to receive special consideration for parking.

Corner curb radius: The radius of the curved street edging at intersections. Radii shall not exceed the appropriate maximum prescribed in the Street Standards.

ERP: The **environmental review and preservation board**, an appointed board of the City of South Miami.

Expression line: An exterior cornice or molding delineating the division between the first story and the second story.

Fence line: The alignment along which fences, walls, or hedges shall be located.

Front porch: An un-air-conditioned roofed structure, at the ground floor level or first floor level, attached to the front of a building, open except for railings and support columns.

Ground floor area: The area on the ground occupied by a building, excluding arcades and colonnades.

Historic building: A building that has been designated by the City of South Miami per the historic preservation portion of the regulations.

Lot coverage: The percentage of the gross area of a given lot which contains buildings. Outbuildings do not count toward lot coverage.

Lot frontage: The property line adjacent to the primary street right-of-way.

Open yard space: The portion(s) of a lot free of buildings or impervious surfaces.

Outbuilding: A separate building detached from the primary building on a lot.

Parking surface: An area designated for parking constructed with any of the following surfaces: turf block, gravel, brick, pavers, asphalt, or concrete.

Stoop: A small platform or staircase leading to the entrance of a house or building. A stoop may occur forward of the build-to line only when the stoop does not restrict free movement of pedestrians along sidewalks.

Story : The horizontal division of a building between the surface of a floor and the surface of the next floor above, or the next ceiling if there is no floor above. All stories will be counted towards the maximum building height, but there is no limit on the height of a story.

(Ord. No. 19-93-1545, § 1, 10-19-93; Ord. No. 12-96-1612, §§ 8, 9, 7-30-96; Ord. No. 07-17-2277, § 2, 4-4-17)

20-7.14 - Regulating plan—Special areas.

Because of the irregular geometry of a few lots caused by the intersection of US1 with other streets in the Hometown District, and other lot-configuration constraints, certain properties may not be required to meet all of the provisions in the Basic Standards but may be subject to customized regulatory conditions instead, at the discretion of the director of building, zoning and community development. The customized regulatory conditions for each of the special areas are as follows:

- (A) *Special Area #1:* Maximum lot coverage and minimum open yard space requirements are waived for properties in this area. Building frontage requirements shall be observed for property lines facing both Red Road and US1. Design is subject to ERPB approval.
- (B) *Special Area #2:* Maximum lot coverage and minimum open yard space requirements are waived for properties in this area. Buildings shall have two (2) front sides, meeting storefront design requirements. Building frontage requirements shall be observed for all frontages including US1, SW 58th Avenue, and SW 71st Street. Design is subject to ERPB approval.
- (C) *Special Area #3:* A gasoline/service station is a permitted use in this area, subject to ERPB approval of the specific design. For any other use, building frontage requirements shall be observed for property lines facing both US1 and SW 73rd Street.

20-7.15 - Architectural standards—Intent.

The architectural standards are pre-approved and are intended to provide a degree of predictability about the quality of building designs and to promote harmony among buildings without requiring an appearance before and approval by a review board for every project. Applicants with projects which conform to these standards may obtain approval from the departmental staff without appearing before **ERP**. Appearance before **ERP** remains an optional route. Every permissible option is not described herein; other options may be approved by **ERP**.

Wherever these architectural standards may conflict with the City of South Miami Land Development Code, these architectural standards shall apply for properties within the Hometown District.

The lists of permitted materials and configurations come from study of traditional buildings found in South Florida and have been selected for their appropriateness to the visual environment and climate.

A primary goal of the architectural standards is authenticity. The standards encourage construction which is straightforward and functional, and which draws its ornament and variety from the traditional assembly of genuine materials. The standards generally discourage 'imitation' materials, such as simulated wood, to avoid a tacky image for the neighborhood.

(Ord. No. 19-93-1545, § 1, 10-19-93)

20-7.22 - Architectural standards—Roofs and gutters.

(A) *Materials.*

Roofs:

- Metal:
 - Galvanized
 - Copper
 - Aluminum
 - Zinc-Alum
- Shingles:
 - Asphalt, Metal, or Fiberglass
- Tiles:
 - Clay, including Terra Cotta
 - Concrete

Gutters:

- Copper
- Painted or Vinyl Clad Aluminum
- Painted Galvanized Steel

(B) *Configurations.*

Roofs:

- Metal: Standing Seam, 24" maximum spacing
- Shingles: Square, Rectangular, Fishscale, or Shield
- Tiles: Barrel, Spanish, French, or Flat

Gutters:

- Rectangular section
- Square section
- Half-round section

(C) *General Requirements.* All runoff will be captured by gutters and routed with enclosed downspouts to an approved drainage area.

Downspouts are to match gutters in material and finish.

Any machinery as defined in Section 20-3.6(Q) of the Code shall be screened from view using either one of the screening systems **pre-approved by ERPB** and pre-approved by the city commission, or a system specifically **approved by ERPB** for applicant's project.

Permitted Roof Types: hipped, gabled, shed, barrel vaulted and domed. Flat roofs are permitted only where used as outdoor useable space.

(Ord. No. 19-93-1545, § 1, 10-19-93)

20-7.24 - Architectural standards—Colors.

The Color Palette list, maintained in the department of building, zoning and community development, identifies exterior paint/finish colors that are pre-approved for buildings in the Hometown District. Other colors may also be permissible **with approval by ERPB**. Departmental staff shall maintain a color chip chart or display illustrating the range of pre-approved colors. Sherwin-Williams standard paint numbers are used on the Color Palette list for reference, but any manufacturer's paint is acceptable if similar in color. This list reflects the community's desires to encourage a range of colors for visual variety, to encourage light colors for energy savings, and colors appropriate for the subtropical environment.

The following requirements apply:

- (A) Applicants may choose up to four colors for a single building (one (1) or two (2) body colors, one (1) or two (2) trim colors, and one (1) accent color; these may be the same or different).
- (B) Body colors are intended for building walls, garden walls and other primary building elements, and shall be used for no less than seventy (70) percent of the painted surface area of any one floor of the building. Recommended but not required: use of two (2) shades of body color— one above and one below an expression line between the first and second floors.
- (C) Trim colors are intended for door frames, storefront elements, windows and window frames, railings, shutters, ornament, fences and similar features. Trim colors shall be used for no more than thirty (30) percent of the painted surface area of the building. Recommended but not required: Trim colors usually appear best in a lighter shade than the body color.
- (D) The accent color is used to highlight special features such as doors, shutters, gates, ornament, or storefront elements. The accent color shall be used for no more than twenty-five (25) percent of the painted surface of the building.

(The Color Palette list shall be established by the commission **after ERPB recommendation**.)

(Ord. No. 19-93-1545, § 1, 10-19-93)

20-7.52 - Procedure for special exception.

- (A) Special exceptions under Ordinance No. 19-94-1569 [Sections 20-7.51, 20-7.52] may be granted only after a minimum of two (2) public hearings. The first public hearing shall be before the planning board, at which time the planning board shall review the project and provide to the city commission an advisory recommendation regarding approval, approval with conditions, or disapproval. The second public hearing shall be held before the city commission and shall be held no sooner than seven (7) calendar days following the planning board hearing. Public notice requirements, as specified in Section 20-5.5(C) and (G), Applications requiring public hearings, shall be followed.
- (B) Requests for special exceptions under Ordinance No. 19-94-1569 [Sections 20-7.51, 20-7.52] shall be in a form acceptable to the city manager and shall include each exhibit required per Section 20-7.3(B), Application for Development Permit, and per Section 20-7.4, Site Plan Requirements. In addition, the city commission, at its discretion, may require additional exhibits and may defer approval of the special exception application or schedule an additional public hearing or hearings to review those exhibits.
- (C) The city manager shall have authority to require additional review and approval by the environmental review and preservation board for developments involving special exception, which review shall follow the procedure set forth in Section 20-5.11 of this Code.
- (D) The city commission may grant a special exception upon four (4) affirmative votes of its members.

(Ord. No. 19-94-1569, § 1, 11-1-94)

20-8.2 - Definitions.

Terms used throughout this Ordinance shall take their commonly accepted meaning unless otherwise defined in the Code. When there are conflicts between the Code and this Ordinance, this Ordinance shall control terms requiring interpretation specific to this Ordinance as follows:

Accessway: A street or driveway which traverses a parcel providing access to an abutting street, alley, or other vehicular use area.

Alley: A twenty (20) feet to twenty-four (24) feet wide way providing access to the rear of lots and buildings.

Arcade/colonnade: A covered, open-air walkway at standard sidewalk level attached to or integral with the building frontage; structure overhead is supported architecturally by columns or arches along the sidewalk; required to extend beyond the build-to-line. These standards permit encroachment by habitable spaces on upper floors over any arcade along a City street, or elsewhere if approved by the entity controlling the right-of-way.

Building depth: The absolute distance between the outer wall surface of the building frontage and the outer wall surface of the rear wall of the building.

Building frontage: The side of a building which faces the primary street.

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.

Fence line: The alignment along which fences, walls, or hedges shall be located.

Ground floor area: The area on the ground occupied by a building, excluding arcades and colonnades.

Historic building: A building that has been designated by the City of South Miami per the historic preservation portion of the **Environmental Review and Preservation Board** regulations.

Lot coverage: The percentage of the gross area of a given lot which contains buildings.

Lot frontage: The property line adjacent to the primary street right-of-way.

Open yard space: The portion(s) of a lot free of buildings or impervious surfaces.

Parking surface: An area designated for parking constructed with any of the following surfaces: turf block, gravel, brick, pavers, asphalt, or concrete.

Story : The horizontal division of a building between the surface of a floor and the surface of the next floor above, or the next ceiling if there is no floor above. All stories will be counted towards the maximum building height, but there is no limit on the height of a story.

(Ord. No. 9-97-1630, § 1, 4-1-97; Ord. No. 07-17-2277, § 3, 4-4-17)

20-8.9 - Special exceptions.

- (A) A Special Exception as used in the T.O.D.D. shall mean a permitted use that complies with all the conditions and standards for the district as well as those set forth below. For those existing uses in this district, any alterations or additions to those buildings that result in the building being designated as a Large Scale Development, shall conform to the provisions of this ordinance. Existing heights of existing buildings and existing floors may remain in their current condition; however, additional floors, if authorized, may be added in accordance with this ordinance.
- (B) Any site that is in excess of forty thousand (40,000) square feet or any development, as defined in section 380.04, Florida Statutes (hereinafter referred to as "Development"), in excess of four (4) stories shall be designated as a Large Scale Development it shall be reviewed by the Planning Board and it shall require approval by the City Commission. The square footage of an alteration or addition to an existing site and the square footage of the existing site that is being altered or to which an addition is being proposed shall be included in the computation of the size of the Development project in order to determine if it is a Large Scale Development.
1. Special exceptions, if granted, shall be valid if new construction commences within eighteen (18) months from the date of final approval and is substantially completed within two (2) years from the date of issuance of the first building permit. The time for substantial completion may be extended by the city commission upon application filed prior to the expiration of the substantial completion period and upon demonstration of good cause.
 2. For the purpose of this section 20-8.9, substantial completion shall mean the stage in the progress of the project where the work on the project or designated portion of an approved phased project is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the project, or designated portion of an approved phased project, for its intended use, or the project has received either a temporary certificate of occupancy or a certificate of occupancy. In order to be an "approved phased project" the Owner must obtain City Commission approval for the phases of the project.
 3. Any property designated as a Large Scale Development may have residential uses on the first floor, however, residential uses are not permitted on the first floor within that portion of the building or development fronting on the main street. The phrase "main street" means the thoroughfare that abuts the property line of the building or development and which has the most traffic, as compared to any other street that abuts the property.
- (C) General Requirements. A Large Scale Development shall be approved and permitted by the City Commission at a public hearing, after the planning board makes its recommendation, provided that such use is specifically listed as a permitted use in the appropriate district column in the Permitted Use Schedule of the Land Development Code (section 20-3.3D, as may be amended), and that such use complies with the following general requirements and any other requirements that the City Commission may consider appropriate and necessary.
1. All such uses shall comply with all requirements established in the appropriate zoning use district, unless additional or more restrictive requirements are set forth below or by the City Commission.
 2. All such uses must be of a compatible and complementary nature with any existing or planned surrounding uses.
 3. The City Commission shall determine the overall compatibility of the development with the existing or planned surrounding uses.
 4. If during the review process it is determined that the development, as proposed, will potentially cause adverse impact, the Planning Department shall recommend remedial measures to eliminate or reduce, to the extent possible, these impacts. Development projects that are recommended for remedial measures will not be required to submit a new application unless it is determined by the Department that additional changes which would have the effect of

increasing densities, square footage or altering the height or use of a Development have been made. Remedial measures may include, but are not limited to:

- i. Additional screening or buffering;
- ii. Additional landscaping;
- iii. Building orientation;
- iv. Relocation of proposed open space, or alteration of the use of such space;
- v. Pedestrian and bicycle safety and access;
- vi. Changes to ingress and egress;
- vii. Addressing traffic flow to and from the development to avoid intrusion on local streets in nearby single family residential areas; or
- viii. Improvement of the streets adjacent to the project, if applicable.

(D) Project Approval.

(a) Required Conditions. Prior to approving a Large Scale Development the City Commission must find that the development meets the requirements set forth in subsection (C) above and that it:

1. Will not adversely affect the health or safety of persons residing or working in the vicinity of the proposed use;
2. Will not be detrimental to the public welfare, property or improvements in the neighborhood; and
3. Complies with all other applicable Code provisions.

(b) Additional Conditions. The City Commission may designate such additional requirements in connection with the approval of a Large Scale Development as will, in its opinion, assure that such development will conform to the foregoing requirements.

(E) Reapplication for Development Review. No reapplication for a Large Scale Development review under section 20-8.9 shall be accepted by the City within six (6) months of the date of final disapproval by the City Commission of a previous application involving the same or substantially the same project, unless evidence is submitted and accepted by the City Commission which justifies such reconsideration.

(F) No single use in the T.O.D.D. Zone shall exceed a gross floor area of eighty thousand (80,000) square feet, except residential uses.

(G) Within the MU-5 subcategory, the maximum height of new buildings or existing building with additions shall be limited to a maximum of four (4) stories, as permitted, unless the development earns a bonus as set forth in section 20-8.10. However, in no event shall a development exceed eight (8) stories, as permitted with bonus, nor shall it exceed one hundred (100) feet.

(H) Where there is no minimum distance between adjacent buildings, nor a minimum building setback from a property line, one (1) of the first two (2) of the following conditions shall be met:

1. If the distance from the exterior wall to the property line is less than five (5) feet, the applicant must provide the Planning Department with a copy of a maintenance easement applicable to the adjacent property; or
2. The structure shall be built on the property line and the owner shall give an attachment easement to the adjacent property owner(s).
3. In no instance shall a roof overhang extend beyond the property line, except in the front of the building.

(I) The granting of a special exception shall be conditioned on the Applicant signing an agreement with the City, in a form acceptable to the City, which shall include all of the conditions required for the

granting of the special exception ("Development Agreement"). The Development Agreement, after it has been drafted by the City Attorney shall be subject to approval by the City Commission. A separate agreement or covenant ("Covenant") that provides for maintenance of common elements and any other condition specified as a prerequisite to approval of the special exception ("Maintenance Covenants") shall be signed by the owner of the property in question. The Maintenance Covenant shall be treated as a covenant running with and binding the land upon which the Development is situated and it shall be recorded in the land records of Miami-Dade County and, at the option of the City and if allowed by law, the Maintenance Covenant may be re-recorded when necessary or required to maintain, uninterrupted, the effectiveness of the covenant running with the land. The Covenant shall provide that the owner and his/her/its grantees, heirs, successors and assigns ("Owner") shall comply with the Maintenance Covenants at the Owner's expense and without any cost to the City.

- (1) In the event that any special exception condition includes the development of any common areas ("Common Areas"), the Maintenance Covenant shall include the following provisions: (a) the Common Areas shall continue in existence, as part of the structure and those Common Areas shall be operated and maintained at the expense of the Owner of the property so long as the Development continues to exist, in whole or in part; (b) the operation and maintenance of the Common Areas shall include a provision for landscaping in accordance with an approved site and development plan, **approved by the City Commission and the Environmental Review and Preservation Board**, or as amended from time to time with approval of the City Commission, the maintenance of the landscape as well as other maintenance services and private security protection of the Common Areas; (c) the Owner shall continue, operate and maintain the Common Areas in such a manner as to keep such areas in good order, clean, attractive, fully functional (subject to interruption for maintenance, repair, restoration and renovation) and, generally, so as not to create a nuisance to owners, occupants and users of the adjacent land and surrounding areas and to the general public.
- (2) The Maintenance Covenant shall define the phrase "continue, operate and maintain", as it applies to landscaping, to include, but not limit it to, the following activities:
 - (a) The monitoring of the landscape areas by a recognized landscape expert, acceptable to the City, and the preparation of reports by such expert certifying that the landscaping is in compliance or is not in compliance with the approved Landscape Plan and all provisions included in such plan pertaining to pruning, fertilizing and general maintenance; the reports shall be prepared annually; and
 - (b) The replacing of plants, trees, shrubs or the like, at the Owner's sole expense, as determined by the landscape expert to be necessary in order for the landscaping to perpetually be in compliance with the Landscape Plan.
 - (c) In the event that the City disagrees with the opinion of the landscape expert hired by the Owner, the City shall have the right to hire its own landscape expert whose decision shall be final. If the City's expert agrees with the expert hired by the Owner, the City shall pay the cost of its own expert, otherwise, the Owner shall pay the cost of the City's expert.
- (3) The Development Agreement and the Maintenance Covenant shall contain the following provision:
 - (a) In the event the Owner breaches its agreement ("a Default") and fails to cure the default within thirty (30) days ("the Cure Period") after receiving written notice of the default or fails to use all due diligence in commencing the cure and in proceeding to effectuate the cure. If the Owner is unable to timely cure the default after receiving written notice, the Owner may request an extension of time from the City Commission which shall be granted ("Extended Cure Period") upon presentation of substantial competent evidence establishing the Owner's good faith and due diligence, justifiable reasons for the delay and the amount of time needed to cure the default. In the event that the Owner fails to cure the default within the Cure Period, or within the Extended Cure Period, whichever is greater, a fine shall be assessed against the owner in the amount of one hundred fifty dollars (\$150.00), or such

amount as may be set forth in the City Fee Schedule, for each day the owner remains in default thereafter.

- (b) In the event that a fine is assessed against the Owner, or the City incurs any expense towards curing the default, the City shall have the right to file a lien, or a continuing special assessment lien, as may be applicable, against the property and file a lien foreclosure action for the full amount of money incurred by the City for said expense as well as for any fine that has been assessed. The City's lien shall be perfected upon being recorded in the land records in Miami-Dade County, Florida and shall be of equal rank and dignity as the lien of City's ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to, or against the land in question, unless in conflict with state statutes or Miami-Dade County code.
 - (c) The City shall have the right to proceed against the Owner to collect the above-described costs and expenses without resorting to a lien and/or lien foreclosure. The City's remedies shall include all those available in law or in equity, including injunctive relief. The exercise of one available remedy shall not be deemed a waiver of any other available remedy.
 - (d) Invalidity of any of the covenants identified in this section 20-8.9, by judgment of court shall not affect any of the other provisions, which shall remain in full force and effect. In the event of a violation of the Development Agreement or the Maintenance Covenant, in addition to any other remedies available, the City of South Miami is hereby authorized to withhold any future permits, and refuse to make any inspections or grant any approval, until such time as the declaration of restrictive covenants in lieu of unity of title are complied with. All rights, remedies and privileges granted pursuant to the Development Agreement and/or Maintenance Covenant shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
- (J) Development Agreements, as well as all amendments and revocations thereto, shall comply with F.S. §§ 163.3220—163.3243, as amended by the Florida Legislature.
- (K) This ordinance shall apply to all projects that commence the plan review process with the City's Planning and Zoning Department on or after May 16, 2012.

(Ord. No. 9-97-1630, § 1, 4-1-97; Ord. No. 20-99-1694, § 3, 11-16-99; Ord. No. 26-10-2051, § 1, 9-7-10; Ord. No. 13-11-2086, § 1, 3-1-11; Ord. No. 08-12-2124, § 1, 6-5-12)

20-8.12 - Architectural standards—Intent.

The Architectural Standards are pre-approved and are intended to provide a degree of predictability about the quality of building designs and to promote harmony among buildings without requiring an appearance before and approval by a review board for every one project. Applicants with projects which conform to these standards may obtain approval from the Departmental staff without appearing before ERPB. Appearance before ERPB remains an optional route. Every permissible option is not described herein; other options may be approved by ERPB.

Wherever these Architectural Standards may conflict with the City of South Miami Land Development Code, these Architectural Standards must apply for properties within the T.O.D.D. District.

The lists of permitted materials and configurations come from study of traditional buildings found in South Florida and have been selected for their appropriateness to the visual environment and climate.

A primary goal for the Architectural Standards is authenticity. The standards encourage construction which is straightforward and functional, and which draws its ornament and variety from the traditional assembly of genuine materials. The standards generally discourage imitation materials, such as stimulated [simulated] wood to avoid a tacky image for the neighborhood.

(Ord. No. 9-97-1630, § 1, 4-1-97)

20-9.5 - Development review procedures.

- (A) Applicants shall meet in pre-application conference with the Planning and Zoning Division staff to discuss and analyze proposed applications in non-binding forum. Staff may prescribe special conditions in order to assure the overall compatibility of the proposed uses and physical structures with the neighboring uses and physical structures.
- (B) Applicants shall submit an application for development responding to the pre-application conference findings in the form prescribed under the provisions of Section 20-5, entitled Article V. Procedures and Applications, as contained in the Land Development Code.
- (C) Upon receipt of applications for development, the Planning and Zoning staff shall review the application and assure that proposed uses and physical structures are compliant with the purpose, intent and requirements of this article and applicable Code requirements.
- (D) Upon the staff's determination of compliance with the purpose, intent and requirements of this article and applicable Code requirements by the Planning and Zoning Division, the application shall be reviewed **by the ERPB**, as regulated by Section 20-5.11.
- (E) Applicants shall **incorporate ERPB conditions**, if any, and apply for all required building, electrical, mechanical, plumbing and utility permits, as regulated by Section 20-5.13.

(Ord. No. 1-97-1622, § 1, 2-18-97)

20-10.4 - General requirements and minimum standards.

- (A) Applicants regulated by this Ordinance may request a pre-application conference with the City. Such request shall be submitted with a non-refundable fee of \$500.00 to reimburse the City for the cost and fees incurred by the conference.
- (B) Each applicant shall apply to the City for a permit providing the information as required by this Ordinance and a nonrefundable fee of \$1,500 to reimburse the City for the costs of reviewing the application.
- (C) The City shall review the application and determine if the proposed use complies with applicable Sections of this Ordinance and other regulations. Every new telecommunication tower and antenna shall be subject to the following minimum standards:

1. Lease Required.

- a. Any construction, installation or placement of a telecommunications facility on any property owned, leased or otherwise controlled by the City shall require a Lease Agreement executed by the City and the owner of the facility. Any lease of public property shall be considered and acted on in accordance with the requirements of the Charter and Code of Ordinances of the City of South Miami.

The City may require, as a condition of entering into a Lease Agreement with a telecommunications service provider, the dedication of space on the facility for public health, safety and communication purposes, as well as property improvement on the leased space. Any dedications and improvements shall be negotiated prior to execution of the lease.

- b. Any construction, installation, or placement of a telecommunication facility on any property owned, leased or otherwise controlled by a private property owner shall require a Lease Agreement or letter of consent executed by the property owner and the owner of the facility, unless the property owner and owner of the facility are the same.
2. Principal or Accessory Use. Towers and antennas may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of a tower or antenna on the same lot.
3. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with zoning regulations, the dimensions of the entire lot shall control, even though the towers or antennas are proposed to be located on leased parcels within such lot.
4. **ERP Review.** The **Environmental Review and Preservation Board (ERP)** shall review and recommend approval, disapproval or modification on all site plans, projects and specifications relating to applications for new telecommunication towers and antennas, and modifications to existing towers and antennas. The **ERP's** review shall include, but not be limited to, those design criteria specifically enumerated by this ordinance and all other applicable criteria, as outlined by the Land Development Code.
5. Height. All towers shall be as low in height as technologically and economically feasible, provided that no tower shall exceed 125 feet in height.
6. Setbacks. Towers must be setback a minimum distance of 110% of the height of the telecommunications tower from the property line. This requirement may be waived by the City Manager, at the direction of the City Commission, with respect to stealth towers.
7. Inventory of Existing Sites. Each applicant shall review the City's inventory of existing telecommunications towers, antennas, and approved sites. All requests for sites shall include specific information about the proposed location, height and design of the proposed telecommunications tower, structure, or state of the art technology that does not require the use of new telecommunications towers, or new structures can accommodate, or be modified to accommodate, the applicant's proposed antenna. Evidence submitted to demonstrate that no

existing telecommunications tower, structure or state of the art technology is suitable shall consist of any of the following:

- a. An affidavit demonstrating that the applicant made diligent efforts to seek permission to install or collocate the applicant's telecommunications facilities on City-owned telecommunications towers or usable antenna support structures located within a ½ mile radius of the proposed telecommunications tower site.
- b. An affidavit demonstrating that the applicant made diligent efforts to install or collocate the applicant's telecommunications facilities on towers or useable antenna support structures owned by other persons located within a ½ mile radius of the proposed telecommunications tower site.
- c. An affidavit demonstrating that existing towers or structures located within the geographic search area as determined by a radio frequency engineer do not have the capacity to provide reasonable technical service consistent with the applicant's technical system, including but not limited to, applicable FCC requirements.
- d. Existing towers or structures that are not of sufficient height to meet applicable FCC requirements.
- e. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- f. The applicant's proposed antenna would cause electromagnetic or radio frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures could cause interference with the applicant's proposed antenna.
- g. The fees, cost, or contractual provisions required by the owner in order to share an existing telecommunications tower or structure or to adapt an existing telecommunications tower or structure for sharing are unreasonable ["unreasonable" means a cost in excess of the cost to construct a new telecommunications tower].
- h. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- i. The applicant demonstrates that state of the art technology used in the wireless telecommunications business and within the scope of applicant's FCC license, is unsuitable. Costs of state of the art technology that exceed new telecommunications tower or antenna development shall not by itself be presumed to render the technology unsuitable.
- j. Any additional information required by the City. If the City does not accept the full evaluation as provided as accurate, or if the City disagrees with any part of the evaluation, the City may hire the appropriate professionals to assess the submitted evaluation at the applicant's expense.

This information is public record. The City does not warrant or represent that the information is accurate or that the sites are available or suitable.

8. Engineering Report. All applicants for new towers and antennas, or for towers and antennas which are to be modified or reconstructed to accommodate additional antennas, or for which a special use is required, must present a certified report by a professional engineer, which shall include the following:
 - a. A site plan which includes, without limitation, a legal description of the parent tract and leased parcel, if applicable; on-site and adjacent land uses and zoning classifications; and, a visual impact analysis and photo digitalization of the telecommunications tower and all attachments including associated buildings and equipment containers, close-up and at distances of 250 feet and 500 feet from all properties within that range, or at other points agreed upon in a pre-application conference.

- b. An analysis of any additional impacts on adjacent properties.
 - c. If applicable, a narrative of why the proposed telecommunications tower cannot comply with the requirements as stated in this Section.
 - d. Type of telecommunications tower and specifics of design.
 - e. Current wind-loading capacity and projection of wind-loading capacity using different types of antennas as contemplated by the applicant. No telecommunications tower shall be permitted to exceed its wind loading capacity as provided for by the Florida Building Code.
 - f. A statement of non-interference, which states that the construction and operation of the tower, including reception and transmission functions, will not interfere with public safety communication, or with the visual and customary transmission or reception of radio, television, or similar services, as well as other wireless services enjoyed by adjacent properties.
 - g. A statement of compliance with all applicable building codes, associated regulations and safety standards as provided herein. For all towers attached to existing structures, the statement shall include certification that the structure can support the load superimposed by the telecommunications tower. Except where provided herein, all towers shall have the capacity to permit multiple users; at a minimum, monopole towers shall be able to accommodate 2 users.
 - h. Any additional information deemed by the City to be necessary to assess compliance with this Ordinance.
9. Collocation. Pursuant to the intent of this Ordinance, collocation of telecommunication antennas by more than one provider on existing telecommunication towers shall take precedence over the construction of new telecommunication towers. Accordingly, in addition to submitting the information required by Section 20-10.4(C)(7), each applicant shall comply with the below criteria:
- a. Each application shall include a written report certified by a professional engineer, stating:
 - i. the geographical service area requirements;
 - ii. mechanical or electrical incompatibility;
 - iii. any restrictions or limitations of the FCC that would preclude the shared use of the telecommunication tower; and
 - iv. any additional information required by the City.
 - b. To encourage a reduction in the number of towers that may be required to site antennas in order to meet the City's increasing demand for wireless service, new towers shall be structurally designed to accommodate the collocation of antennas as follows:
 - i. All towers over 80 feet and up to 125 feet in height shall be structurally designed to accommodate at least two providers.
10. Incentive for Use of Existing Structures. Pursuant to the intent of this Ordinance, the City shall provide the following incentives to service providers:
- a. The review of all applications submitted by providers seeking to collocate on a pre-existing telecommunications tower or to rent space on a proposed new telecommunications tower, shall be completed by the City no more than 30 days following the filing of a completed application, provided that the application does not require special use approval.
 - b. The review of all applications submitted by providers for the placement of antennas on existing structures shall be completed by the City no more than 30 days following the filing of a completed application, provided that the application does not require special use approval.

11. Aesthetics. Towers and antennas shall meet the following requirements:
- a. All applications for the installation of new towers, antennas or accessory equipment buildings, or the modification of existing towers, antennas or accessory equipment buildings shall be reviewed by the ERPB as provided in this Code.
 - b. Towers shall either maintain a galvanized steel finish or, if allowed by FAA standards, shall be painted a neutral color to reduce visual obtrusiveness.
 - c. The design of accessory buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings to minimize visual impact, as determined by the ERPB.
 - d. All telecommunications tower sites must comply with any landscaping requirements of the City Land Development Code and all other applicable aesthetic and safety requirements of the City, and the City may require landscaping in excess of those requirements in order to enhance compatibility with adjacent residential and non-residential land uses.
 - e. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color that is neutral, identical to, or compatible with the color of the supporting structure, as determined by the ERPB, to make the antenna and related equipment as visually unobtrusive as possible.
 - f. No signals, artificial lights or illumination shall be permitted on any tower or antenna unless required by the FAA. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. To the maximum extent possible, lighting shall be oriented away from residential districts.
12. Local, State or Federal Requirements. The construction, operation, maintenance and repair of telecommunications facilities are subject to the regulatory supervision of the City, and shall be performed in compliance with all laws and practices affecting the subject, including, but not limited to, the Land Development Code, building code and safety codes. The construction, operation and repair shall be performed in a manner consistent with the applicable industry standards, including the Electronic Industries Association. All towers and antennas must meet or exceed current standards and regulations of the FAA and the FCC, including emission standards. They must meet the requirements of all federal, state and local government agencies with the authority to regulate towers and antennas prior to issuance of a building permit by the City. If such standards and regulations are changed and require retroactive application, then the owners of the towers and antennas governed by this Ordinance shall bring such facilities into compliance with such revised standards and regulations within six months of their effective date, unless a different compliance schedule is mandated by the controlling agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for removal of the tower or antenna at the owner's expense.
13. Building Codes & Safety Standards.
- a. To ensure the structural integrity of telecommunications towers, the owner shall construct and maintain the telecommunications tower in compliance with the Florida Building Code, and all other applicable codes and standards, as amended from time to time. A statement shall be submitted to the City by a professional engineer certifying compliance with this subsection upon completion of construction and, or, subsequent modification. Where a pre-existing structure, including light and power poles, is requested to be used as a stealth facility, the facility, and all modifications to it, shall comply with all requirements, as provided in this Ordinance. Prior to issuance of a building permit, the City may require the taking of soil borings at the proposed site, at the expense of the applicant, to assist in the professional analysis and review of the telecommunication tower's foundation in order to evaluate the design of the foundation.
 - b. The City reserves the right to conduct periodic inspection of telecommunications towers to ensure structural and electrical integrity. If, upon inspection, the City concludes that a tower fails to comply with any building or safety codes and industry construction or maintenance

standards, or constitutes a danger to persons or property, then upon notice, the owner of the tower shall have 30 days to bring the tower into compliance. Failure to bring the tower into compliance within 30 days from receipt of notice shall constitute grounds for imposing a fine and for removal of the tower or antenna at the owner's expense.

14. Signage. No signs, including commercial advertising, logo, political signs, flyers, flags, or banners, whether or not posted temporarily, shall be permitted on any part of an antenna or telecommunication tower, except for warning, danger or other signs designed to maintain public safety and Federal, State, or Municipal Flags located on a stealth facility designed to look like a flagpole.
15. Measurement. For purposes of measurement, telecommunication tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal and county jurisdictional boundaries.
16. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.
17. Franchises and Licenses. Owners and, or, operators of towers or antennas shall certify that all franchises and licenses required by law for the construction or operation of a wireless telecommunication system in the City have been obtained and shall file a copy of all such franchises and licenses with the City.
18. Inspections; Reports; Fees.
 - a. Telecommunication tower owners shall provide written certification to the City every two years confirming the structural and electrical integrity of the installation. The certification shall be signed and sealed by a professional engineer.
 - b. The City may conduct periodic inspection of telecommunications towers, at the owner's expense, to ensure structural and electrical integrity and compliance with the provisions of this Ordinance. The owner of the telecommunications tower may be required by the City to have more frequent inspections should there be an emergency, extraordinary conditions or other reason to believe that the structural and electrical integrity of the telecommunication tower is jeopardized. There shall be a maximum of one inspection per year unless emergency or extraordinary conditions warrant additional inspections.
19. Bonding. The owner of a telecommunications tower shall, prior to commencing construction, post a bond equal to an amount no less than \$25,000, which bond shall be posted to insure the obligation identified in Section 20-10.10.

(Ord. No. 24-98-1672, § 2, 11-17-98; Ord. No. 17-11-2090, § 1, 4-19-11)

20-10.5 - Uses requiring administrative approval.

(A) The following uses may be approved by the City Manager [or the Manager's designee] after the **ERPB**, or the City Commission per Section 20-6.2, has recommended **approval**:

1. Stealth Facilities.

- a. Stealth rooftop or building mounted antennas, not exceeding 25 feet above the roofline and 10 feet above the maximum height of the applicable zoning district, shall be permitted as an accessory use in the following zoning districts:

MO	Medium-Intensity Office
SR	Specialty Retail
TODD	Transit-Oriented Development District

- b. Stealth towers not exceeding 125 feet in height shall be permitted as a principal or accessory use in the following zoning districts:

MO	Medium-Intensity Office
SR	Specialty Retail
TODD	Transit-Oriented Development District

- c. A stealth tower and antenna designed to look like a light pole may replace a light pole, which existed before the adoption of this Ordinance, located in the PR district, provided that the height of the stealth tower and antenna do not exceed the height of the existing light pole by more than ten (10) feet.
- d. Upon receipt of the appropriate application, the City Manager, at his or her sole discretion, will determine the application's consistency with the definition of a stealth facility.

2. Non-Stealth Facilities.

- a. Non-Stealth antennas mounted to buildings or rooftops, not exceeding 15 feet above the roofline and 5 feet above the maximum height of the applicable zoning district, shall be permitted as an accessory use in the following zoning districts:

MU-5/TODD	Transit-Oriented Development District
-----------	---------------------------------------

- b. Any non-stealth building or rooftop antennas approved administratively shall only be permitted on buildings in excess of 40 feet in height.

(Ord. No. 24-98-1672, § 2, 11-17-98)

20-10.9 - Accessory equipment building.

Accessory equipment buildings used in conjunction with the operation and maintenance of antennas shall be permitted subject to the following requirements:

- (A) ERPB review is required.
- (B) Must conform to the applicable zoning district's dimensional standards.
- (C) If the site is already occupied by a principal building, the provider shall attempt to utilize the existing building for its antenna-related equipment. If the provider is unable to use the existing building, it must provide a report to the City describing the reasons which disallow it from using the existing building.
- (D) Shall be designed, constructed, and installed in compliance with this Code, the Florida Building Code, and all other applicable codes.

(Ord. No. 24-98-1672, § 2, 11-17-98; Ord. No. 17-11-2090, § 1, 4-19-11)

20-11.2 - Designation procedure for historic sites.

- (A) *Report Required.* Prior to the designation of an individual historic or archeological site, an investigation and formal designation report must be filed with the Historic Preservation Board.
- (B) *Historic Preservation Board Recommendation.* The Historic Preservation Board shall make recommendations to the City Commission concerning all properties proposed as historic sites, districts or archeological zones.
- (C) *Proposals and Preliminary Evaluation and Recommendation.*
 - (1) Application for designation of individual properties and districts **may be made to the Planning and Zoning Department by any member of the Historic Preservation Board, the Environmental Review and Preservation Board,** the City Commission, the City administration or the property owner(s) of the subject property for designation.
 - (2) The Historic Preservation Board shall conduct a preliminary evaluation of available data for conformance with the criteria set forth herein and may direct the preparation of a formal designation report by one (1) of the members of the Board. The Historic Preservation Board may then meet as a body and develop recommendations to transmit to the City Commission regarding designations.
- (D) *Historic Preservation Board Findings.*
 - (1) If the Board finds that the proposed designation meets the intent and criteria set forth in this Code, it shall transmit such recommendation to the Planning Board and City Commission with the designation report and any additions or modifications deemed appropriate.
 - (2) If the Board finds that the proposed designation does not meet the intent and criteria in this Code, no further action shall be required, except that the Board's action may be appealed in accordance with the provisions of this Code.
- (E) *Planning Board Review.*
 - (1) Following a favorable recommendation by the Historic Preservation Board, a proposed designation shall be implemented by the adoption of an "HP-OV" Historic Preservation Overlay zone for the property set forth in the historic designation report.

The Planning Board shall determine if the designation is compatible with the goals and policies of the Comprehensive Plan, and if the proposed historic site and/or district regulations would change any existing zoning district regulations such as, for example, permitted use, height, floor area ratio, yard setbacks or off-street parking. The review shall be pursuant to the provisions set forth in Section 20-5.5, Applications requiring public hearings. The recommendation of the Planning Board on the proposed designation shall be transmitted to the City Commission.
- (F) *City Commission Public Hearing.*
 - (1) *Public Hearing Requirement.* The City Commission shall hold a public hearing, pursuant to the provisions set forth in Section 20-5.5(G) and notice requirements of subsection (2) and as required by the provisions of the City Charter, on each proposed designation within sixty (60) calendar days of the recommendation by the Historic Preservation Board and/or the filing of the completed designation report.
 - (2) *Notice Requirement.* At least ten (10) calendar days prior to the public hearing for each proposed designation of an individual site, district or zone, the Planning and Zoning Director shall mail a copy of the designation report to the owner at the address listed on the most recent tax rolls as notification of the intent of the City Commission to consider designation of the property.
 - (3) *Objections.* Upon notification, any owner of a property proposed for individual designation who wishes to object shall submit to the City Clerk's Office a notarized statement certifying the objection to the designation.

(Ord. No. 42-11-2115, § 4, 12-6-11)



CITY OF SOUTH MIAMI
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that the City Commission of the City of South Miami, Florida will conduct Public Hearing(s) at its Special City Commission meeting scheduled for Wednesday, December 5, 2018, beginning at 7:00 p.m., in the City Commission Chambers, 6130 Sunset Drive, to consider the following item(s):

An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article III, Sections 20-3.4, 3.5 and 3.6; Article IV, Sections 20-4.3, 4.5, 4.5.1, and 4.6; Article V, Sections 20-5.7, 5.11, 5.12, 5.13, and 5.23; Article VI, Sections 20-6.1(C) and 6.2.; Article VII, Sections 20-7.3, 7.3.1, 7.5, 7.14, 7.15, 7.22, 7.24, 7.52; Article VIII, Sections 20-8.2, 8.9 and 8.12; Article IX, Section 20-9.5; Article X, Sections 20-10.5 and 10.9 ; Article XI, Section 20-11.2 and 11.9; Article XIII, Section 20-13.85 to amend the powers of the board and to make other revisions.

An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article VI, Section 20-6.1(C) and 20-6.2 to amend the powers of the ERPB and to make other revisions concerning appeals.

ALL interested parties are invited to attend and will be heard.

For further information, please contact the City Clerk’s Office at: 305-663-6340.

Nkenga A. Payne, CMC
City Clerk

Pursuant to Florida Statutes 286.0105, the City hereby advises the public that if a person decides to appeal any decision made by this Board, Agency or Commission with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, affected person may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

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Special City Commission Agenda Item Report

Meeting Date: December 5, 2018

Submitted by: Thomas Pepe

Submitting Department: City Attorney

Item Type: Ordinance

Agenda Section: ORDINANCES(S) SECOND READING(S) PUBLIC HEARING(S)

Subject:

An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article VI, Section 20-6.1(C) and 20-6.2 to amend the powers of the ERPB and to make other revisions concerning appeals. 3/5 (Commissioner Welsh)

Suggested Action:

Attachments:

[Ord Amending 20-6.1\(C\) & 6.2v2sa.docx](#)

[Miami Herald Advertisement.pdf](#)

ORDINANCE NO. _____

An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article VI, Section 20-6.1(C) and 20-6.2 to amend the powers of the ERPB and to make other revisions concerning appeals.

WHEREAS, the Mayor and City Commission desire to amend Chapter 20, Article II, Section. 20-6.1(C). titled “Environmental Review and Preservation Board” and 20-6.2 of the Land Development.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA:

Section 1. The City of South Miami Land Development Code, Chapter 20, Article VI, Sections 20-6.1(C) and 20-6.2 are hereby amended to read as follows:

20-6.1 - Administrative entities.

(C) *Environmental Review and Preservation Board.*

(1) *Establishment and Membership.*

(a) An Eenvironmental Rreview and Ppreservation Bboard is hereby created which shall consist of nine (9) members who reside or work in the City, except as provided in

i. In accordance with the City Charter, Article II, Section 8, A, each City Commissioner shall appoint one (1) person to serve as a representative on the Board and all members of the Board in excess of five (5) shall be appointed by three (3) affirmative votes of the City Commission based on recommendations submitted by any City Commissioner.

ii. Board membership shall include at least one (1) registered landscape architect licensed to practice in the State of Florida. If it is determined by the City Commission that the position of landscape architect cannot be filled by a qualified individual who resides or works in the City, the residency requirement may be waived by the Commission and the position of landscape architect may be filled by a qualified individual who does not reside or work in the City.

iii Board membership shall include two (2), but no more than four (4), architects licensed to practice in the State of Florida.

iv. Members of the Eenvironmental Rreview and Ppreservation Bboard may not work for the City or be employed by any company that has contracts with the City.

v. Members shall serve for a term of two (2) years.

- 1 (b) Any member of the board shall be automatically removed for missing five
2 (5) regular meetings in a row, or nine (9) meetings in a twelve-month period.
- 3 i. The Planning and Zoning Director shall keep an attendance record of
4 board meetings missed.
- 5 ii. The Planning and Zoning Director shall advise the City Commission
6 and the member being removed that such member has been
7 automatically removed.

8 ***
9

10 (3) *Powers and Duties.*

- 11 (a) The board shall have all such powers and duties as are granted by this Code.
- 12 (b) The board shall review and make recommendations for approval,
13 disapproval or modification on all site plans, projects and specifications as
14 required under the board's mandatory review pursuant to this Code.
- 15 (c) The board shall review the scale, color, texture and appropriateness of all
16 proposed buildings, additions, and other structures; the quantity, quality and
17 arrangement of all proposed landscaping and open space features; and the
18 overall compatibility of the proposed development with the existing character
19 of the neighborhood and make a recommendation for approval, disapproval,
20 or approval with modifications.
- 21 (d) ~~The board shall have the power and the duty to hear and decide matters,~~
22 ~~specifically prescribed by and in accordance with the terms of this Code.~~
- 23 (e) The board shall conduct any other function which may be designated or
24 assigned by act of the City Commission.
- 25 (f) Notwithstanding any other provisions of this Code, the **Environmental**
26 **Review and Preservation Board** shall not review any additions or alterations
27 to single-family dwellings, unless ~~in the opinion of~~ the Planning and Zoning
28 Director believes that it would significantly affect the character of the
29 residence.
- 30 (g) ~~Notwithstanding any other provisions of this Code, the **Environmental**~~
31 ~~**Review and Preservation Board** (ERPB) shall review all new construction,~~
32 ~~painting, remodeling, landscaping and signage projects to be performed by~~
33 ~~this municipal government (the City), prior to any permits being issued or~~
34 ~~any work being performed.~~

35 (4) *Procedures.*

- 36 (a) Quorum and voting.
- 37 i. A quorum shall be five ~~three~~ (5) members.
- 38 ii. An affirmative vote of a majority of the members present shall be
39 required to pass upon any matter on which the board is required to act
40 under this Code.

- (b) The board shall keep a permanent record of all proceedings before it.
- (c) Meetings of the board shall be public and notification of such meetings shall be given in accordance with Code provisions. If any scheduled meeting to review applications is not held (whether for lack of quorum or otherwise), or if the ERPB fails to address an application that is pending review by the ERPB, or fails to make a recommendation without deferring the review of the application to the next regularly scheduled meeting, or if the ERPB defers action on an application more than twice, then all such applications scheduled for such meeting shall be heard and decided by the Planning and Zoning Director ~~of the Building, Zoning, and Community Development Department~~ (or the ~~D~~irector's designee) no later than the end of the next business day after the scheduled meeting was to have been held. The ~~D~~irector's decision, if for approval, shall be the final constitute **ERPB** approval recommendation. The seven-day appeal period begins the day after the ~~D~~irector's decision.
- (d) All approved plans and specifications shall bear the official signature of the ~~chair presiding at the meeting at which such plans and specifications are approved.~~ Planning and Zoning Director.
- (e) If the board makes a recommendation to the Planning and Zoning Director for denial or modification for a set of plans ~~is denied, or modification is recommended,~~ the board shall, ~~to the greatest extent possible, make specific findings as to~~ describe the reasons for the recommendation of denial and or modification, and recommend appropriate changes, if possible.
- (f) ~~Financial interest.~~
- i. ~~Any member of the board who has a special financial interest, direct or indirect, in any matter before the board shall make that interest known and shall abstain from participation therein in any manner.~~
- ii. ~~Willful failure to disclose such financial interest shall constitute malfeasance in office and shall render the action voidable by the City Commission.~~

20-6.2 - Appeals and Review.

(A) **ERPB** Administrative Decisions; Time; Standing to Appeal. All decisions ~~and recommendations of the~~ **Environmental Review and Preservation Board (ERPB)** of any Administrative Department shall be in writing, delivered to the applicant and they are subject to review by appeal to the City Commission ~~shall be posted on the City Hall bulletin board immediately following the~~ **ERPB** meeting. An applicant may apply for a building permit after two (2) working days (excluding Saturdays, Sundays and legal Miami-Dade County holidays) following the day of the **ERPB** meeting, at which the application was given final approval, if all other requirements for the permit have been met. (1) An appeal of **an ERPB** a final Administrative decision or lack of final action by the ERPB subsequent to the

1 item being scheduled for ERPB action or recommendation may be taken to the
2 City Commission if a request for appellate review ("Notice of Appeal") is filed
3 delivered to ("served on") the City Clerk within thirty (30) days of the ERPB
4 receipt of the final decision or before a building permit is issued, whichever
5 comes first. All documents are deemed filed upon delivery of the document to the
6 City Clerk. The appeal shall be filed with the City Clerk upon a form prescribed
7 therefor by the City Clerk. Appeals may be filed by any affected person, including
8 but not limited to a person living, working, or who owns any property or business,
9 in the City or the applicant, a property owner, business owner, or resident of the
10 City, the City administration, interested citizens in an abutting municipality or
11 unincorporated area that is and within five hundred (500) feet of the property
12 under review. The person filing the Notice of Appeal is the appellant and the
13 opposing party is the appellee.

14 (2) On appellate review, by the City Commission may reverse or affirm the
15 Administrative action decision of the ERPB in whole or in part, modify the
16 decision, or remand the matter back to the ERPB Administrative Department with
17 or without guidance instructions.

18 (3) Record on Appeal: The evidence on appeal shall be limited to the documents
19 record which shall that consists of the written decision of the Administrative
20 Department, a transcript of the proceedings, if any, and any the documents
21 that were presented to the Administrative Department and any documents
22 taken into consideration by that Administrative Department—at the pertinent
23 meeting ("record on appeal"). The City Clerk shall prepare the record on
24 appeal after the appellant delivers the pertinent transcript. Unless waived in
25 writing by all of the parties to the appeal, the preparation of the transcript, if
26 one is available, is a prerequisite to the appeal. The City Commission may
27 request a partial or full transcript. If the City Commission requests a
28 transcript, it must be file with the Clerk and it will be a prerequisite to a final
29 decision regarding the appeal unless the City Commission subsequently
30 withdraws this requirement. The transcript shall be delivered to the City Clerk
31 at least thirty (30) days prior to the hearing on the appeal. The failure of the
32 appellant to timely deliver the transcript shall be grounds for the dismissal of
33 the appeal or, if good cause is shown for the delay and an extension of time is
34 granted by the City Clerk for the preparation of the transcript, the hearing date
35 for the appeal or review, as well as all other schedule of events, such as
36 service of briefs, shall be extended accordingly notwithstanding any other
37 provision of this ordinance Section to the contrary.

38 (4) Briefs: The appellant shall prepare a written statement of the issues and an
39 argument ("brief") which shall be filed with the City Clerk and delivered
40 ("served") served on all opposing parties by hand, facsimile transmission, e-mail
41 or other acceptable electronic transmission, at least twenty-six (20-26) days before
42 the hearing on the appeal or Commission review. The opposing party
43 ("appellee"), which may include the City, may also prepare a brief, if desired,
44 which shall be filed with the City Clerk and served on the appellant at least six (6)
45 days before the scheduled appellate hearing. The appeal shall be limited to the
46 issues raised in the briefs and facts contained in the record on appeal.

(5) Appellate Costs: The recoverable appellate costs are limited to the filing fee, the cost to prepare a transcript, if any, and the cost of copying the documents that make up the record on appeal. ~~The person who files an appeal,~~ appellant shall pay the applicable appellate filing fee as set forth in the City's Fee Schedule and the cost incurred by the City in making the record on appeal. ~~The appellant (which term shall include the person who files an appeal and the City if the review is instituted by resolution), shall pay the cost of transcribing the testimony and statements made at any the pertinent ERPB meeting.~~ The non-prevailing party shall pay the recoverable appellate costs incurred by the prevailing party. A prevailing party is the party person, including the City, if deemed to be the prevailing party who has prevailed on the most significant appellate issues in the appeal, shall be reimbursed the appellate costs including the cost of the transcript, by the non-prevailing party or parties. If there is more than one (1) non-prevailing party, the costs shall be ~~shared~~ paid equally by all of between or among them. The failure of a non-prevailing party to pay the appellate costs shall be a violation of this Section.

(B) Stay of Proceedings, Certification. An appeal stays all proceedings in furtherance of the action appealed from, unless the City Commission finds that there is competent substantial evidence to support the finding of facts and conclusions in the certificate of the officer, department director, City employee or board (hereinafter collectively referred to as "Officer") from whom the appeal is taken, that a stay would, in the Officer's opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Code.

(C) Restraining Orders. If certification occurs in accordance with subsection (B) above, proceedings may not be stayed except by a restraining order, which may be granted by the City Commission or by a court of ~~record~~ competent jurisdiction on application, on notice to the Officer from whom the appeal is taken and on due cause shown.

(D) Appeal Hearing. The City Commission shall hear and enter a decision on all appeals within sixty (60) days of the date of filing ~~said~~ the Notice of Appeal and shall provide due notice of the ~~appeal~~ appellate decision to the parties.

(E) Commission Action. The City Commission may reverse, affirm or modify any order, requirement, decision or determination appealed from and shall make any order, requirement, decision or determination that, in the City Commission's opinion, ought to be made in the circumstances.

(F) Modification Allowed. When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a Code provision, the City Commission may, in passing upon appeals, vary or modify any regulation or provision of the Code relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of the Code is observed, public safety and welfare secured, and substantial justice done.

(G) Prior Denials. The City Commission shall not be required to hear an appeal or application previously denied if it finds that there has been no substantial change in conditions or circumstances bearing on the appeal or application.

Section 2. Codification. The provisions of this ordinance shall become and be made part of the Code of Ordinances of the City of South Miami as amended.

Section 3. Ordinances in Conflict. All ordinances or parts of ordinances and all sections and parts of sections of ordinances in direct conflict herewith are hereby repealed.

Section 4. Severability. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, this holding shall not affect the validity of the remaining portions of this ordinance or the Guidelines adopted hereunder.

Section 5. Effective Date. This ordinance shall become effective upon enactment and shall apply retroactively to all pending appeals regarding any matter that was filed for review with the Environmental Review and Preservation Board.

PASSED AND ENACTED this ____ day of _____, 2018.

ATTEST:

APPROVED:

CITY CLERK

MAYOR

1st Reading

2nd Reading

READ AND APPROVED AS TO FORM:
LANGUAGE, LEGALITY AND
EXECUTION THEREOF

COMMISSION VOTE:
Mayor Stoddard:
Vice Mayor Harris:
Commissioner Liebman:
Commissioner Welsh:
Commissioner Gil:

CITY ATTORNEY



CITY OF SOUTH MIAMI
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that the City Commission of the City of South Miami, Florida will conduct Public Hearing(s) at its Special City Commission meeting scheduled for Wednesday, December 5, 2018, beginning at 7:00 p.m., in the City Commission Chambers, 6130 Sunset Drive, to consider the following item(s):

An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article III, Sections 20-3.4, 3.5 and 3.6; Article IV, Sections 20-4.3, 4.5, 4.5.1, and 4.6; Article V, Sections 20-5.7, 5.11, 5.12, 5.13, and 5.23; Article VI, Sections 20-6.1(C) and 6.2.; Article VII, Sections 20-7.3, 7.3.1, 7.5, 7.14, 7.15, 7.22, 7.24, 7.52; Article VIII, Sections 20-8.2, 8.9 and 8.12; Article IX, Section 20-9.5; Article X, Sections 20-10.5 and 10.9 ; Article XI, Section 20-11.2 and 11.9; Article XIII, Section 20-13.85 to amend the powers of the board and to make other revisions.

An Ordinance amending the City of South Miami Land Development Code, Chapter 20, Article VI, Section 20-6.1(C) and 20-6.2 to amend the powers of the ERPB and to make other revisions concerning appeals.

ALL interested parties are invited to attend and will be heard.

For further information, please contact the City Clerk’s Office at: 305-663-6340.

Nkenga A. Payne, CMC
City Clerk

Pursuant to Florida Statutes 286.0105, the City hereby advises the public that if a person decides to appeal any decision made by this Board, Agency or Commission with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, affected person may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

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