VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council
Robert L. Vernon, *Mayor*
Michael Davey, *Vice Mayor*
Enrique Garcia
Robert Gusman
Michael E. Kelly
Jorge E. Mendia
Thomas Thornton

Village Manager
Genaro "Chip" Iglesias

MEMORANDUM

DATE: August 27, 2009

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager GM for Genaro Iglesias

RE: Zoning Ordinance Review Committee Recommendation

RECOMMENDATION

It is recommended that the Council:

1. Acknowledge receipt of the ordinance as drafted by the Zoning Ordinance Review Committee and accept the Chair's draft at the Council meeting. Acceptance only acknowledges receipt of the ordinance and does not bind the Council in any manner whatsoever.

2. Establish a set schedule of workshops to review the ordinance.

3. Review the Hotel Resort section of the ordinance as the first priority and proceed to public hearings on these regulations separate from the balance of the ordinance.

4. Request the Village Attorney to redline those sections of the ordinance which require a referendum.

5. Request the Administration and the Village Attorney to review the ordinance and be prepared to offer recommendations as the Council reviews each section.

BACKGROUND

The ZORC has drafted the attached ordinance and authorized the Chair, Frank Caplan, to review the document and make non-substantive changes. These changes will be delivered to the Council at the September 1, 2009 Council meeting.

The ZORC provided the Council with two (2) recommendations with regard to the HR Hotel Resort Zoning District Regulations to:

1. Approve the attached ordinance which permits the height of a development containing apartments and hotel units from 150 ft. to 200 ft. and increasing the density based on formulas in the ordinance. This motion passed 5-2. The two

negative votes were due to the density bonus to encourage a hotel; otherwise, they supported the ordinance. The ZORC recommended that the Council develop a procedure to grant these bonuses based on the following: no structures or a park within 120 ft. of Holiday Colony Subdivision, expanded beach access, separation of buildings, and a Green Building requirement.

2. Approve the attached Hotel Resort Section 30-103 but maintaining the current density at 30 units per acre for hotel and 16 units per acre for an apartment building.

Chronology:

Dec 6, 2006	Council creates the Zoning Ordinance Review Committee with the provision that the Committee will not review the HR Hotel Resort regulations.
Jan 9, 2007	Council appoints residents to the ZORC.
Jan 13, 2007	Council increases the size of the ZORC from 9 to 11 members.
Jan 13, 2009	Council approves Ordinance directing ZORC to provide a recommendation regarding the HR Hotel Resort regulations.
Feb 12, 2008 to Aug 20, 2009	ZORC holds 33 meetings.

ZORC Membership:

Frank Caplan, Chair	Roberto de Cespedes	Barry Goldmeier
Arturo Aballi, Vice Chair	Deborah De Leon	Basha Hicks
Willie Borroto	Mario Garcia-Serra	Jose Ortega

ORDINANCE NO. 2009-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 30-103 "HOTEL RESORT DISTRICT;" PROVIDING FOR AMENDMENTS TO THE PURPOSE AND USES; PROVIDING FOR AMENDMENTS TO THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES; PROVIDING FOR AMENDMENTS TO THE DEVELOPMENT REGULATIONS; PROVIDING FOR SUPPLEMENTARY REGULATIONS; PROVIDING FOR AMENDMENTS TO SECTION 30-184 "AMOUNT OF REQUIRED OFF-STREET PARKING" RELATING TO THE REQUIRED OFF-STREET PARKING FOR HOTELS OR MOTELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council requested that the Zoning Ordinance Review Committee review and analyze the existing Hotel Resort District regulations; and

WHEREAS, the Zoning Ordinance Review Committee held several meetings to discuss the existing Hotel Resort District regulations and developed significant revisions to the District regulations; and

WHEREAS, the Zoning Ordinance Review Committee has recommended that the proposed modifications to the Village's land development regulations be approved; and

WHEREAS, the Village staff recommends approval of the proposed modifications to the Village's regulations and finds that these regulations are consistent with the Village's Comprehensive Plan; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance and has recommended approval; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS[1]:

Section 1. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to Section 30-103 of the Village Code. Section 30-103 "Hotel Resort District" of the Village Code of Ordinances is hereby amended to read as follows:

Sec. 30-103. Hotel Resort District.

(a) *Purpose and Uses.*

TABLE INSET:

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to promote the Development of ocean resort Hotels, ~~and~~ Single Family, Townhome, or multiple Family residences~~.~~ in a manner that is consistent with the mass and scale of adjacent properties.	1. Single Family 2. Townhome 3. Hotel 4. Apartment Building 5. Public Park 6. Any Combination of the above referenced uses 7. Uses seaward of the of the Coastal Control Line shall be limited to bath houses, cabanas, outdoor recreational facilities, and restaurants so long as: (1) they are approved by a Coastal Construction Line permit granted by the State of Florida Department of Natural Resources; (2) at least	None	Any Use that is customarily associated with the Main Permitted Uses (See sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use (See sec. 30-113) Hotel and Apartment Buildings are prohibited within 120 ft. of the Holiday Colony subdivision.

[1] Coding: underlined words are additions to existing text, struck through words are deletions from existing text, shaded text reflects changes made from First Reading.

	50% of the permitted area is free of any such structures; and (3) no such individual structure shall exceed 15% of the permitted area.			

(b) *Development Regulations.*

TABLE INSET:

Use	Density	Setback	Height And Floor Area Ratio	Lot Coverage	Minimum Lot Area
Single Family	Within 120 ft. of Holiday Colony Subdivision density shall be limited to 1 single family home per 100 ft. of lot width and minimum lot depth of 120 ft. When not located within 120 ft. of the Holiday Colony Subdivision, then as set forth on the approved Site Plan.	See Section 30-100 (e)	See "Floor Ratio and Height Zone Sketch."	See Section 30-100(b)	12,000 sq. ft.
Townhome	16 Units per acre. Lot dimensions shall be as shown on the approved Site Plan.	See Section 30-100 (b)	See "Floor Ratio and Height Zone Sketch."	See Section 30-11(b)	As set forth on the approved site plan

Hotel Only	30 Units per acre. No Hotel shall exceed 350 units	Front: 25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft. Side: 25 ft. minimum. No portion of the Building may extend beyond a "building envelop" formed by a prism the base of which is formed by the Lot boundaries and whose height is defined by two base angles of 63 degrees each (see "Building Envelope Sketch"). Rear: 25 ft, + 5 ft. per floor above the first floor but not to exceed 50 ft.	See "Floor Ratio and Height Zone Sketch."	.40	The site shall be subdivided as of the date of this ordinance
Apartment Building Only	16 Units per acre.	Same as Hotel above	See "Floor Ratio and Height Zone Sketch."	.40	The site shall be subdivided as of the date of this ordinance

Hotel and Apartment Building (either combined in one building or separate buildings on the same site)	12 Apartment Building Units per acre and 30 Hotel Units per acre. There shall be a minimum of 60 Apartment Building Units and a maximum of 100 Apartment Building Units. In addition, there shall be a minimum of 100 Hotel Units and a maximum of 250 Hotel Units. For each one (1) Apartment Building Unit above the required minimum number of Units there shall be two and one half (2.5) Hotel Units.	Same as Hotel above	See "Floor Ratio and Height Zone Sketch." However, in zones 3 and 4 on the "Floor Ratio and Height Zone Sketch" Height shall not exceed 200 feet. In addition, for every additional Apartment Building Unit and Hotel Unit above the minimum amount of Units required, the maximum amount of total Floor Area permitted shall be decreased by the square footage of the additional Unit(s).	.40.	The site shall be subdivided as of the date of this ordinance

c. *Supplementary Regulations*

1. Hotel

   a. Unit Size- Average Hotel unit size shall be based on the Site Plan Review Criteria as set forth in Sec 30-80 and by documentation submitted to justify said determination.

   b. Cooking facilities - Cooking Facilities in Hotel Buildings shall be limited to the following: (i.) One Microwave Oven with a maximum size of 2.0 cubic ft.; (ii.) One refrigerator with a maximum size of 5 cubic ft.; and (iii.) Toasters, coffeemakers, and an ice maker.

   c. Common Area Kitchen in Hotel Buildings- The common area kitchen in Hotel Buildings shall be limited to one room per floor with access directly from a hallway or

lobby. No kitchen shall have access to a hotel unit. The use of this kitchen is solely limited to the warming and refrigeration of foodstuffs that are prepared in the hotel or brought from an off site location to the hotel. Kitchen equipment, cooking facilities, silverware, supplies, and appliances that are directly related to this purpose are permitted.

d. Any Unit with a door to a hallway or lobby is determined to be a Unit.

2. Floor Area Ratio

a. The Floor Area Ratio shall be as provided on the "Floor Area Ratio and Height Zone Sketch." Floor Area that is not used in the Floor Area Ratio calculation in Zones 1, 2, or 5 within the "Floor Area Ratio and Height Zone Sketch" may be applied to Zones 3 or 4; however, the maximum Floor Area Ratio across the entire development site shall not exceed a Floor Area Ratio of 1.88.

b. Parking garages located below the Base Flood Elevation shall not be included in the Floor Area Ratio calculation. When the parking garage is located above the Base Flood Elevation, it shall be included in the Floor Area Ratio calculation.

c. If a development contains Hotel and Apartment Units, then the lot area which is counted towards one Use cannot be counted towards another use.

3. Determination of Yards. The determination of yards shall be as shown in the "Yard Determination Sketch".

4. Dedicated Easement. The Site Plan shall show a dedicated easement from the Erosion Control Line along the two longest side lot lines of the property. The minimum required width of the easement shall be 7.5 ft. The Site Plan Review criteria (Sec. 30-80) shall be used to determine the maximum required width of the easement.

INSERT TRIANGLE SKETCH

INSERT FLOOR ARA RATIO AND HEIGHT SKETCH

YARD DETERMINATION SKETCH

~~Density~~	~~Maximum Height~~	~~Lot Coverage~~	~~Minimum Lot Area~~

~~Hotel 30 Units per acre~~ ~~No Development shall exceed 350 Hotel Units~~ ~~Apartment Building 16 Units per acre~~ ~~If a Development contains Hotel and Apartment Units, then Lot area, which is counted towards one Use, cannot be counted towards another Use.~~	~~150 ft.~~	~~.40~~	~~The site shall be subdivided as of the date of this ordinance.~~

~~TABLE INSET:~~

~~—~~	~~Setback~~	~~Floor Area Ratio~~
~~Front:~~ -	~~25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.~~ -	~~.40, however oceanfront and bayfront Buildings that provide a 7.5 ft. dedicated Easement on each side of the property from the Street to the beach shall use the following:~~
~~Side:~~ -	~~25 ft. minimum (however no portion of Building may extend beyond a "building envelope" formed by a prism the base of which is formed by the Lot boundaries and whose height is defined by two base angles of 63 degrees each, * see sketch below).~~ ~~Side Setbacks shall be measured from the dedicated Easement as required in the Floor Area Ratio calculation.~~ —	~~1 Story .40 4 Story 1.00 7 Story 1.60~~ ~~2 Story .60 5 Story 1.20 8 Story 1.80~~ ~~3 Story .80 6 Story 1.40 9 Story+ 2.00~~ ~~The dedicated Easement shall be counted in the Floor Area Ratio calculation. The Easement shall be improved with landscaping and a hard paved surface. The improvements shall require approval by the Building, Zoning, and Planning Director prior to the issuance of a building permit and must be installed prior to the issuance of a certificate of occupancy.~~
~~Rear:~~ -	~~25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.~~ -	

Section 3. Amendment to Section 30-184 of the Village Code. Section 30-184 "Amount of required off-street Parking" of the Village Code of Ordinances is hereby amended to read as follows:

Sec. 30-184. Amount of required off-street Parking.

(a) The required off-street Parking spaces shall be provided and maintained on the basis of the minimum requirements listed in this article.

TABLE INSET:

Use	Required Number of Spaces	Special Conditions Additional Required Spaces
(1) Apartment Building	1.75 per Unit	Developments with more than 10 Units, then 1 additional per 5 Units, marked as guest Parking
***	***	***
(6) Hotel or Motel	~~1~~ .75 per Unit. If the parking garage or parking lot is operated as a valet service, then the parking spaces may be shown on the site plan in tandem. The site plan application shall include a valet parking plan.	Accessory Uses 65% of requirement if calculated as a Main Permitted Use
***	***	***

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this ____ day of _____, 200_.

PASSED AND ADOPTED on second reading this ____ day of _____, 200_.

MAYOR ROBERT L. VERNON

ATTEST:

_____

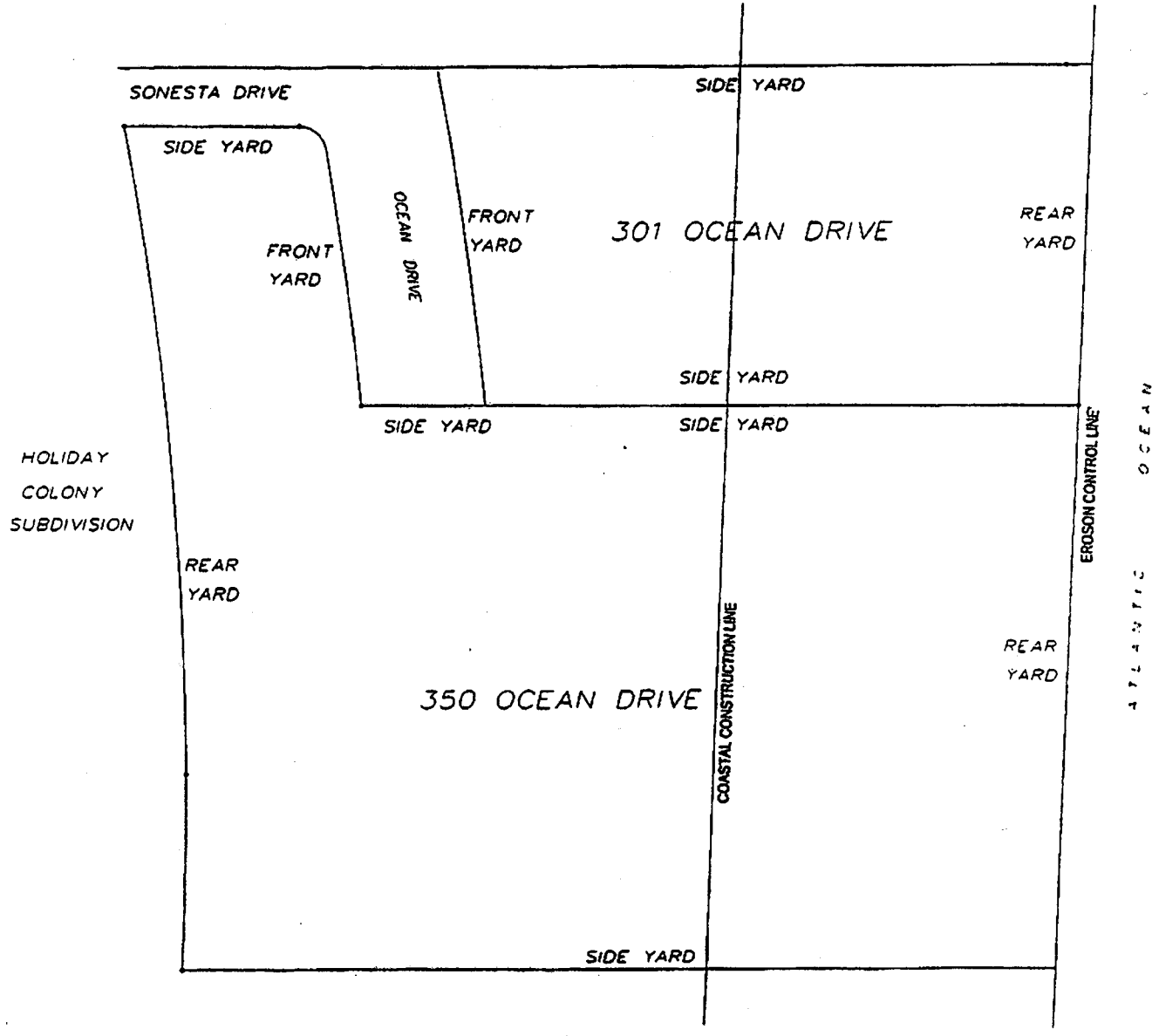
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

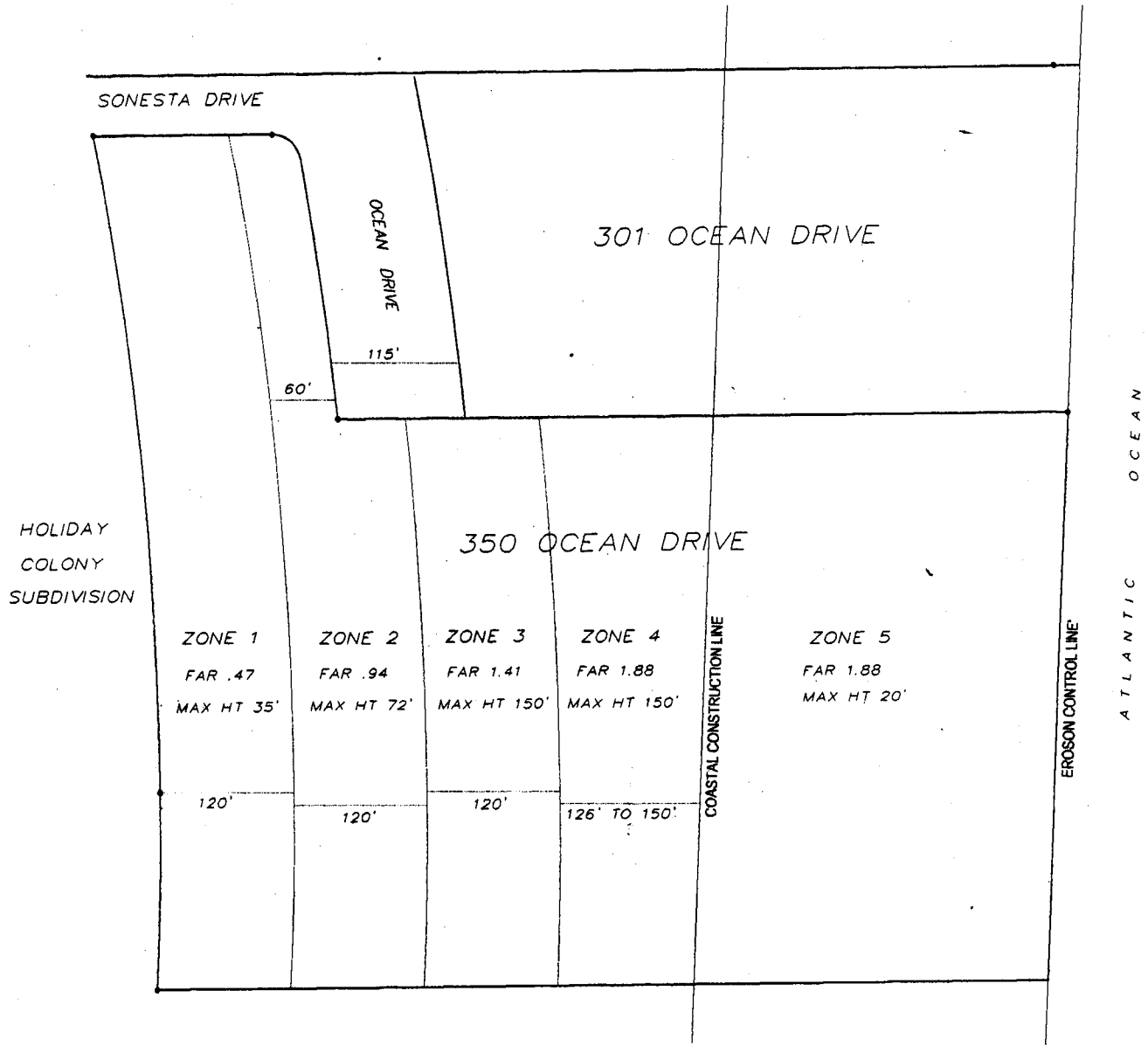
_____

VILLAGE ATTORNEY

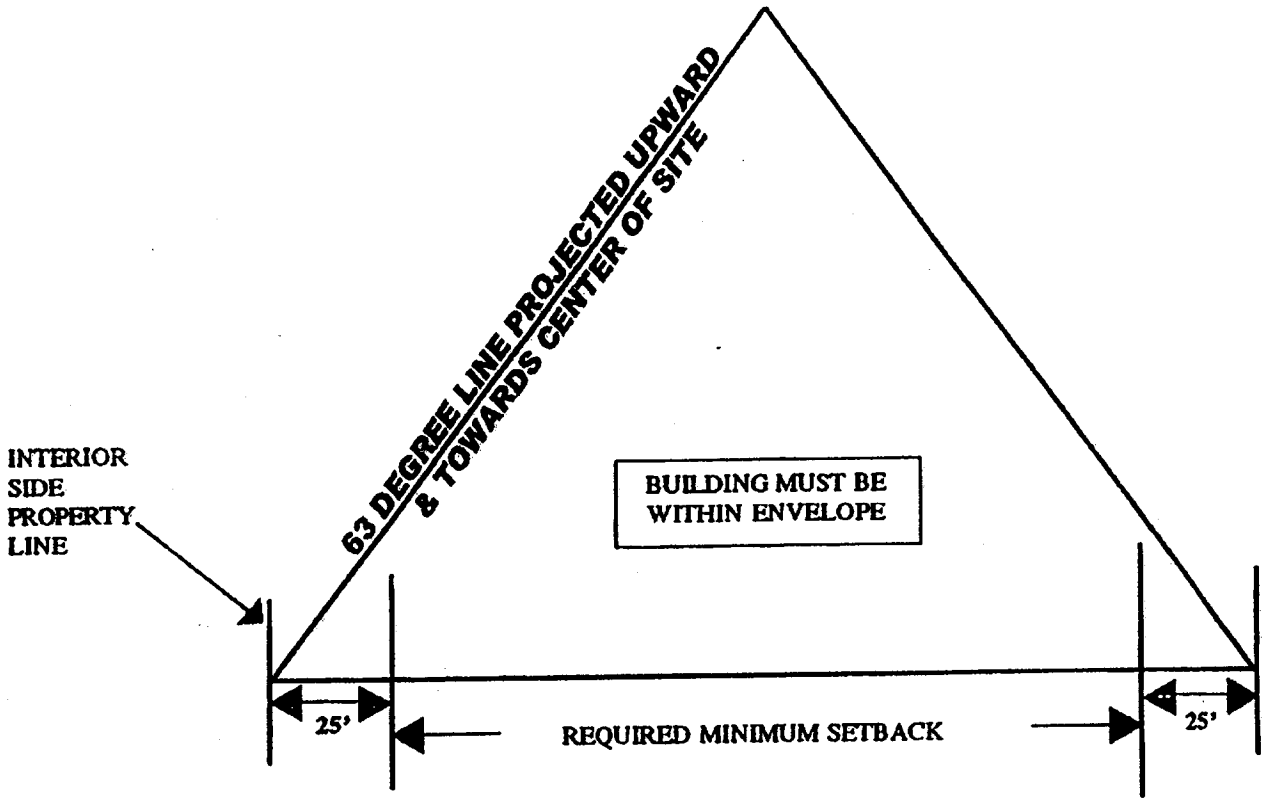
YARD DETERMINATION SKETCH



FLOOR AREA RATIO AND HEIGHT ZONE SKETCH



BUILDING ENVELOPE SKETCH



ORDINANCE NO. 2009-_____

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, COMPREHENSIVELY UPDATING AND AMENDING CHAPTER 30 "ZONING AND LAND DEVELOPMENT REGULATIONS " OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council finds that there is a need to review and update the Village Zoning Code (the "Zoning Code") to ensure viability, compatibility and consistency; and

WHEREAS, the Village Council unanimously approved the creation and appointment of an eleven resident "Zoning Ordinance Review Committee" (the "Committee") on February 13, 2007; and

WHEREAS, the Committee was created to review the current Zoning Code and present its recommendations to the Village Council; and

WHEREAS, the Committee has met on a regular basis since its inception and proposed recommendations to the Zoning Code as presented in this Ordinance; and

WHEREAS, the Village Council has reviewed this Ordinance in its capacity as the Local Planning Agency, and has found this Ordinance to be consistent with the Village's Comprehensive Plan; and

WHEREAS, the Village Council finds that such regulations will serve to promote the health, safety, and welfare of the citizens of the Village of Key Biscayne, as well as the aesthetics of the Village.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the above stated recitals are hereby adopted and confirmed.

Section 2. **Village Code Amended.** That the Village Code of the Village of Key Biscayne, Florida, is hereby amended by amending Chapter 30 " Zoning and Land Development Regulations," as provided in Attachment A, attached hereto, and incorporated herein.

Section 3. **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Inclusion in Code.** That it is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Village of Key Biscayne; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this ____this day of _____, 2009.
PASSED AND ADOPTED on second reading this ___this day of _____, 2009.

_____
Robert Vernon, Mayor

Attest:

_____

Conchita H. Alvarez, CMC
Village Clerk

Approved As To Form And Legal Sufficiency:

By: _____
Village Attorney

ATTACHMENT A

Chapter 30 ZONING AND LAND DEVELOPMENT REGULATIONS

* * *

ARTICLE II. DEFINITIONS

Sec. 30-10. General ~~rules of construction.~~[1]
~~(a) For the purpose of these Zoning and Land Development Regulations, certain terms used herein are herewith defined.~~**Rules of Construction.** The following general rules of construction shall apply to ~~the~~these Regulations~~ of this Code~~:
(a) References to "these Regulations", "these Regulatory Controls", the "Zoning Code" or "this Code" are deemed to refer to the Zoning and Land Development Regulations of the Village of Key Biscayne, Florida.
(b) The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
(c) Words used in the present tense include the past and future tenses, and words used in the future tense include the present tense.
(d) ~~The word "shall" is mandatory, the word "may" is permissive.~~Words of any gender shall be deemed and construed to include correlative words of the other gender.
(e) ~~The word "Building" or "Structure" includes any part thereof, and the word "Building" includes the word "Structure."~~The words "shall" or "will" are mandatory. The word "may" is permissive.
(f) ~~The word "Lot" includes the word "Plot" or "parcel" or "tract" or "site."~~The words "Building" or "Structure" include the totality and any part thereof. The word "Building" is encompassed within the definition of "Structure" such that a Building is itself a Structure and a Structure may or may not be a Building.
(g) ~~The words "used" or "Occupied" include the words "intended," "designed" or "arranged" to be used or Occupied.~~The words "Lot:, "Plot", "parcel", "tract", or "site" are synonymous and may be used interchangeably.
(h) The word "land" shall include water survace and land under water.
(i) The words "Used" or "Occupied" include the words "actually" Used or Occupied and/or "intended", "designed", "arranged", or "required" to be "Used or Occupied, unless the context clearly indicates the contrary.
(~~h~~j) The words "Required Yards" or "minimum Required Yards" and "minimum Yards" ~~includes the word "Setback."~~include Setback, FAR, Lot Coverage and Landscaping requirements of the Code, such that such references to Required Yards, minimum Reuired Yards or minimum Yards are deemed to take into account all such requirements as are applicable to respective Lots.
(~~i~~k) When this Code refers to the Charter, other ordinances, codes or statutes, unless otherwise stated the reference shall ~~imply~~ be to the most up-to-date ~~ordinance, code~~ Charter provisions, ordinances, codes or statutes, as amended and in effect from time to time.

---

[1] Additions to existing text are shown by underline; deletions are shown by ~~strikethrough~~.

(~~j~~l) Words and terms not expressly defined ~~herein~~ in Section 30-11 or elsewhere in the Code shall be interpreted in accordance with their normal first usage dictionary meanings. ~~and customary usage.~~

~~(k) The word "land" shall include water surface and land under water.~~

~~(l) Any Use which is lawfully existing as a Main Permitted Use, Conditional Use or Accessory Use at the time of the adoption of an ordinance that would render it a Prohibited Use, shall become a lawfully Nonconforming Use, subject to the limitations on such Uses contained in sections 3-29 and 3-30 of this Code.~~

~~(m) If a Use is specifically enumerated then it takes preference over general applications or interpretations of these Regulations. If a Use is specifically enumerated as a permitted Use in a district then to be considered as a permitted Use in another district, it must also be specifically listed.~~

(m) Any Use that is lawfully existing as a Main Permitted Use, Conditional Use or Accessory Use shall automatically become a lawfully Nonconforming Use upon adoption of an ordinance that renders such formerly Permitted Use a Prohibited Use. Nonconforming Uses are subject ot the limitations on such Uses contained in Sections 3-29 and 3-30 of this Code.

(n) ~~When this ordinance refers to a "Director," the referral shall automatically include the Director's "designee" unless specifically otherwise stated.~~A particular Use must be specifically identified as a Permitted Use in a particular District in order to be recognized as a Permitted Use in such District. Specific provisions regarding Permitted Uses and other specific provisions of these Regulations govern and control over general rules of construction and general applications or interpretations of these Regulations.

(o) ~~Words of any gender shall be deemed and construed to include correlative words of the other gender.~~When a provision requires the Village Manager, the Director, a head of a department, or some other Village officer or employee to do some act or perform some duty, it shall be construed to authorize the Village Manage, the Director, head of a department or other Village officer or employee to designate, delegate and authorize subordinates to perform the required act or duty, unless the terms of the provision specify otherwise.

(p) The symbol > means "more than" and the symbol < means "less than". When these symbols are underlined, it means "or equal to."

(q) ~~When a word is not defined in subsection 30-12 below, definitions in dictionaries shall apply.~~ When a provision requires the approval of the Village Council, it shall be construed to require approval of the Village electors if such approval is required by the Charter.

(r) Whenever a notice is required to be given or an act to be done within a certain length of time before a specified proceeding may occur or result may be obtained, the day on which such notice is given or act is done shall not be counted computing the time, but the day on which such proceeding is to occur or such result is to be obtained shall be counted.

(s) Whether an Establishment is "operated for profit or for commercial or pecuniary gain" shall be determined by reference to how the Establishment advertises itself or holds itself out to the general public or particular persons, and such determination shall no depend on actual profit or loss.

(t) The words "including " or "include(s)" mean "including without limitation" or "include(s) without limitation".

Sec. 30-11. Definitions.

[As used in ~~this chapter~~the Zoning and Land Development Regulations, the following words and terms shall have the meanings ~~respectively ascribed:~~]set forth below in this Section 30-11. The following definitions pertain to terms that are technical in nature or that might not otherwise be a matter of common usage. If a term is not defined below or elsewhere in the Zoning and Land Development Regulations, the Building, Zoning and Planning Director shall determine the correct definition of the term.

Abutting or Adjacent Property. ~~Property~~With respect to any Lot, property that is ~~immediately~~directly contiguous to ~~property that is subject to review under these Regulations~~such Lot or property that is located ~~immediately~~directly across any road~~, or public~~ Right-of-Way or Waterway from ~~the~~such Lot. ~~property subject to review under these Regulations~~.

Access. The principal means of ingress and egress to a Lot from ~~a publicly dedicated~~any road, public Right-of-Way, or Waterway.
~~*Access Waterways.* A Waterway that is developed or constructed in conjunction with the development of real estate for the purpose of providing Access by water to Lots.~~

Accessory Building or Structure. A Building or Structure used for an Accessory Use that is customarily incidental and subordinate to the principal Building or Structure, and that is located on the same ~~Plot with, or a part of, the main Building, which is Occupied by, or devoted to, an Accessory Use~~Lot, or if specifically provided in these Regulations or in a specific land development order, on a contiguous Lot in the same ownership which is subject to a unity of title or similar declaration.

Accessory Use~~, Building or Structure~~. A Use ~~or Structure~~ subordinate to the Principal Use of a Building or ~~parcel of land, on the same or contiguous to that parcel of land and~~Lot, serving a purpose customarily incidental to the Principal Use of the principal Building or ~~parcel of land~~Lot.

Adult Entertainment Establishment. ~~An adult theater, an adult video/bookstore, an adult performance establishment, a commercial physical contact parlor, or~~A Use featuring nudity or catering to prurient or sexually evocative interests, including without limitation, an escort service operated for commercial or pecuniary gain, regardless of whether any such ~~Establishment~~Use is licensed under this ~~e~~Code. ~~"Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. An Establishment which has an Occupational License or an Establishment which advertises itself as a type of Adult Entertainment Establishment shall be presumed to be "operated for commercial or pecuniary gain".~~

Alterations. Any change in size, shape or character of construction of a Building[,] Structure, or Sign, or in landscaping, or grading of a Lot that requires a building permit.

Amusement Center. A ~~permanent~~ Building housing Mechanical Amusement Devices, automatic merchandise Vending Machines, and/or juke boxes, without respect to number~~, provided all other laws, ordinances, or Regulations of the Village are complied with~~.

Antique. ~~An~~ Building, Structure, or object having ~~special~~recognized value or significance because of its age, and belonging to, made in, or typical of ~~an earlier~~a particular period of history.

Apartment Building. A Building with or without resident supervision ~~Occupied or intended to be Occupied by more than two families living separately with separate cooking and sleeping facilities in each Unit~~featuring three or more Dwelling units where each unit has direct access to the outside or to a common hall. An Apartment Building where Dwelling Units are available for lease or rent for less than one month shall be considered a Hotel or Motel.

Apartment, Efficiency. A Dwelling Unit consisting of not more than one habitable room, together with kitchen or kitchenette and sanitary facilities.

Apartment Hotel. A ~~multiple Dwelling~~ Building combining Hotel and Apartment Units ~~under resident supervision, which maintains an inner lobby through which all tenants must pass to gain Access to the apartments~~ having a registration desk, Hotel administration area, and common areas available to Hotel guests and Apartment residents and which may furnish dining room service.

Apartment Unit. A room or ~~group of rooms, Occupied or intended to be~~ Apartment Efficiency within a Building, physically separated from others and accessible by separate and exclusive keyed or seured entry, each Occupied as separate living quarters by one Family and containing independent cooking, sanitary, and sleeping facilities.

Architectural Features. Prominent or significant parts or design elements of a Building or Structure.

Architectural Style. The characteristic form and detail of Buildings from a particular historical period or architecturally recognized categorical design tenet.

Assigned Resident. Any Person residing within a residential care facility other than foster parents and their natural, foster or adopted children and designated supervisory personnel.

Attic Story. ~~A space under a sloping roof in which the line of intersection of the Roof Structure and the Wall face does not exceed four feet as measured from the finished floor. Not more than two thirds of the Floor Area of said Story may be finished for use~~ An unfinished, non-habitable space directly under a roof .

Automatic or Coin-Operated Service Trade Machine. Any machine or device other than ~~an amusement device~~a Mechanical Amusement Device, Vending Machine, or juke box, such as a laundry washing machine or drying machine.

Automobile Repair, Major. General automobile repair, rebuilding or reconditioning of engines, motor vehicles or Trailers; collision service including body, frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning.

Automobile Repair, Minor. Simple automotive repair ~~which can be accomplished entirely within an enclosed Structure,~~ including but not limited to minor motor tune-up and repair, upholstering, tire repair and replacement and muffler installation, but not including any operations listed under Automobile Repair, Major, or any other operation similar thereto.

Automobile Wrecking or Salvaging. The dismantling or disassembling of used motor vehicles or Trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Availability or Available. With regard to the provision of facilities and services concurrent with the impacts of Development, Availability means that at a minimum the facilities and services will be provided for purposes, to the extent, at times and in the manner specified under the Village Comprehensive Plan and at a minimum in accordance with the standards set forth in Rule 9J-5.0055(2), Florida Administrative Code. (Definition used for Concurrency Determinations).

Average Lot Width. The average of the width of the Lot at the front and rear property lines.

Awning. Hood or cover which projects from the Wall of a Building to afford protection from sun or rain for pedestrians or vehicles.

Balcony ~~or Terrace~~. An unenclosed platform that projects from the Wall of a Building, cantilevered above grade, and ~~has~~ having a Parapet or railing. The platform may service one Unit or it may be a continuous platform serving more than one Unit with a Wall or fence separating the platform between the Units. ~~It may or may not have a roof.~~

Banding. A narrow strip serving chiefly as decoration.

Bar. Any place devoted primarily to the retailing and drinking of malt, vinous or other alcoholic beverages, or any place where any Sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the Premises.

Base Flood Elevation (BFE). The Base Flood Elevation of a property as established by the Village's Flood Protection Ordinance.

Basement. That portion of an elevated Structure below the BFE, existing solely due to the structural design of the elevated Structure and as such being non-finished for habitation.

Bay Window. A projection of windows extending beyond a Building wall, cantilevered above finished grade.

Bed and Breakfast Inn. A Structure originally built as a single Family residence which is owner Occupied and operated to provide guest rooms with or without breakfast and/or dinner included as part of the room rate.

Billboard. A Sign, normally mounted on a Building Wall or freestanding Structure, with advertising Copy which refers to something other than the name and primary character of the business on the Premises where it is located or is located on a remote site from service or site referred to by the Sign Copy.

Block. ~~A parcel of land entirely surrounded by Streets, streams, railroad Rights Of Way, parks or~~ The aggregate of Lots, the perimeter of which abuts a public Right of Way, park,other public space, Waterway, or combination thereof.

Boarding House. A Lodging House or Rooming House that provides meals for guests. This definition does not include Bed and Breakfast Inns, Hotels or Motels.

Breezeway. A roofed, open, passage connecting two Structures.

Buffer. An area of land, including landscaping, berms, walls, fences, and Setbacks, located between Buildings or between a Building or Buildings and a property line.

Building. Any Structure, either temporary or permanent, having a roof, ~~and used or built~~intended for the shelter or enclosure of Persons, animals, chattels, or property of any kind~~. This definition shall include tents, Awnings, or vehicles situated in private property and serving in any way the function of a Building but is not intended to permit such Structures other than where expressly allowed under this Code.~~, excluding freestanding tents, Awnings, Pilapas or Cabanas and screened enclosures.

Building Area. The sum of the interior, enclosed Floor Area of a Building.

Building Area, Allowable. The portion of a Lot remaining after required Setbacks have been provided. Buildings may be placed in any part of the Building Area, but limitations on the percent of Lots that may be covered by Buildings may require Open Space within the Building Area.

Building Code. The State of Florida Building Code as in effect from time to time, or its replacement adopted as such by the Village Council, County, and State.

Building Height. The vertical dimension of walls of a Structure.

Building Line. The limits of building for a specific Lot as established by the principal building Setbacks.

Building, Zoning, and Planning Director. That individual appointed by the Village Manager as the Director of the Building, Zoning, and Planning Department.

Cabana. An Accessory Use, non-habitable, solid, roofed Structure for recreation or entertainment purposes, which may or may not be air conditioned and which may or may not have kitchenette or sanitary facilities.

Cafe, Outdoor (Outdoor Café or Dining Facility). ~~A Use located on private property that is~~An Accessory Use not having cooking or refrigeration equipment, located outside of a main Commercial Use and that may be shaded by Canopies, Awnings or umbrellas, characterized by outdoor table service of food and/or beverages ~~that are~~ prepared in an adjacent or attached Main Use restaurant for consumption on the Premises. ~~It is characterized by tables and chairs and may be shaded by Canopies, Awnings, or umbrellas.~~

Cafe, Sidewalk. ~~A Use~~An Outdoor Cafe located in ~~the~~ a public Right-of-Way or private pedestrian access way that is associated with a restaurant where food or beverages are delivered for consumption on the Premises (but not having cooking or refrigeration equipment). It is characterized by tables and chairs and may be shaded by Canopies, Awnings or umbrellas.

Canopy. ~~An Awning over a Building entrance that extends to the edge of the adjacent Right-of-Way.~~ A fixed-roof Structure providing shade or weather protection that is in whole or part self-supporting, with open sides.

Carport. A roofed Structure which is completely open, except for supporting columns (may include kneewall, maximum height 2.5 feet above grade), on at least two sides and attached to or detached from the main Building, designed and used for the purpose of providing shelter for one or more motor vehicles.

Carport Canopy. A Structure of lightweight wood or metal construction which is covered by trellis, canvas, or similar lightweight sheathing for the purpose of providing shade to one or more vehicles. ~~Carport Canopies, as defined herein, are limited in height to ten feet above the Maximum Lot Elevation and limited in area to 300 square feet.~~

Catwalk. A narrow, elevated, open air hallway used for pedestrian access.

Change of ~~Occupancy~~Use. A discontinuance of existing Use and the substitution therefor of a Use of a different kind or class. Change of ~~Occupancy~~Use is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of Use.

Chickee Hut. A Gazebo having a thatched roof and wood supports.
~~*Chief Code Enforcement Officer.* Includes any Village employee working under the authority and direction of the Building, Zoning, and Planning Director.~~

Civic Building. A Building used specifically for a civic function.

Civic Space. An outdoor area dedicated for public use.

Club, Private. ~~Nonprofit~~ An association or organization of fraternal, charitable, educational or social character for exclusive use by members and their guests.

Club, Night(Night Club). A restaurant, dining room, Bar or ~~other~~ similar establishment providing food ~~or refreshments~~ and/or beverages, providing for music and dancing entertainment and wherein floor shows or other forms of entertainment ~~are~~may be provided.

Colonnade. See Breezeway.

Commercial Uses. ~~Any~~ A land use function or activity ~~where there is an~~featuring provision of services or exchange of goods or services for monetary gain~~. Such activities include but are not limited to Retail sales, offices~~, including office, Retail, service, entertainment, eating and drinking ~~facilities~~establishments, theaters and similar ~~Uses~~establishments.

Communication Tower, Cellular (Cellular Communication Tower). ~~A Tower that is designed and used for the purpose of sending and receiving cellular telephone calls. Included in this definition is the actual Tower and any~~A Tower (and any adjacent Accessory Building), used to house necessary communication equipment~~.~~

~~*Communication Tower, Monopole.* A Cellular Communication Tower that consists~~ designed and used to send and receive cellular telephone calls, configured either as a monopole Tower consisting of a single pole set in a concrete foundation, and having the sending/receiving equipment mounted at the top of the pole~~.~~

~~*Communication Tower, Three Sided.* A self supporting Cellular Communication Tower that has three sides~~, or as a three-sided Tower, with no guy wires~~,~~ and the sending/receiving equipment mounted at various locations on the Tower.

Community Residential Home. Any ~~Building or Buildings, section of a Building, or distinct part of a Building, residence, private home, or other place, whether operated for profit or not, which is~~facility licensed and/or monitored by the State Department of Children and Families (or any successor agency) to provide a Family living environment (including supervision and care necessary to meet the physical, emotional and social ~~life~~ needs of one or more Assigned Residents not related to the owner or administrator by blood or marriage).

~~*Completely Enclosed Building.* A Building separated on all sides from adjacent open space, other Buildings or other Structures by a permanent roof and by exterior Walls or party Walls, pierced only by windows and normal entrance or exit doors.~~

Comprehensive Plan. Master development plan for a municipality as defined by the State and approved by the Florida Department of Community Affairs.

Concurrency. The requirement by applicable State law administered by Florida Department of Community Affairs that necessary public facilities and services to maintain the Village's adopted

level of service standards as defined in the Comprehensive Plan are Available when the impacts of Development occur.

Concurrency Determination. A determination by the Village of Key Biscayne as to whether ~~required~~Concurrency standards are satisfied for all facilities and services ~~needed to support Development will be Available concurrent with the impacts of such Development.~~, both generally from time to time and concurrently with the impacts of proposed new Development.

Concurrency Management System. The procedures and/or process that the Village will utilize to make Concurrency Determinations generally, and to assure that Development Permits are not issued unless the necessary facilities and services will be Available concurrently with the impacts of the proposed Development.

Conditional Use. A Use that is not ~~generally appropriate in a district, but would be appropriate if it is consistent with the review criteria.~~a Permitted Use in a District, but that may be deemed appropriate for that District, upon specific finding by the Village Council and/or electors, subject to ongoing compliance with specified criteria and standards.

Consignment Shop. A business establishment ~~which~~that offers merchandise for sale ~~which~~that has been entrusted to the business by a third party owner, for which the owner of the merchandise is paid after the sale of the merchandise by the business.
~~*Convalescent Home.* A Building, or portion thereof wherein for compensation, living accommodations and care are provided for Persons suffering from illness, other than mental or contagious, which is not of sufficient severity to require hospitalization, or for Persons requiring further institutional care after being discharged from a hospital other than a mental hospital.~~

Cooking Facilities. Any facilities or devices used for food or beverage preparation, ~~specifically~~ including to cook, heat, or defrost food. Such devices may include~~, but should not be limited to,~~ a ~~wet bar sink~~stove, an oven, a microwave, or a toaster or any combination of these.

Copy. The wording on a Sign surface either in permanent or removable letter form, including trademark emblems or reproductions.

Courtyard. Open Space, partially defined by Walls or Buildings.

Covered Walkway. See Breezeway.

Cul-De-Sac or Dead-End Street. A ~~Minor~~ Street with only one outlet to another Street, terminating at one end, sometimes with a circular turn around.

Day Nursery. (See Nursery School).

Deck. A ~~platform located below the Base Flood Elevation whose~~ horizontal surface of wood or other material that is attached to the ground, either at grade or elevated.

Dedication. A grant for designated public use of a property or property right.

Density. The ~~maximum number of Units per acre, which can be developed on a parcel of land (measured to the property lines).~~number of Dwelling Units within a standard measure of land area, which shall be expressed as a number of Dwelling Units per acre unless otherwise specified in these Regulations.

Department of Transportation (or DOT) Standards. ~~Includes the term State Standards and as used herein shall refer~~Refers to the Florida State Department of Transportation's Standard Specifications for Road and Bridge Construction as ~~currently~~ adopted and in use from time to time.

Developer. Any ~~individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under these Regulations. Inasmuch as the Subdivision Plat is a necessary means to the end of assuring a satisfactory Development under the terms of the Village Code, the term Developer is intended to include the term Subdivider, even though the Persons involved in successive stages of the project may vary.~~person or entity seeking to undertake a Development within the Village of Key Biscayne, including any person or entity subject to a Unity of Title and any subdivider of a Lot involved in the proposed Development.

Developer's Engineer. A professional engineer registered ~~in this State~~and in active status in Florida, and engaged by the Developer to plan and supervise the construction of the work required under these Regulations.

Development. ~~That meaning given in F.S. § 380.04.~~As defined in Section 380.04, Florida Statutes, or otherwise as specified by the Village Council or electors.

Development Permit. Any building permit, zoning or Permitted Use or Conditional Use approval, Subdivision or Plat approval, Site Plan approval, Development Review Committee Order, rezoning, ~~Conditional Use,~~ waiver, variance, sign permit, or other official action of ~~a unit of~~ the Village or the electors having the effect of permitting the Development of land.

Dividing Strip. A separation, planted whenever possible, between opposite directional flows of traffic~~. It may also mean~~, or a separation between the traffic lanes on a~~traffic~~ Street ~~or highway~~ and ~~the~~a parallel service Street which provides Access to property nominally fronting on the ~~trafficways~~principal Street, or a separation between a Street and a bike path, pedestrian walkway or Open Space..

Drive-In/Drive-Thru ~~*Restaurant or Refreshment Stand*~~*Establishment.* Any place or premise used for the sale, dispensing or serving of food, refreshments or beverages to patrons who enter upon the premises ~~in automobiles~~ and receive service in ~~automobiles~~motor vehicles, or for consumption of food, refreshments or beverages in ~~automobiles~~motor vehicles or otherwise off premises.

Duplex or Two-Family Residence. ~~A residence Building designed for, or used as, the separate homes or residence of two separate and distinct Families. Each individual Unit in the Duplex shall have all living room accessible to each other from within the Unit and each individual Unit is to be Occupied exclusively by one Family as a single housekeeping Unit.~~Two (2) Dwelling Units within a single detached Building, each Dwelling Unit of which provides a residence for a single Housekeeping Unit.

Dwelling or Dwelling Unit. ~~Any Building or part thereof, Occupied in whole or in part, as the residence or living quarters of one or more Persons, permanently or temporarily, continuously or transiently.~~Residence of an individual or single Housekeeping Unit.

~~*Dwelling, Group.* A Building or part thereof, in which several unrelated Persons or Families permanently reside, but in which individual Cooking Facilities are not provided for the Persons or the Families. Group Dwelling may include a Rooming House, fraternity house, sorority house, convent, monastery or Private Club in which one or more members have a permanent residence. Group Dwelling shall not be deemed to include a Hotel, Motel, tourist home, or Trailer park.~~

~~*Dwelling, Multiple-Family.* A Dwelling Occupied by three or more Families; a Dwelling comprised of three or more Dwelling Units.~~

~~*Dwelling, One-Family.* One or more rooms or Buildings physically arranged so as to create an independent housekeeping establishment or Unit for occupancy by one Family with separate toilets, and facilities for cooking and sleeping.~~

~~*Dwelling, Single Family.* A Dwelling Occupied by not more than one Family; a~~

~~Dwelling comprised of only one Dwelling Unit.~~

~~*Dwelling, Two-Family.* A Dwelling Occupied by not more than two Families; a~~

~~Dwelling comprised of two Dwelling Units.~~

Easement. An interest in land granted for limited Use purpose, but which does not convey fee title to real property.

Elevated ~~Home~~Structure. A ~~home~~ Structure having all finished floors at or above BFE.

Elevation. The height of a surface relative to sea level as represented by NGVD (National Geodesic Vertical Datum).

Enforcing Official. The officers and employees of the department, bureau or agency of the Village to whom the duty of enforcing the terms of these Regulations are assigned.

~~Erected~~Erect(ed). Includes built, constructed, reconstructed, moved upon or any physical operations on ~~the premise~~a property required for building.

Established Grade. ~~The Established Grade, as applied~~As applicable to ~~any~~ building site ~~shall be~~, the average elevation of the sidewalk abutting such building site or, if there is no sidewalk, the average elevation of the crown of the road or Street abutting such building site. Where a building site abuts more than one road and/or Street, the Established Grade shall be the average elevation of the sidewalks abutting such building site, or if there are not sidewalks, the average elevation of the crown of the road on Streets abutting such building site.

Establishment. A facility for the conduct of a trade or business.

Family (or Housekeeping Unit). Any number of individuals living together as a single housekeeping ~~U~~unit and doing their cooking on the Premises, as distinguished from a group occupying a Boarding or Rooming House or Hotel.

Floor Area. The sum of the areas of the floors of a Building or Buildings, measured from the exterior faces of exterior Walls or from the exterior face of an architectural projection, or from the centerline of ~~Walls~~a Wall separating two attached Buildings. The calculation of Floor Area for Unit sizes is measured from the centerline of a party Wall to the interior face of an exterior Wall.

~~The Floor Area of a Building shall include all areas except for those areas listed below, unless otherwise provided for in this chapter:~~

~~(1) Accessory water tanks or cooling Towers.~~

~~(2) Unenclosed exterior staircases or steps, exterior open fire escapes and open stairwells.~~

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

~~(4) Unenclosed exterior Terraces, Balconies, breezeways, Porches, Carports, Gazebos, sheds or hallways or areas that provide Access to a Unit or Units.~~

~~(5) Any floor space utilized for parking within an accessory off-street Parking garage. For single Family and Two-Family Structures, the Parking garage is included in the FAR calculation if the finished floor is more than two feet above the crown of the road except as set forth in subparagraph (8). If the Parking garage is the main Permitted Use, then the Floor Area of the Parking levels shall be included in the calculation for Floor Area Ratio.~~

~~(6) Mechanical equipment rooms located above the main roof deck.~~

~~(7) Exterior unenclosed private or public Balconies.~~

~~(8) Floor Area located below BFE is excluded; however, if the ceiling is above BFE and the space is enclosed on more than two sides, 10 percent of the horizontal Floor Area of the space below BFE is included in the Floor Area.~~

~~(9) Exterior elevators and landings.~~

~~(10) Chaises.~~

~~(11) Service station or automotive repair when located in a parking garage.~~

~~In volumetric Buildings where there are no interior floors above the finished floor, the Floor Area shall be calculated as if there were a floor for every ten feet. Volumetric space between ten and 13 feet is not counted. Volumetric space above 13 feet shall be calculated as follows: Floor area = 10 percent for each one foot or fraction thereof in height × square feet of the space.~~

~~Volumetric space is not counted in the following:~~

~~(1) In entranceways that contain 225 square feet or less.~~
~~(2) Space between ten and 13 feet above the finished floor.~~
~~(3) Space above stairs.~~

Floor Area, Gross. The total floor area contained within a building including the horizontal area of external walls and floor area of balconies, porches and garages.

Floor Area Ratio. The total Floor Area of a Building or Buildings on a ~~building site~~ Lot divided by the Net Lot A~~a~~rea of the ~~site~~Lot.

Frontage ~~*of a Property.* The Plot line that abuts a Street or separates the Plot from a Street~~. Property line abutting a Street or other public space.

Front Wall. ~~That~~The Wall of a Building fronting a Street that contains the primary Access to the Building.

Function. The land Use allowed on property according to these Regulations.

Gallery. See Breezeway.

Garage, Community. A Building or part thereof~~,~~ used for ~~indoor~~covered Parking of ~~self-propelled private passenger~~motor vehicles, for ~~Use of residents in the vicinity~~general community use.

~~*Garage, Mechanical.* A Structure for the Parking of self-propelled passenger vehicles wherein such vehicles are parked by mechanical means.~~

Garage, Private. An Accessory Structure designed or used for ~~inside~~covered Parking of ~~self-propelled private passenger~~motor vehicles by the occupants of the main Building.

Gazebo. A detached roofed or trellis~~ed~~-covered Structure ~~open on at least three sides~~.

Grade, ~~*Elevated Building.* Equal to the Base Flood Elevation.~~A series of Elevations along a horizontal constructed or natural surface.

~~*Grade, Non-elevated Building.* Equal to the crown of the adjacent road.~~

Green Space. Open Space outdoors, at grade or elevated, unroofed, landscaped or in a natural condition, without sanitary facilities or amenities, and free of impervious surfaces.

[Greenway. An Open Space corridor in largely natural condition that may include trails for bicycles and pedestrians.]

Guest House. An enclosed, air conditioned Accessory Structure attached to or detached from the primary residential Building that functions as a sleeping quarters for guests.

Habitable Room(s). Rooms designed and used for living, sleeping, eating or cooking, or combinations thereof, having at least one (1) window. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry and utility spaces and similar areas are not considered Habitable Rooms.

Hazardous Substances. Any substance or material which, by reason of its toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health or safety of any Person handling or using or otherwise dealing with such material or substances, including substances regulated as hazardous under federal, state or local law.

Healthcare and Aftercare Facilities. An establishment that caters to special needs residents or visitors including, but not limited to, Adult Congregate Living Facility (ACLF), Adult Day Care Facility, Adult Living Facility (ALF), Convalescent Home, Communal Residential Facility, Extended Care Facility, Group Home, Homeless Assistance Center, Hospice, and Nursing Home, as defined by State Health Department Statutes.

Height, Building-Maximum. As further established in the Regulations governing each zoning district, ~~and shall be measured as follows:~~ the vertical distance from the point described below to the top of the highest ~~tie beam~~roof peak ~~of the Building~~within Single Family and Two Family Residintial Zoning Districts, and to the top of highest tie beam in all other Zoning Districts~~. The point to begin measuring the height of a Building shall be as indicated below:~~

(1) Non-elevated Buildings: from the crown of the road.

(2) Elevated Buildings: from the Base Flood Elevation (BFE).

Home, One Story. ~~Is a home~~A residence with exterior Building Wall height not exceeding 14 feet from BFE for Elevated Homes or from the grade of the lowest finished floor for Non-Elevated Homes.

Home, Non-Elevated. A ~~home~~residence having any finished floor below Base Flood Elevation (BFE).

Hotel. A Building, or part thereof, in which sleeping accommodations are offered to the public primarily on a short term or transient basis.

Hotel Room or Unit. A room~~,~~ or group of rooms with ingress or egress, intended for rental to transients on day-to-day, week-to-week, or month-to-month basis~~;~~, but~~,~~ not intended or used as a permanent Dwelling. The definition includes:

(1) A sleeping room within a Hotel;

(2) A living or sleeping room within a Dwelling, having a separate entrance from outside the Dwelling other than the principal entrance of Dwelling; and

(3) A living or sleeping room within a Dwelling Unit of a Multiple Family Dwelling, having a separate entrance from outside the Dwelling Unit.

Institutional (Use). A Use, Building, or organization of a public character or providing a public or semi-public service.

Lanai. See Porch.

Landscape Terrace. A Deck, Patio, Pool Deck, Sun Deck, or Terrace that is a landform.

[LEED. Leadership in Energy and Design; provides energy efficiency standards.]

Level of Service (LOS). An indicator of the extent or degree of service provided by or proposed to be provided by a facility based on and related to the operational characteristics and capacity of the facility. LOS indicates the capacity per unit of demand for each public facility specified in the Comprehensive Plan in order to ensure that adequate facility capacity is provided and will be provided for future Development, and for determining compliance with the Concurrency Management Plan.

Linear Foot Frontage. A distance of one foot of a ~~Main~~ Street or Open Space Frontage.

Lodging. A room or rooms rented by an unrelated tenant or tenants within a single family residence.

Lodging House. A single family residence where a room or rooms are provided for rent to an unrelated tenant(s).

Loft. An upper room or floor.

Loggia. See Porch.

Lot. A parcel or tract of land designated and identified as a single ~~Unit of area~~building site or unit, including platted lots, tracts or parcels of land as depicted in a Subdivision Plat officially recorded in the public records of Miami-Dade County, Florida. This definition includes the terms site, platted Lot, Plot, tract or parcel and land described by metes and bounds.

Lot Area. The total area within Lot Lines.

Lot, Corner. A Lot at the intersection of two or more Streets, or Street and canal or Waterway.

Lot Coverage. The percentage of Net Lot Area occupied by Structures. ~~The area of the Lot Occupied by all Buildings, covered Structures and Terraces above Maximum Lot Elevation, excluding the following: In Commercial, Office, or Multiple Family Districts, uncovered, open plazas located on the upper deck of a parking garage, so long as the upper deck is no higher than two 2.0 feet above the Base Flood Elevation constructed with an elevation at or below 3.0 ft. below grade; exterior steps and landings attached to and providing a means of ingress and egress from a Building; Carport Canopies which occupy less than 300 square feet in area; Gazebos occupying a total area of up to two percent of the lot size; utility sheds; carports and porches that provide a ten foot setback pursuant to section 30-100(f)(12); planters with a maximum height of~~

~~four feet above grade and patios, Decks and swimming pools that are located below the Maximum Lot Elevation. Lot Coverage shall specifically include any non-roofed areas enclosed by Walls (other than Building Walls) that exceed six feet in height and are attached to or otherwise form an integral part of a Building.~~

Lot Depth. The mean horizontal distance between the Front and Rear Lot Lines.

Lot, Interior. ~~All Lots other than Waterfront Lots~~A Lot abutting only one Street.

Lot, Key. The first Lot to the rear of a Reversed Corner Lot whether or not separated by an alley therefrom.

Lot Line. The boundary that legally and geometrically demarcates a Lot.

Lot Line, Front. The line dividing a Lot from a Street (public road Right-of-Way). On a Corner Lot, the Front Lot Line shall be that Street Lot Line in line with the front line of the adjacent Interior Lot. If this situation exists with both Street Lot Lines on a Corner Lot (reversed corner), then both such Lot lines shall be considered Front Lot Lines for applying required Front Yard Setbacks and Lot Width. On Through Lots both Front Lot Lines shall require Front Yard Setbacks (see Article III).

Lot Line, Rear. The Lot line opposite and most distant from the Front Lot Line. In the case of a triangular or gore-shaped Lot wherein the two Side Lot Lines converge in the rear, the Rear Lot Line shall be considered to be a line ten feet in length within the Lot parallel to and at the maximum distance from the Front Lot Line.

Lot Line, Side. Any Lot line other than a Front or Rear Lot Line. A Side Lot Line separating a Lot from a Street is called a side Street Lot Line. A Side Lot Line separating a Lot from another Lot or Lots is called an interior Side Lot Line.

Lot Line, Street or Alley. A Lot line separating the Lot from a Street or alley.

Lot, Non-Waterfront. All Lots other than Waterfront Lots.

Lot, Reversed Corner. A Corner Lot the side Street line of which is substantially a continuation of the Front Lot Line of the first Lot to its rear.

Lot, Through. Any Lot other than a corner Lot having frontages on two parallel or approximately parallel Streets.

Lot, Waterfront. Any Lot ~~which has~~with direct frontage on Biscayne Bay or any other body of water within the Village boundaries.

Lot Width. The mean horizontal distance between the Side Lot Lines.

Main Street Frontage. The length of the ~~property line of any one Premises~~Lot Line parallel to and along the public Right-of-Way (but in no event an alley) bordering the primary Access to the ~~Buildings or Premises~~Building(s).

Master Drainage Plan. An engineering drawing and ~~W~~written report outlining the primary and secondary drainage facilities needed for ~~the proper~~ Development ~~of a specific increment of~~for any Use within the Village.

Maximum Lot Elevation. The maximum height of Lot fill as established by ~~this chapter~~these Regulations.

Mechanical Amusement Device. Any machine or device other than an automatic merchandise Vending Machine, Automatic or Coin-Operated Service Trade Machine, or juke box that, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for Use as a game, entertainment or amusement, whether or not registering a score; including but not limited to such devices as marble machines, mechanical grab machines, indoor shuffle boards, pinball machines, skill ball, shuffle alleys,~~ mechanical grab machines,~~ electronic game machines or movie machines.

Mitigation. Measures taken to eliminate, minimize or compensate for damages from Development.

Mixed-Use. Multiple functions within the same Building or in multiple Buildings within an abutting area.

Motel. A Building, or part thereof, in which sleeping rooms and/or living accommodations are offered to the public, with no Cooking Facilities for Use by the occupants, primarily on a short term or transient basis, with Access to the individual Units from the exterior of the Building and Parking facilities for Use of occupants near their quarters.

N/A. Not applicable.

Natural Features. Physical characteristics of a subject property or area that are not man-made.

Net Lot Area. Horizontal area of the site bounded by the property lines as indicated in a certified survey.

Nonconforming Structure. A Structure which lawfully existed prior to the adoption, revision or amendment of ~~this ordinance~~these Zoning and Land Development Regulations, but which fails, by reason of such adoption, revision or amendment, to conform to the Regulations applicable in the Use district in which it is located.

Nonconforming Use. A Use or activity which lawfully existed prior to the adoption, revision or amendment of this ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the Regulations applicable in the Use district in which it is located.

Nursery School. A place for the day care and instruction of children not remaining overnight. This definition includes the term Day Nursery.

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

Occupational License (Restricted). Any Occupational License issued to a Person engaged in any business or profession whose place of business is his residence.

Occupied. Utilized, not abandoned. Includes arranged, designed, built, altered, converted, rented or leased to be Occupied.

Off-Site Parking. Space provided for Parking motor vehicles located outside the boundaries of the Lot(s) served.

Office Building. A Structure designed to provide office space ~~for Professional Offices~~ and space for service activities, and providing a common Parking area or areas for tenants and their customers.

Offices, Professional. Offices ~~which are~~ utilized by Persons employed in a profession or occupation requiring special, usually advanced, education or skill, and not involving either sales or repair of any product or merchandise or the providing of any personal services on the Premises. Professional Offices include, but are not limited to: medicine, law, accounting, real estate, insurance, architecture, engineering, stockbroker, banking and financial, and private investigator (excluding bail bonds).

Official Zoning Map. A map adopted by the Village Council showing zoning district designations of property.

Open Space. Any parcel or area of land or water open to the sky and exclusive of permanent Building or enclosures, including parks, greens, courtyards, gardens at grade or on rooftops, playgrounds and pedestrian paths, together with associated landscaped areas.

~~*Open Space and Institutional Uses.* Shall include public parks and recreation areas, schools, churches, hospitals and similar public service Uses.~~

Outdoor Dining Facility. ~~A Use located on private property that has outdoor table service of food and beverages, which are prepared in an adjacent or attached restaurant, for consumption on the Premises. It is characterized by tables and chairs and may be shaded by Canopies, Awnings or umbrellas~~See Outdoor Café.

Overlay Regulations. A set of Regulations which are superimposed upon and supplement, but do not replace, the underlying zoning district and Regulations otherwise applicable to the designated areas.

Parapet. That portion of a Wall which extends above the Roof Line.

Park. A Lot or area of land or water designated as such and used by the public for active or passive recreateion or Open Space.

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

Parking Lot. An all weather surface area, not in a Street or alley, that is used for the temporary Parking of ~~more than four~~motor vehicles.

Parking Lot or Garage, Satellite. A Parking Lot or garage that is accessory to, but located on a Lot that is not abutting, the Main Permitted Use.

Parking Lot and/or Garage, Valet. A Parking Lot and/or garage which is accessory to and, that may or may not be located on the same Lot as, the Main Permitted Use, where non-commercial, personal passenger automobiles and vans are parked solely by employees or agents of the owner of the Main Permitted Use.

Patio ~~*or Pool Deck.* A horizontal surface, whether of wood or other construction located in the Front, Rear or Side Yard of a Lot or on the roof of a flat Structure.~~ See Deck.

Pedestal. That portion of the Building or Structure that is less than 50 feet in height measured from the BFE.

Pedestrian Orientation. The characteristics of an area where the location and access to Buildings, and Uses permitted at street level, and overall design relate primarily to the needs of persons on foot.

Person. Includes a natural person, association, business entity or firm, ~~co~~ including a partnership, ~~or~~ corporation, or limited liability company, or a trust.

Personal Service Uses. Establishments that are primarily engaged in providing non-medical services involving the care of a Person, his or her apparel, or pets. These Uses include but are not limited to hair salons, laundry and dry cleaning (drop off only), pet grooming salon, shoe repair, diaper service, alterations, tailoring and jewelry repair, carpet and upholstery cleaning, photographic studios, funeral services, steam baths, reducing salons, health clubs and clothing rental.

Pervious Area. A permeable area of land ~~within the Building Lot which~~that permits the drainage and percolation of stormwater.

Pilapa. See Chickee Hut.

Planter. A structural element that accommodates vegetation, which may be continuous or individual and separated.

Plat. A map depicting the division or Subdivision of land into Lots~~, Blocks, parcels, tracts, or other portions thereof~~, however the same may be designated, prepared in accordance with the provisions of these Regulations and those of any applicable law ~~and/or local ordinance~~, which may be designated to be placed of ~~[on]~~ record in the office of the Clerk of the Circuit Court of Miami-Dade County.

Plat, Final. A finished map of a Subdivision accurately showing all legal requirements of the State Plat Law and the requirements of these Regulations.

Plat, Preliminary. A copy of the Plat in sufficient form to readily compare the Plat with the master plan and construction plans.

Plat of Record. A Plat which conforms to the requirements of the applicable laws of the State and ordinances of the County, which has been accepted by the Village Council and placed in the official records of Miami-Dade County.

Plaza. An Open Space that may be improved, landscaped or paved, usually ringed by Buildings or Streets.

Playground. Open Space designed for children's recreation.

Plot or Site. ~~Land Occupied or to be Occupied by a Building or Use, and their Accessory Buildings and Accessory Uses, together with such Yards and open spaces as are required by these Zoning and Land Development Regulations. A Plot may consist of one or more platted Lots[,] portions thereof and/or unplatted land, abutting and not separated or interrupted by any other parcel of land, Right-of-Way or body of water. This definition includes the term Lot~~See Lot.

Plot Area. See Lot Area.

Plot, Corner. ~~A Plot of which at least two adjacent sides abut for their full length upon Streets, provided that such two sides intersect at an interior angle of not more than 135°. Where a Plot is on a curve, if tangents through the intersections of the Lot lines with the Street lines make an interior angle of not more than 135°, such a Plot is a Corner Plot. In the case of a corner Plot with a curved Street line, the corner shall be considered to be that point on the Street line nearest to the point of intersection of the tangents herein described~~See Lot, Corner.

Plot Depth. ~~The mean horizontal distance between the Front and Rear Plot Lines~~See Lot Depth.

Plot, Interior. ~~A Plot other than a Corner Plot~~See Lot, Interior.

Plot, Key. ~~The first Plot to the rear of a Reversed Corner Plot whether or not separated by an alley therefrom~~See Lot, Key.

Plot Line. See Lot Line.

Plot Line, Front. ~~The line dividing a Plot from a Street (public road Right-of-Way). On a Corner Plot the Front Plot Line shall be that Street Plot Line in line with the front line of the adjacent Interior Plot. If this situation exists with both Street Plot Lines on a Corner Plot (reversed corner), then both such Plot lines shall be considered Front Plot Lines for applying required Front Yard Setbacks and Plot Width. On Through Plots both Front Plot Lines shall require Front Yard Setbacks (see Article III)~~See Lot Line, Front.

Plot Line, Rear. ~~The Plot line opposite and most distant from the Front Plot Line. In the case of a triangular or gore-shaped Lot wherein the two Side Plot Lines converge in the rear, the Rear Plot Line shall be considered to be a line ten feet in length within the Plot parallel to and at the maximum distance from the Front Plot Line~~See Lot Line, Rear.

Plot Line, Side. ~~Any Plot line other than a Front or Rear Plot Line. A Side Plot Line separating a Plot from a Street is called a side Street Plot Line. A Side Plot Line separating a Plot from another Plot or Plots is called an interior Side Plot Line~~See Lot Line, Side.

Plot Line, Street or Alley. ~~A Plot line separating the Plot from a Street or alley~~See Lot Line, Street or Alley.

Plot, Non-Waterfront. See Lot, Non-Waterfront.

Plot (Site) Plan. ~~A drawing to scale accurately showing the size and dimensions of a Plot, the size, dimensions and locations of all Buildings and Structures, Parking facilities and other paved areas, existing and proposed, the width or distance from centerline of adjoining public road Right-of-Way, and any other information pertinent to depicting the proposed physical Development of property~~See Site Plan.

Plot, Reversed Corner. ~~A Corner Plot the side Street line of which is substantially a continuation of the Front Plot Line of the first Plot to its rear~~See Lot, Reversed Corner.

Plot, Through. ~~A Plot abutting on two Streets, not at their intersection~~See Lot, Through.

Plot, Waterfront. See Lot, Waterfront.

Plot Width. ~~The horizontal distance between the Side Plot Lines at the depth of the required Front Yard~~See Lot Width.

Pod. An enclosed Structure that is attached or detached and functions as part of the main Structure.

Pool Deck. See Deck.

Porch. An unairconditioned, open air, roofed Structure attached to a ~~residence~~Building at an entry to the Building, without Walls on at least two sides and which must be at least 70 percent open on each exposed side. Only supporting columns may be visible above 42 inches from the finished Porch floor level.

Porte-Cochere. A roofed Structure attached to a Building and Erected over a driveway for a Building entrance not exceeding one Story in height and open on three sides.

Portico. See Porch.

Premises. [Yes] An area of land (Lot or unplatted tract or any combination of contiguous Lots or unplatted tracts) with its appurtenances and ~~Buildings~~improvements which, because of its Unity of Use, may be regarded as the smallest conveyable Unit of real estate.

Principal Building. A Structure for the primary Use on a Lot.

Property Owner's Association. A nonprofit organization recognized as such under the laws of the State, operated under recorded maintenance and ownership agreements through which each owner of a portion of a Subdivision, be it a Lot, home, property or any other interest, is automatically a voting member, and each such member is automatically subject to a charge for a prorated share of expenses, either direct or indirect, for maintaining common areas and other similar properties. Within the text of these Regulations a Property Owner's Association is considered to be a single entity for property ownership. ~~As used in these Regulations, the term.~~

Psychic Help Uses. Establishments primarily engaged in providing advice or counseling to Persons based on readings of objects and/or extrasensory perceptions for either guidance or entertainment. Including but not limited to fortune telling, astrology, handwriting analysis, phrenology, palm reading, tarot card reading, crystal readings, psychic counseling, numerology, and channeling. Psychic Help Uses may not be licensed as secondary or Accessory Uses where not listed as a permitted Use.

Public Utility. Includes every Person, corporation, partnership or association or other legal entity, their lessees, trustees or receivers now or hereafter, either owning, operating, managing or controlling a system or proposing construction of a system that is provided or proposes to provide water or sewer service, electricity, natural or manufactured gas, or any similar gaseous substance, telephone or telegraph, cellular phone, beeper, internet service, beeper, cable television, or any electronic communication service to the public for compensation.

Redecorating or Refinishing. Any change, removal, replacement or addition to Walls, floors, ceiling and roof surfaces or coverings which do not support any beam, ceiling or floor load, and which do not affect any bearing partition columns, exterior Walls, stairways, roofs, or other structural elements of a Building or a Structure.

Regulation or Regulatory Control. A rule or order promulgated by the Village, or other competent authority with jurisdiction, controlling anything relative to the Use and/or Development of land, water or Structures within the Village. This may include provisions for the administration and enforcement of Regulations.

Remodeling~~, Redecorating or Refinishing~~. ~~Any change, removal, replacement or addition to Walls, floors, ceiling and roof surfaces or coverings which do not support any beam, ceiling or floor load, and which do not affect any bearing partition columns, exterior Walls, stairways, roofs, or other structural elements of a Building or a Structure~~See Alteration.

Restrictive Covenant. A Written agreement executed by and between a property owner and the Village of Key Biscayne, whereby the property owner agrees to certain conditions, restrictions and/or limitations on the Use, maintenance or sale of his property. Such "Restrictive Covenant" shall be recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property owner, his successors and assigns.

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

Reveal. The surface area between a wall and an indentation or recess of the wall.

Right-of-Way. A strip of land dedicated or deeded to the perpetual use of the public.

Right-of-Way Intersection. The intersection of private property lines at a Street intersection.

Roof Line. The top edge of the roof or the top of the Parapet, whichever forms the top line of the Building Structure.

Rooming House or Boarding House. See Lodging House.

Satellite Antenna. A device which is designed to receive broadcast Signals from earth-orbiting communication satellites, including a low-noise amplifier (LNA) and a coaxial cable for the purpose of carrying signals to the interior of a Building.

Screened Enclosure. A frame Erected of metal or wood which framing and overhead supports are only covered with insect screening of metal, fiberglass or other approved insect screening. The framing and overhead supports of such Screened Enclosure shall be solely for the purpose of supporting such screening.

Service Station (Filling Station). Any establishment that sells, distributes or pumps fuels for motor vehicles.

Setback. The minimum horizontal distance between the Lot ~~or property~~ line and the ~~nearest front, side or rear line of the Building (as the case may be), including Terraces or any covered~~

~~projection thereof, excluding steps (also see Yard and Required Yard)~~and the points at which a Structure may be located.

Shed. A detached, enclosed Structure used for storage.

Shopping Center. A group (two or more) of Retail stores, service establishments or any other business, planned to serve a community or neighborhood, not necessarily under a single land ownership, which are adjacent to and utilizing a common Parking area or areas.

Sidewalk. The paved layer of Public Frontage dedicated exclusively to pedestrian or bicycle activity.

Sign. Any identification, description, illustration or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public which directs attention to a product, service, place, activity, Person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary Sign, which advertises, identifies or conveys information, with the exception of the flagsof the United States, the State of Florida, and the Village. For the purpose of removal, Signs shall also include all Sign Structures.

Sign Advertising. Any form of Sign intended to aid, directly or indirectly, in the sale, Use or promotion of a product, commodity, service, activity or entertainment.

Sign, Animated. A Sign which includes action or motion of any part by any means, including wind power.

Sign Area, Aggregate. The sum of the area of all faces of a Sign, including all elements such as boards for frames, perforated or solid background, ornamental embellishments, arrows or other Sign media. The structural elements necessary to support a Sign need not be included as Sign area. Concerning Painted Wall Signs or Flat Wall Signs when composed of letters only, Sign area is determined by the perimeter required to support or enclose such message or messages.

Sign, Awning-Canopy. A Non-Illuminated Occupant Identification Sign affixed flat to the surface of an Awning or Canopy and which does not extend vertically or horizontally beyond the limits of such Awnings or Canopy.

Sign, Banner (Including Pennant, Streamer). Any Sign that is intended to be hung, either with or without frames, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners for the purpose of this article.

Sign, Changeable Copy. A Sign such as a movie marquee where slots are provided on a background for changeable letters to be added.

Sign, Changing. A Sign such as an electronically or electrically controlled public service, time, temperature and date Sign, message center or readerboard, on which different Copy changes of a public service noncommercial nature are shown on the same lampbank.

Sign, Credit Card. A Sign, decal or emblem (monetary, institutional, and the like) indicating types of credit cards, traveler's checks, and the like, that are accepted.

Sign, Directional or Informational. An informative, non-advertising Sign located on and relating to an activity on the Premises upon which the Sign is located such as "entrance," "exit," "Parking in rear," and the like.

Sign, Directory. A Sign at a Shopping Center or Office Building which provides general identification for the entire center or Office Building and contains specific advertising or identification for two or more tenants of the center or Office Building.

Sign, Double Faced. A Sign with two sides having Copy. Each side of the Sign is usually, but not necessarily parallel.

Sign Face. Any part of a Sign that is or could be used for Copy.

Sign, Flashing. A Sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source. Automatic Changing Signs such as public service time, temperature and date Signs, or electronically controlled message centers are classified as "Changing" Signs, not "Flashing" Signs. This term does not include Electronic Message Centers.

Sign, Flat Wall. A Sign attached to or Erected against the Wall or facade of a Building, the display surface of which is parallel to the Building Wall not extending above the Roof Line of a Building except as provided in Article 8, § 8.5.A.10. of these Regulations or extending more than 12 inches from the facade of the Building to which it is attached.

Sign, Freestanding. A Sign Erected on a freestanding frame, mast or pole, and not attached to any Building or any other Structure.

Sign, Gasoline Price. A Sign indicating current gasoline prices at a Service Station.

Sign Height. The vertical distance measured from the Established Grade to the highest point of a Sign or its supporting Structure, whichever is higher.

Sign, Illuminated. A Sign which is lighted by any light source, internal or external, whether or not said lights are physically attached to the Sign. This definition shall not include Signs which are illuminated by Street lights or other light sources owned by any public agency or light sources which are specifically operated for the purpose of lighting the area in which the Sign is located rather the Sign itself.

Sign, Instructional. A Sign which provides instructions and is located entirely on the property to which it pertains and does not in any way advertise a business, and does not exceed two square feet in area; identifying restrooms, public telephones, walkways and such.

Sign, Message Center. A Sign that has the capability of changing Copy.

Sign, Monument. A freestanding Sign permanently affixed to the ground with a maximum height of eight feet.

Sign, Movable. A Sign not permanently attached to the ground on a Building, including Sidewalk or Sandwich Signs.

Sign, Nonconforming. A Sign or Sign Structure which was lawfully Erected and maintained prior to such time as it came within the purview of these Regulations and any amendments thereto, and which fails to conform to all applicable Regulations and restrictions.

Sign, Non-Illuminated. A Sign that is not illuminated.

Sign, Occupant Identification. A Sign which is limited to the name, address and number of a Building, institution or Persons, and to the activity carried on in the Building or institution.

Sign, Off Premises. A Sign identifying, advertising, or directing someone to a business, Person, activity, goods, products or services, located at a different location or Premises from where the Sign is installed and maintained.

Sign, On Premises. A Sign identifying or advertising a business, Persons, activity, goods, products or services, located on the Premises where the Sign is installed and maintained.

Sign, Painted Wall. A Sign painted on any outside Wall of a Building.

Sign, Permanent Political. A Political Sign that requires a permit and must comply with all requirements of the South Florida Building Code and Sign Regulations of the Village.

Sign, Pole or Pylon. A Freestanding Sign permanently affixed to the ground with a maximum height of 16 feet.

Sign, Political. A Sign that expresses a comment on a matter of public interest.

Sign, Projecting. A Sign other than a Flat Wall Sign which is attached to and projects from a Building or Structure face at any angle.

Sign, Public Service Information. A Sign which provides general public service information, such as time, date, temperature, weather, directional information, community events, but no business identification advertising.

Sign, Pylon. A freestanding Sign which is less than six feet high that is permanently attached to the ground without the need of posts and/or poles. [see pole sign]

Sign, Roof. A Sign Erected over or on the roof or extending above the Roof Line, which is dependent upon the roof, Parapet or upper Walls of any Building or portion thereof, for support.

Sign, Rotating. A Sign or portion of a Sign which moves in a revolving or similar manner.

Sign, Sidewalk or Sandwich. A Moveable Sign located in the public Right-of-Way or on private property.

Sign, Snipe. A Sign which is tacked, nailed, posted, glued or otherwise attached to trees, poles, stakes or fences or to other objects with the message appearing thereon not applicable to the present Use of the Premises or Structures upon which the Sign is located.

Sign, Temporary Political. A Political Sign that does not require a permit and need not comply with the requirements of the South Florida Building Code and Sign Regulations of the Village.

Sign Structure. A Structure that supports, has supported or is capable of supporting a Sign, including decorative cover.

Sign, Subdivision. A Sign identifying a recorded Subdivision.

Sign, Swinging. A Sign installed on an arm or spar that is not, in addition, permanently fastened to an adjacent Wall or upright pole.

Sign, Temporary Announcing. A Sign Erected and maintained on vacant property or during construction to announce a future Use of the Premises.

Sign, Temporary Construction. A Sign Erected and maintained by an architect, contractor, subcontractor, and/or materials business, upon property which such individual and/or materials business is furnishing labor or material for new construction or major renovation.

Sign, Temporary Real Estate. A Sign Erected by an owner or his agent indicating the real property upon which the Sign is located is for rent, for lease or for sale.

Sign, Temporary Service Station Promotion. A Sign display at a gasoline Service Station of a flexible or banner type which notices regular special promotions such as "Oil Change," "Lube Job," "Tire Sale," "Wheel Balancing," or other similar short term sales or specials.

Sign, Temporary Window. A special purpose (sale, and the like) paper Sign installed inside a window for purposes of viewing from outside the Premises.

Sign, Vehicle. A Sign affixed to or painted on a transportation vehicle, including automobiles, trucks, boats, Trailers, golf carts, and campers, for the purpose of identification or of advertising the commercial use associated with the vehicle.

Sign, Window. A Sign that is painted on, applied to, attached to or projected upon the exterior of a Building, including doors and glass areas. Signs that are located within 15 feet of a glass area and can be seen from the outside of the Building are considered Window Signs. Such Signs include but are not limited to identification labels, messages, symbols, insignias, graphic representations, logos, or any other form which communicates information.

Site Plan. A drawing to scale accurately showing the size and dimensions of a Lot, the size, dimensions and locations of all Buildings and Structures, Parking facilities and other paved areas, existing and proposed, the width or distance from centerline of adjoining public road Right-of-Way, and any other information pertinent to depicting the proposed physical Development of property.

Story. That portion of a Building included between the upper surface of any floor and the upper surface of the floor next above or if there be no floor above it, then the space between such floor and the ceiling next above it.

Street. A strip of land designated for vehicular traffic which affords a principal means of Access to a Lot, or more than one Dwelling Unit, whether it is designated as a Street, highway, thoroughfare, parkway, throughway, road boulevard, lane, place or, however designated, excluding however alleys and expressways.

Street, Collector. A Street that carries traffic from Local Streets to arterial Streets and includes the principal entrance Streets of a Subdivision or a Development and the Streets for circulation within such Subdivisions or Developments, and for purposes of these Regulations shall be considered a Street of higher classification than a Local Street.

Street, Cul-De-Sac. Shall carry the same meaning as the term Cul-De-Sac as defined in these Regulations.

Street, Expressway. A Street which is used only for the movement of vehicles providing for no vehicular or pedestrian Access to Abutting Property, except for Street Access by grade separation interchanges. Access to expressway is not permitted except at authorized and controlled points. The acquisition of Right-of-Ways for expressways includes the acquisition of Access rights thereto.

Street, Limited Access. Shall carry the same meaning as the term Limited Access.

Street, Local. A Street designed and maintained to provide Access to Abutting Property. A Local Street is of limited continuity and not for through traffic.

Street, Major Arterial. A Street of higher classification than Local Streets used primarily for traffic traveling a considerable distance within or through an area not served by an expressway. A major arterial is of considerable continuity, used primarily as a main traffic artery. A major arterial may also be a Limited Access Street.

Street, Minor. Shall carry the same meaning as the term Local Street.

Street, Minor Arterial. A Street of higher classification than a Local Street and is used for continuous travel, primarily as a main traffic artery, but is more intermittent than a major arterial and carries more traffic for greater distances than a Collector Street. A minor arterial serves to carry traffic from Collector Streets to expressways and major arterial.

Street, Private. Any Street which has not been dedicated for public Use and not accepted for ownership or maintenance by the Village Council.

Street, Public. Any Street ~~designed to serve more than one property owner, and must be dedicated to the public and be accepted for ownership and maintenance by the Village, unless it is a Private Street, allowed by the terms of these Regulations~~other than a Private Street.

Structure. Anything constructed or Erected, which requires location on the ground or attached to something having a location on the ground or below the surface of the ground or water.

Structural Alteration. Any change, except for repair or replacement, in supporting members of a Building or Structure, such as bearing Walls, columns, beams or girders.

Subsurface Parking. Parking in which the surface grade is below the Established Grade of the site.

Subdivider. ~~Shall carry the same meaning as the term~~See Developer.

Subdivision. Any division or re-subdivision of a Lot, ~~tract~~ or any parcel of land, regardless of how it is to be used, either by platting or by metes and bounds into two or more Lots, Building sites or other divisions of one acre or less, for the purpose, whether for the immediate or future transfer of ownership, lease, legacy, or Building Development, including any division of land involving a Dedication, change or abandonment of a Public Street, site, Easement or other Right-of-Way for any public Use of facility.

Sun Deck. See Deck.

Surface Waters. Those waters which have been precipitated on the land or forced to the surface in springs, and which have then spread over the surface of the ground without being collected into a definite body or channel. They appear as puddles, sheet or overland flow and rills and continue to be surface waters until they disappear by infiltration or evaporation, or, until by overland or vagrant flow, they reach well-defined watercourses or standing bodies of water such as lakes or seas.

Surveyor. A land surveyor registered in this State.

Tent. Any Structure or enclosure, the roof of which and/or 50 percent or more of the sides, are of a natural or synthetic fabric.

Terrace. See Deck.

Text Change (Amendment to this chapter). Any addition to, deletion of or change of wording in subject matter with respect to these ~~Zoning and Development~~ Regulations.

Tower. [Yes] ~~That portion of a Building or Structure that is greater than 50 feet in height~~A Structure having a height greater than its width, higher than its surroundings, and distinguished by its height if subordinate to a main Structure.

Townhome (Townhouse) or *Townhome (Townhouse) Development.* A grouping (more than two Units) of single Family attached or detached Units on one site so that no Unit is above another Unit with each Unit having ingress and egress. ~~For purposes of distinguishing a Townhome from an Apartment Unit for required Parking purposes, the Building, Zoning and Planning Director shall characterize a Unit as a Townhome if it substantially meets the following conditions: contains more than 1,000 square feet, the Parking spaces are located in close proximity to the Building, separate water and/or electrical meters and if the Building contains more than one floor~~.

Trailer. A vehicular Structure mounted on wheels, designed to be pulled by another vehicle.

Trailer Control Devices. Any mechanism used to regulate traffic, such as pavement striping, Signs, and the like excluding however, for the purpose of these Regulations any mechanical or electrical device, such as traffic lights.

Trailer, House. ~~(See Mobile Home.)~~An automobile drawn vehicle designed to serve where parked as a temporary Dwelling.

Trailer, Utility. A Trailer designed to transport materials, goods or equipment. This includes boat trailers.

Trellis. A roof Structure constructed of lattice or parallel wood or other construction members.

Underground Parking. Parking in which the ceiling or roof of the top level does not rise above the Established Grade of the site.

Unit. ~~See (Apartment Unit, Duplex, Hotel Unit or Townhome.)~~A Dwelling space.

Unity of Title. A Written agreement executed by and between a property owner and the Village of Key Biscayne, whereby the property owner agrees that the Lots and/or parcels of land constituting the Building site shall be not conveyed, mortgaged, and/or leased separate and apart from each other and that they shall be held together as one tract. The "Unity of Title" shall be

recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property owner, his/her successors and assigns.

Use. The purpose or activity for which land or a Structure thereon ~~is Occupied, utilized or maintained.~~

~~*Use of Land.* Includes Use of water surfaces and land under water to the extent covered by zoning districts, and over which the Village has jurisdiction~~is designed, arranged or intended, or for which land, Structures or water is used.

Use, Principal or Main Permitted. The primary Use of the Plot as distinguished from secondary or Accessory Uses. There may be more than one principal or main Use on the Plot.

Use, Residential. A Use for living or sleeping of Persons not institutional in character, such as a One-Family, Two-Family or Multiple Dwelling, Rooming House, Hotel, Motel, Tourist Home, lodging house, Boarding House, villas, bungalow court.

Vacation. To abandon, discontinue or close any existing Public Street, alleyway, Easement or any public lands and Waterways to renounce and disclaim any right of the Village and the public in and to any land in connection therewith.

Variance. A modification of, or deviation from the Regulations ~~which is~~, if and as authorized and approved by the Village Council~~,~~ in accordance with section 30-63.

Vehicle, Commercial. Any vehicle designed or used, or maintained primarily for the transportation of property and/or Persons for hire including but not limited to tractors, Trailers or any part thereof, wreckers, tow trucks or other vehicles equipped with a hoist or other mechanical equipment designed to perform a similar function or taxicabs or any vehicle commonly recognized as a truck or Commercial Vehicle or any vehicle whose maximum gross weight exceeds 10,000 pounds (Gross Vehicle Weight) or contains advertising markings_in excess of three square feet per side ~~of~~r per vehicle top.

Vehicle, Recreational. Any vehicle or portable Structure designed primarily to provide temporary living quarters for recreation, camping or travel use: either a vehicular Structure mounted on wheels; self-powered or designed to be pulled by another vehicle; or a Structure designed to be mounted upon and carried by another vehicle. This definition is intended to include the following:

(1) *Camping Trailer.* A vehicular portable Structure mounted on wheels, constructed with collapsible partial side Wall of fabric, plastic or other material for folding compactly while being drawn by another vehicle, and when unfolded at the site or location providing temporary living quarters.

(2) *Truck Camper.* A portable Structure, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters.

(3) *House-Bus, Camp-Bus* or *Motor Home.* A Structure built on and made an integral part of self-propelled motor vehicle chassis primarily designed to provide temporary living quarters.

(4) *Travel Trailer.* A vehicular, portable Structure built on a chassis designed to be pulled by a standard passenger automobile and to be used as temporary living quarters.

Vehicle, Special Purpose. A vehicle especially designed primarily for unusual terrain and conditions and which is not usually licensed for or used on the public roads, such as swamp buggies and track layers (caterpillar-track drive).

Vending Machines. Any machine or device which, upon the insertion of any form of currency, slug, token, plate, disc or card, or other object or numeric code that permits dispensing of merchandise, tickets, services or products.

Veranda. See Porch.

View Corridor. An unobstructed, axial view terminating on a natural, historical or architectural feature.

Village. The Village of Key Biscayne.

Village Engineer. The individual or engineering company designated by the Village Manager.

Wall. All window and Wall area of a Building in one plane or elevation.

Waterway. A stream, canal or body of water, dedicated to public use, publicly owned, or used and available for public travel by boats, not including privately owned bodies of water or drainage ditches.

Work. Shall include all required construction as shown on approved plans and specifications for all facilities and features of any kind which are required, related to the process of Subdivision or [of] land under these Regulations.

Yard. A space on the same Plot with a Structure or Use, open and unobstructed from the ground to the sky except by encroachments specifically permitted in these Regulations. Yard measurements shall be the minimum horizontal distances. Yards shall extend and be measured perpendicular and inward from the respective Plot lines. ~~The term Yard includes the term Setback, and these terms are synonymous. When the term Yard is used it shall mean the minimum Required Yard or Setback.~~

Yard, Front. ~~A Yard extending across the full width of the Plot along the Front Plot Line from Side Plot Line to Side Plot Line.~~The area of a Lot bounded by the Building façade continuous to the Side Lot Lines, the Side Lot Lines, and the Front Lot Line.

Yard, Rear. ~~A Yard extending across the full width of the Plot along the Rear Plot Line from Side Plot Line to Side Plot Line.~~The area of a Lot bounded by the rear Building façade extended to the Side Lot Lines, the Side Lot Lines, and the Rear Lot Line.

Yard, Required. The minimum Required Yard or Setback required by these Regulations. Any Yard space supplied in excess of the minimum amount specified shall not be deemed to be a Required Yard.

Yard, Side. ~~A Yard extending along the Side Plot Line from the Front Yard to the Rear Yard.~~The area of a Lot bounded the the side building façade extended to the Front and Rear Lot Lines, the Front Lot Line, the Rear Lot Line, and the Side Lot Line.

Yard, Side (Street). A Side Yard adjacent to a Street.

Zoning Code. The Zoning and Land Development Regulations of the Village, as amended from time to time.

Secs. 30-12--30-19. Reserved.

ARTICLE III GENERAL PROVISIONS

* * *

Sec. 30-32. Determination of Uses not listed.

When a Use is not specifically listed as a Main Permitted Use, ~~or~~ Conditional Use, Accessory Use or ~~p~~ Prohibited Use in a particular zoning district, within which such Use has been requested, such Use may be permitted as follows:

~~By administrative decision of the Building, Zoning, and Planning Director subject to a finding that such Use exhibits a character and intensity similar to a Use allowed in the district. Appeal of the Building, Zoning, and Planning Director's decision is to the Village Council and considered as an appeal of an administrative decision.~~ If a Use is not listed as a Main Permitted Use, Conditional Use or Accessory Use, it is a prohibited use, unless the Building, Zoning, and Planning Director issues an administrative decision finding that such Use exhibits a character and intensity similar to a Use allowed in the district. The Building, Zoning, and Planning Director shall not issue an administrative decision determining that a particular use is permitted if said determination has the effect of increasing the permitted density or floor area of a property. Appeal of the Building, Zoning, and Planning Director's decision is to the Village Council and considered as an appeal of an administrative decision.

* * *

Sec. 30-42. Floor Area and Floor Area Ratio Calculation (See Article 2 Definitions)

The floor area is the sum of the areas of the floors of a Building or Buildings measured from the exterior faces of exterior Walls or from the centerline of a party Wall separating two attached Buildings to the exterior Wall.

The Floor Area of a Building shall include all areas except for those areas listed below, unless otherwise provided for in this chapter:

(1) Accessory water tanks or cooling Towers.

(2) Unenclosed exterior staircases or steps, exterior open fire escapes and open stairwells.

(3) Attic space, whether or not a floor actually has been laid, providing structural headroom within habitable space consistent with the maximum height as set forth in the Florida Building Code and Fire Code whichever is less.

(4) Unenclosed exterior Terraces, Balconies, breezeways, Porches, Carports, Gazebos, sheds or hallways or areas that provide Access to a Unit or Units.

(5) Any floor space utilized for parking within an off-street Parking garage. For single Family and Two-Family Structures, 50% of the floor area of the Parking garage is included in the FAR calculation. The ceiling shall be no higher than the Base Flood Elevation. INCONSISTENT WITH FEMA. STAFF RECOMMENDS –The garage floor elevation shall be set at grade and the ceiling shall be no higher than 9 ft. above the floor.

If the Parking garage is the main Permitted Use, then the Floor Area of the Parking levels shall be included in the calculation for Floor Area Ratio.

(6) Mechanical equipment rooms located above the main roof deck.

(7) Exterior unenclosed private or public Balconies.

(8) Floor Area located below BFE is excluded; however, if the ceiling is above BFE and the space is enclosed on more than two sides, 10 percent of the horizontal Floor Area of the space below BFE is included in the Floor Area.

(9) Exterior elevators, landings and stairs: however, one level is included in the calculation.

(10) Interior elevators, landings and stairs; however, one level is included in the calculation.

(11) Chaises.

(12) Service station or automotive repair when located in a parking garage.

(13) In volumetric Buildings where there are no interior floors above the finished floor, the Floor Area shall be calculated as if there were a floor for every ten feet. Volumetric space between ten and 13 feet is not counted. Volumetric space above 13 feet shall be calculated as follows: Floor area = 10 percent for each one foot or fraction thereof in height × square feet of the space. Volumetric space is not counted in the following:

(a) In entranceways that contain 225 square feet or less.
(b) Space between ten and 13 feet above the finished floor.
(c) Space above stairs.

The Floor Area occupied by a generator is included in the Floor Area Ratio calculation.

Sec. 30-43. Lot Coverage Calculation.

Lot Coverage shall include any non-roofed areas enclosed by Walls (other than Building Walls) that exceed six (6) feet in height and are attached to or otherwise form an integral part of a Building. The following are excluded in the Lot Coverage Calculation:

(1) In Commercial, Office, or Multiple Family Districts: uncovered, open plazas located on the upper deck of a parking garage, so long as the upper deck is no higher than two 2.0 feet above the Base Flood Elevation constructed with an elevation at or below 3.0 ft. below grade;

(2) Exterior steps and landings attached to and providing a means of ingress and egress from a Building;

(3) Pools, pool Decks, Terraces which are below Maximum Lot Elevation;

(4) Carports, Porte-Cocheres, Porches and landings;

(5) Gazebos or utility sheds which occupy less than 2% of the lot area; and,

ARTICLE IV.

* * *

Sec. 30-63. Variance procedures.

(a) *Variance criteria.* A Variance shall be granted upon a finding that the petition meets the following criteria:

(1) Maintains the basic intent and purpose of the zoning, Subdivision and other land Use Regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community; and

(2) Is compatible with the surrounding land Uses and would not be detrimental to the community.

(b) *Sign, Use and Density Variances.* In no instance shall a Variance be granted which permits Sign that does not conform to these regulations or a Use that is not listed as a Permitted Use in the district in which the property is located or permits an increase in Density that exceeds the maximum permitted Density allowed in the zoning district in which the property is located.

* * *

ARTICLE V. SCHEDULE OF DISTRICT, USE, AND SETBACK REGULATIONS

Sec. 30-100. Single Family and Two-Family districts.

(a) *Purpose and Uses.*

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
These districts are designed to protect the character of Single Family and Two-Family homes.	VR, VE, and IR Districts: Single Family Dwelling PS District: Single Family and Two-Family attached Dwelling	None	Any Use that is customarily associated with the Main Permitted Use (see section 30-111).	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use (see section 30-113).

(b) *Development Regulations.*

Regulation	VR Village Residential	VE Village Estate	IR Island Residential	PS Parkside Residential
Lot Frontage	Minimum as platted* Maximum two platted Lots*	Minimum as platted* Maximum two platted Lots*	Minimum as platted* Maximum two platted Lots*	Minimum as platted* Maximum two platted Lots*
Lot Area	Minimum 7,500 sq. ft. or as platted* Maximum two platted Lots*	Minimum 10,000 sq. ft. or as platted* Maximum two platted Lots*	Minimum 10,000 sq. ft. or as platted* Maximum two platted Lots*	Minimum 7,500 sq. ft. or as platted* Maximum two platted Lots*
Minimum Pervious Area (% of Lot)	30%	30%	30%	30%

Maximum Lot Coverage	One Story residences~~,~~ - 45% Multistory residences~~,~~- 35%. ~~Porches and landings that are completely open on at least two sides, with the exception of railings and balustrades, shall not be included in the Lot Coverage calculation. (See Lot Coverage definition.)~~
Maximum Floor Area Ratio (FAR)	.47 For new construction on vacant Lots and Development that exceeds 50 percent of the assessed value of the Building the following shall apply:
	Base FAR .30 for Developments on one platted Lot in the VR and PS districts. .36 for Developments in the VE and IR districts. .13 for Developments on more than one platted Lot.
	Notwithstanding the above, the base FAR for a One Story Home is .36.
	Maximum FAR .47 for Developments on one platted Lot.** .35 for Developments on two platted Lots.**
Gross Floor Area	.65

* Platted as of the effective date of this section (October 24, 2000).

** Except where said platted lot was created by the resubdivision (through platting or otherwise) of two or more platted lots, from and after October 10, 2006. Said newly created lot shall be deemed to be two platted lots and limited to a maximum FAR of .35.

A development may exceed the base FAR but contain no more than the maximum FAR as set forth above subject to an administrative determination by the Building, Zoning, and Planning Director that the design meets one or more of the below criteria.

The FAR bonus must be listed on the Site Plan page and approved by the plans reviewer and the Building, Zoning and Planning Director. No certificate of occupancy or completion shall be issued unless the completed development includes each of the bonuses listed on the approved Site Plan.

VR and PS Districts: Designs that do not receive both bonuses 3 and 11 shall be assigned a minus .10.

VE and IR Districts: Designs that do not receive bonus 11 shall be assigned a minus .10.

	Criteria	FAR Increase
1.	Porch facing a Street which meets the following minimum standards: width 8 ft., Floor Area 120 sq. ft., elevation shall not exceed the Base Flood Elevation, steps setback 5 ft. from any property line.	.00005 per sq. ft. of Floor Area to a maximum of .03 FAR increase
2.	Open and unenclosed balconies located above the first finished floor	.00005 per sq. ft. of Floor Area to a maximum of .03 FAR increase
3.	~~Building located 15-20 ft. from a front of property line.~~ Front yard setback bonus.	.006 For every foot the Main Permitted Use is setback less than 20 ft. to a minimum of 15 ft. ~~.001 per linear foot of frontage of a Wall that is located 15-20 ft. from a property line (maximum .03)~~
4.	Garage or Carport containing two or more vehicles parked parallel with an exterior column separating each of the spaces	.03
5.	Single Story Home	.03

6.	Combination One and Two Story Home with the second floor occupying less than 50 percent of the Floor Area of the first floor under roof	.10
7.	Entrances to Parking garages:	
	Interior Lot: placed in a location that does not face the Street.	.02
	Corner Lot: entrance in a Side Yard	.02
8.	All windows above the first floor facing an adjacent Building which are -five ft. above the finished floor	.01 per side
	or if all Building Walls along the interior side of a property do not have windows	.03 per home side
9.	Side Yard Setback which:	
	a. Exceeds the required Yard	.00005 per each sq. ft. to a maximum of .03
	b. Has a minimum 15 ft. Side Yard Setback	.03
10.	~~Building located within 15-20 ft. of the rear Lot line.~~ Rear yard setback bonus.	~~.001 per linear foot of a Wall located 15-20 ft. from the rear property line with a maximum of .03~~ .003 For every foot the Main Permitted Use is setback less than 25 ft. to a minimum of 15 ft.
11.	VR and PS Districts: Structures that provide a front Setback of less than ~~25~~ 20 ft. which have a roof at least three ft. lower than the roof of the main Structure	.03
	IR and VE Districts: A portion of the Building having a length of at least ten ft. with a Front Yard Setback that exceeds the required 25 ft. Setback	.0002 per sq. ft., maximum .03
12.	Reduction in Building Height~~.~~	.006 per foot or fraction thereof with a maximum of .03
13.	Reveals	.001 per sq. ft. with a .02 maximum
14.	Moldings with a minimum width of 4 inches	.0001 per linear ft. with a .02 maximum

(c) *Building and Wall height.*

(1) Maximum Building Height is 35 feet. The height of a Building shall be its overall height measured from the Base Flood Elevation to the highest point of the Building roof for Elevated Homes and from the crown of a road to the highest point of a roof for Non-Elevated Homes. ~~There shall be no limitation on the Number of Stories.~~

Maximum number of stories shall not exceed two (2) above the Base Flood Elevation; however, one (1) additional story is permitted subject to the following:

a. The maximum Floor Area shall not exceed 15% of the Floor Area of the Main Permitted Use or 600 sq. ft. whichever is smaller.

b. The second story tie beam shall be no higher than 27 ft. above the Base Flood Elevation

(2) Maximum exterior Wall height, length, and elevation of the lowest floor:

a. The maximum exterior Wall height for a one Story Structure is 15 feet; however, nothing herein shall prevent vaulted or clearstory Walls with a maximum height of 22.5 feet.

b. The maximum exterior Wall height is 22.5 feet above the the Base Flood Elevation for Elevated Homes and the lowest floor for Non-Elevated Homes.

c. The maximum Wall height may be increased at a ratio 8:12 (up to 27 ft. Wall height ~~the Maximum Building Height~~), as the Wall is Setback from the minimum Setback line.

d. 25% of the entire wall shall have a setback that is at least 3 ft. greater than the remaining portion of the wall. Terraces, balconies and/or porches shall not be counted in determining the length of the wall.

e. Walls above 22.5 ft. shall have a minimum of 60% of the surface open.

f. If a wall facing a yard exceeds 22.5 ft in height, an architectural feature that projects at least 2 ft. but not more than 4 ft. from that wall shall be placed at or below the 22.5 elevation. The architectural feature shall extend around the entire structure if the design permits this to occur.

g. The maximum elevation of the lowest finished floor is the Base Flood Elevation.

(3) Maximum elevation of an entrance to the Main Permitted Use in the front or side yard facing a street is the Base Flood Elevation.

~~(3)~~ (4) Exceptions to the maximum height requirements.

a. Chimneys~~,~~ and flag poles ~~,belfries~~ and ornamental towers: Ten feet above the highest point of the roof. The floor area of the ornamental towers shall not exceed 25 sq. ft.

b. Mechanical equipment, HVAC, and elevators: Ten feet above the highest point of the roof, shall be completely screened from a view measured at the front property line on the opposite side of the Street from the Structure, the Director may require a line-of-sight study.

c. Each architectural feature shall not exceed three feet in height nor occupy more than three square feet in area.

d. Railings and balustrades which enclose shall have a height of 42 inches above the roof beam and shall be open at least 50%.

(d) *Lot elevation.*

(1) *Generally.* For the purpose of regulating Lot elevations there is hereby established three zones. The "Front Zone" being the area between the Building and any adjacent Street(s) but in no event being less than 15 feet from any Street(s). The "Rear Zone" being the area from the Building to the interior and rear property line(s) (or to the waterfront zone, if applicable) and to the back of the "Front Zone." The "Waterfront Zone" being the entire area within 25 feet from any body of water.

(2) *Height.*

a. *"Front Zone."* When a Lot is filled for Development purposes the area delineated as the front zone may not be filled to an elevation greater than two feet above the average crown of road. However the drive grade shall not exceed 20% above the crown of the road.

b. *"Rear Zone."* When a Lot is filled for Development purposes the area delineated as the "Rear Zone" may not be filled to an elevation greater than 2 1/2 feet below the established B.F.E.

c. *"Waterfront Zone."* When a Lot is filled for Development purposes the area delineated as the "Waterfront Zone" may not be filled to an elevation greater than six inches above the bulkhead; however in no instance shall the height of a bulkhead or Lot be raised to a height that exceeds the maximum elevation as established in the "Rear Zone".

d. *Exclusions.*

(1) Where necessary for the implementation of septic systems the aforementioned requirements may be waived by the Director for that portion of the Lot required for the septic system. Under no circumstances shall said exclusions exceed minimum requirements for area and elevation. This section shall sunset when the sewer project is approved by the County.

(2) Pools, pool Decks and Terraces which are located in compliance with the required Setbacks may exceed the Maximum Lot Elevation but not exceed the Base Flood Elevation.

~~e. *Pools, pool Decks, Terraces.* Pools, pool Decks and Terraces which are located in compliance with the required Setbacks for all Structures and are~~

~~above the height restrictions established in subsection (2) are included in the Lot Coverage calculation.~~

~~f.~~ ~~Pools, pool Decks and Terraces which do not exceed height limitations as provided in subsection (2) and the required Setbacks for all Structures are not included in the Lot Coverage calculation.~~

(e) *Setback Regulations (minimum).*

Yard	VR Village Residential	VE Village Estate	IR Island Residential ~~(Interior)~~	~~IR Island Residential (Waterfront)~~	PS Parkside Residential
Front	20 ft.*	25 ft.	25 ft.	~~25 ft.~~	20 ft.*
Rear	25 ft.*	25 ft.**	25 ft.	~~25 ft.~~	25 ft.*

Side, interior	One Story new construction or one story addition: ~~New construction or addition:~~ 7.5 ft. One Story with a second floor addition: sum of the sideyards at the second floor shall be 25% of Lot Width. 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor.**** New construction: Two stories or more: The sum of the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet. New construction or second floor additions: Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.	~~Non-waterfront Lots:~~ One story new construction: 15 ft. ~~or addition: 7.5 ft.~~ Two Story new construction: 15 ft. One story additions may follow the existing building wall setback. Second story additions shall have a 15 ft. setback. ~~7.5 ft. for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor.****~~ ~~Two stories or more: The sum of the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet.~~ ~~Waterfront Lots: 15 ft.~~	One Story new construction: 15 ft. ~~or addition 7.5 ft.~~ Two Story new construction: 15 ft. One story additions may follow the existing building wall setback. Second story additions shall have a 15 ft. setback. ~~7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor.****~~ ~~Two stories or more: The sum of the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet.~~	~~All stories: New construction or addition: 7.5 ft. The sum of the Side Yard Setbacks shall not be less than 30% of the width of the Lot.~~	~~One Story: New construction or addition: 7.5 ft. 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor.****~~ ~~Two stories or more: The sum of the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet.~~ One Story new construction or one story addition: ~~New construction or addition:~~ 7.5 ft. One Story with a second floor addition: sum of the sideyards at the second floor shall be 25% of Lot Width. 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor.**** New construction: Two stories or more: The sum of the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet. New construction or second floor additions: Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.
Side facing a Street	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.

*Allowable 15-foot Front and Rear Yard Setback subject to the requirements of the table below. ~~The 15-foot rear Setback requires the installation of a dense landscape screen with a height of at least ten feet at time of planting.~~

Number of Stories	Height of Wall	Wall Length
1	15 ft.***	40% of the width of the Lot
2 or more	22.5 ft.	34% of the width of the Lot
Garages	Shall provide a 20 ft. Setback if the entrance faces a Street; The elevation facing the Street shall appear as an integral residential part of the Structure including windows and finishes.	

**Within the Village Estate District the following properties shall provide a Waterway Setback of 50 feet: 200--290 Harbor Drive.

***However, nothing herein shall prevent vaulted or clearstory Walls with a maximum height of 22.5 feet.

****For a tri-level home, the portion of the floor area associated with the half level shall not count as part of the second story floor area.

(f) *Permitted encroachments in Required Yards.*

(1) *Boat storage.*

a. The term "boat" as used herein includes vessels and other watercraft, as defined in F.S. § 327.02(36).

b. Boats less than 26 feet in length, not more than 96 inches in width and 13 feet six inches in height (bottom of hull to the highest point on the boat including Towers and T tops), may be stored in the VR, VE, IR, and PS zoning districts subject to all the following conditions:

1. No more than one boat may be stored on any one Lot unless stored in an enclosed garage; and

2. Boats and place of boat storage shall be kept in a clean, neat and presentable condition; and

3. No major repairs or overhaul Work on or for a boat shall be made or performed on the Lot; and

4. The boats shall not be used for living quarters, and shall be placed on and secured to a transporting Trailer, however, nothing herein shall authorize the Parking of a Trailer on any Lot without a boat. Personalized watercraft (jet ski, waverunner or similar watercraft) as defined in F.S. § 327.39 are required to be placed on a Trailer pursuant to this section (canoes as defined in F.S. § 327.02(3) are not required to be placed on a Trailer); and

1

5. Boats stored in a Yard that faces a Street shall comply with the following: The Trailer wheels shall be placed on a hard paved surface and the boat shall be perpendicular to the house.

(2) *Decks, pools, and screen enclosures.*

a. Decks shall provide a five-foot Setback to any Lot line; 0 feet Rear Yard Setback for waterfront.

b. Decks and swimming pools shall not exceed a height greater than that allowed for the Maximum Lot Elevation. If located outside of the required yard, the height shall not exceed finished floor elevation.

c. Pools. Swimming pools, shall be subject to the following Setback limitations and shall not exceed a height greater than that allowed for the Maximum Lot Elevation:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	6.5 ft.	10 ft.	25 ft.	25 ft.	6.5 ft.
Rear	6.5 ft.	6.5 ft.*	6.5 ft.	6.5 ft.*	6.5 ft.
Side, interior	6.5 ft.	6.5 ft.	6.5 ft.	6.5 ft.	6.5 ft.
Side, Street	6.5 ft.	6.5 ft.	15 ft.	15 ft.	6.5 ft.

*Waterfront Lots shall provide a four-foot Setback.

The foregoing Setbacks shall be measured from the water's edge.

d. Screen enclosures. Where a screen enclosure is used to enclose a pool or other area of a residence, it shall be limited in height to 22.5 feet and subject to the following Setback limitations:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches	Not permitted except for Porches
Rear	5 ft.	25 ft.	5 ft.	25 ft.	5 ft.
Side, interior	5 ft.	5 ft.	7.5 ft.	15 ft.	5 ft.
Side, Street	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.

Notwithstanding the forgoing, the height of a screen enclosure shall not exceed 8.5 feet above the Base Flood Elevation at the rear and side Setback, with a gradual transition (8:12 ratio) to any greater height (up to the maximum height allowed).

(3) *Docks and mooring piles.*

a. General Regulations. No docking facility within the single family districts

in the Village of Key Biscayne shall be constructed without prior written approval by the Village of Key Biscayne Building, Zoning and Planning Department. The Village reserves the right to deny such permit for any docking facility which is determined, under the criteria provided herein and by applicable law, to be detrimental to the equitable, safe, and adequate navigation of all Waterways in the Village.

1. All docks, davits, fenders, watercraft and mooring piles must be set back a minimum of ten feet from each side property line extended.

2. No mooring pile shall have a height exceeding 13 feet above NGVD (National Geodetic Vertical Datum) nor extend into the waterway a distance more than 25 feet or 20 percent of the Waterway width at the point of extension, whichever is less.

3. All docks and mooring piles shall be constructed in accordance with Section D-5.03(2)(a) of the Dade County Public Works Manual (see diagram below). All watercraft or any portion thereof shall be docked or moored inside an area as depicted in the triangle diagramed below, and must be docked parallel to the bulkhead.

4. No more than two slips shall be permitted per residence. Slip(s) which are occupied by a guest may be moored no longer than 24 hours.

5. A tender shall not be considered as boat.

6. No dock shall project be within 50 ft. of a jetty.

7. No dock shall be within 25 ft. of a marked channel.

CODIFIER: INSERT TRIANGLE GRAPHIC THAT IS IN THE CURRENT CODE

~~4. Mooring piles and Dolphins may not extend more than 20 feet from a dock. Mooring piles and Dolphins on Biscayne Bay shall not extend more than 25 feet from the bulkhead.~~

~~5. No dock shall extend from a bulkhead into any canal, lake, waterway a distance greater than 10 feet, or ten percent of the width of the waterway, whichever is less.~~

4. Maximum Dock Extensions from a Bulkhead Line

a. Canal. No dock shall extend from a bulkhead into any canal a

distance greater than 10 feet, or ten percent of the width of the waterway, whichever is less.

b. Hurricane Harbor and Smuggler's Cove. No dock shall extend from a bulkhead into Hurricane Harbor or Smuggler's Cove a distance greater than 20 ft. or 10% of the waterway, whichever is less.

c. Biscayne Bay. No dock shall extend from a bulkhead into Biscayne Bay a distance greater than 25 ft. However, if the owner obtains the written approval from the adjacent property owners and if the County agency responsible for issuing environmental approvals requires the dock to project further than 20 ft., then the dock may extend 40 ft. into Biscayne Bay.

d. For boats and mooring piles associated with docks in Hurricane Harbor, Smuggler's Cove, and Biscayne Bay to extend beyond the above triangle, the owner must obtain the written approval from the adjacent property owner.

e. When a dock is permitted to extend beyond 25 ft., the regulations listed in paragraph 3 above shall not apply.

~~Notwithstanding the foregoing, no dock or mooring pile shall extend into Biscayne Bay a distance of more than 25 feet from the bulkhead.~~

f. If the bulkhead line is an arc, the projection may exceed the maximum as long as the average projection does not exceed the maximum permitted projection for the waterway.

6. Where the width of a waterway does not permit the placement of a dock or outer mooring pile, fender mooring piles may be placed at a distance not to exceed 18 inches from the bulkhead.

(4) *Driveway and Parking criteria.* The following provisions shall apply to all single Family and Two-Family Developments:

a. *Points of Access.* Except on a Corner Lot, all driveways shall be limited to two points of connection at the intersecting Right-of-Way. On a Corner Lot, a third point of connection shall be permitted so long as there are not more than two points of connection along one Street.

b. *Driveway material.* All driveways shall be paved or covered with a hard surface such as but not limited to concrete, pavers, bricks, tile, pea rock,

gravel and similar materials, but not asphalt. This paving requirement applies to the construction of new single Family and Two-Family Homes on vacant Lots or any Work on existing homes which costs 50 percent or more of the assessed value of the property. Driveways, which are paved with asphalt, are permitted to be retained unless the value of renovation Work exceeds 50 percent of the assessed value of the property. Aprons (edge of pavement to property line) shall have the same finish as the driveway or asphalt; however, pea rock is not permitted.

c. *Setbacks.* All driveways shall be set back at least five feet from any side property line. All circular driveways shall be set back at least two feet from any front and/or property side Street property line. On Corner Lots, driveways shall be set back 15 feet from the extended Right-of-Way Intersection.

d. *Width.* A maximum width of 24 feet is permitted for single Family and 36 feet for Two-Family Homes for a Lot with 75 feet or less of frontage at the property line. For all other Lots the width of a driveway or combination of driveways at the point of intersection with the Right-of-Way shall not exceed the lesser of 36 feet or 32 percent of the Lot's frontage, including side Street frontage on Corner Lots.

No Commercial Vehicle shall be parked or stored overnight except in a garage or Carport; however one vehicle that is used for commercial purposes may be placed on the property. A Sign measuring no more than three square feet may be placed on either side of such vehicle.

(5) *Fences and Walls.*

a. *Generally.* For purposes of regulating perimeter fences and Walls, there are hereby established three zones. The "Front Zone" being the area between any Building and the adjacent Street(s) but in no event less than 15 feet from the Street, and the "Rear Zone" being the area from the back of the Front Zone to the rear property line, or to the waterfront zone (if applicable), and the "Waterfront Zone" being the entire area within 25 feet from any Waterway.

b. *Maximum height.*

1. *Front Zone.* The height of a fence or Wall between any Building and ~~adjacent Streets or~~ side Lot line shall be six feet as measured from the crown of the road, except arches, columns, gates and other ornamental entry features may extend to eight feet in height. <u>When facing a street in the Front and Side Zones, the following applies:</u>

a. Maximum height is 4 ft. above Grade.
b. Minimum setback is 2 ft. if a sidewalk is present, otherwise 0 ft.
c. Shall be at least 75% open.

2. *Rear Zone.* The maximum height of a fence or Wall is six feet measured from the average elevation of the Lot but in no instance shall the height exceed eight feet when measured from the Adjacent Property, except arches, columns, gates and other ornamental entry features may extend to eight feet in height.

3. *Waterfront Zone.* Four feet measured from the elevation of the lowest point of the Rear Yard.

c. *Fence finish materials and restrictions.*

1. All Walls shall be finished on all side(s). Masonry Walls shall be stuccoed and painted, except where adjacent and contiguous to an existing Wall or fence. The owner shall provide documentation to the Building, Zoning and Planning Director that a good faith effort was made to obtain the adjacent owner's approval to stucco or paint the fence on the adjacent property.

2. Wood fences shall have the structural side of the fence facing the interior of the property.

3. Chain link fences shall be coated with black or green finish materials. Chain link fences associated with court games are permitted in pursuant to subsection ~~(21)~~ (22). ~~Where permitted, chain link fences shall be coated with black or green finish materials.~~

4. ~~Perimeter Walls and fences (including chain link) which face a Street shall be screened with a hedge (which may be placed within the swale if in accordance with Chapter 21, "Public Rights-of-Way) except for Walls and wood fences which are painted on both sides with a maximum height of 42 inches. At time of planting, the hedge shall have a maximum height of 24 inches, planted on 24 inch centers.~~

Perimeter Walls and wood fences which face a Street shall be screened with a hedge that at time of planting shall have a minimum height of 24 inches and planted 24 inches on center.

Chain link fences which face a street shall have a hedge that at time of planting has a height equal to the height of the chain link fence and shall be planted on 30 inches on center.

5. Walls ~~and wood fences which are~~ shall be painted on both sides.

6. Barbed wire and/or similar materials are not permitted.

(6) *Front Yard encroachments.*

a. Fountains: One with a maximum height of five feet occupying no more than 100 square feet with the following Setbacks: front, five feet; interior side, five feet; and side facing a Street, ten feet.

b. Decorative in-ground reflecting pool: One with a maximum depth of one foot with the following Setbacks: front, five feet; interior side, five feet; and side facing a Street, ten feet.

c. Streetlight: Maximum height of ten feet and no limit on the Number.

d. Basketball pole or similar court games: Five feet from a side Lot line.

e. Sculpture or other structure: one with a height of 5 ft. above Grade occupying no more than 10 sq. ft.

(7) *Gazebos and accessory Structures.*

a. Maximum height: Ten feet Wall height above the Maximum Lot Elevation.

b. Location: Not permitted in the Front Yard.

c. Setbacks, Side Yard: Same as the Main Permitted Use. However, the required Rear Yard Setback is ten feet.

d. Size: 200 square feet.

e. Construction materials: Limited to concrete, block, stucco, wood, and brick or similar materials. Aluminum, sheet metal, fiberglass are prohibited.

f. Roof top Access: Prohibited.

g. Number: One.

h. Waterfront view corridor: No Structure shall be permitted within an isosceles triangle with each side measuring 25 feet at the intersection of the rear and side Lot lines.

(8) *Hedges.* No height or Setback limitations, except for the line-of-sight requirements contained in Chapter 21 of this Code.

(9) *Heating, ventilation, and air conditioning equipment Setback Regulations.* The use and location of heating, ventilation, and air conditioning equipment (HVAC) and swimming pool equipment shall be limited as follows: HVAC compressors are subject to the following Setback limitations:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	~~10 ft.~~ Not permitted	~~20 ft.~~ Not permitted	~~20 ft.~~ Not permitted	~~20 ft.~~ Not permitted	~~15 ft.~~ Not permitted
Rear	10 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Side, interior	4 ft.	4 ft.	4 ft.	10 ft.	4 ft.
Side, Street	~~10~~ ft. Not permitted	~~10~~ ft. Not permitted	~~10~~ ft. Not permitted	~~10~~ ft. Not permitted	10 ft. Not permitted

Additionally, HVAC compressors shall be installed on an acoustically soundproofed base or ledge with a structural visual screen ~~from the Right-of-Way at the front of the Lot and a solid acoustical screen from the Adjacent Property~~ around all open vertical sides of the unit(s). The ~~acoustical~~ screen shall extend at least one foot above the top of the compressor and shall be painted the color of the house or duplex.

(10) *Motor Homes and Trailers.* No vehicle that has accommodations that permits it to be inhabited overnight shall be permitted unless it is stored in a garage or Carport.

(11) *Pavers and walkways in Side and Rear Yards.* ~~Pavers or other walkway material may be placed within the Side or Rear Yard so long as they do not materially affect the drainage characteristics of the area. The maximum width of the walkway is five feet but in no instance shall the Setback be less than four feet.~~

The maximum width shall be 3.5 ft.

(12) *Porches, Porte-Cocheres, and Carports/Carport Canopies Setback Regulations.* The following uses are permitted to encroach into Required Yards subject to the following Setbacks:

Use	VR Village Residential	VE Village Estate	IR Island Residential	PS Parkside Residential
Porches	10 ft.*	10 ft.	15 ft.	10 ft.*
Porte-Cocheres	10 ft.	10 ft.	15 ft.	10 ft.
Carports/Carport Canopies	10 ft.*	10 ft.	15 ft.	10 ft.*

*If a development has a Porch and a Carport, then one of these shall provide a 15-foot Setback.

The placement of the above uses in Required Yards are subject to the following height, area, and design requirements:

a. Porches. The maximum width of any Porch or combination of Porches may not exceed 60 percent of the Average Lot Width. The maximum Wall height of Porches shall not exceed 14 feet above the maximum permitted Base Flood Elevation.

b. Carports and Porte-Cocheres which encroach into the principal Building Setback are limited to 500 square feet in area and only one such encroachment is permitted per Street frontage. The maximum height (to top of Structure) of Carport and Porte-Cochere encroachments shall not exceed 14 feet above the maximum permitted Lot elevation.

c. Carports, Porches and Porte-Cocheres shall not form an integral part of the principal roof Structure.

(13) *Projections.* The following Structures are permitted to project into a Required Yard for a distance not to exceed 25 percent of said Yard with a maximum projection of six feet: Awnings, balconies, bay windows (maximum width of ten feet), canopies, chimneys, cornices, sills, walkways and other architectural features that the Building, Zoning, and Planning Director has determined are consistent with this subsection. ~~If steps and landings are located in a required Side Yard, the maximum projection is 3.5 feet; however the width of Side Yard at the location of the steps and landing shall be a minimum of four feet~~. If a perimeter Wall or landscaping is not located along that portion of Side Yard which faces the steps, then the side of the steps shall be enclosed with a solid Wall or landscaping.

(14) *Room additions to residential Structures and conversions of garages or Carports to living space.* Are permitted subject to the following:

a. Conversion of detached or attached garages, Carports or other Accessory Structures for the purpose of creating living space shall be permitted only if the newly created living space is consistent with FEMA requirements.

b. If the required off-street Parking is deleted or rendered unusable by a conversion or addition, it shall be replaced in a manner consistent with Article VII.

c. If the Building, Zoning, and Planning Director determines that the plans indicate that future conversion may result in additional Dwelling Units not in compliance with these Zoning and Land Development Regulations, the Director may deny the plans outright, or may approve the plans with a requirement that the property owner file in the public records of Miami-Dade County, a deed restriction in a form acceptable to the Village

Attorney, acknowledging the specific limitation as to the number of lawful Dwelling Units and declaring an intent to comply with such limitations, as well as advising any successor in interest of such binding limitations.

d. For purposes of this subsection, the floor space shall not:

1. be used as a separate Dwelling Unit;

2. have separate Cooking Facilities; but

3. may have a separate entrance so long as it (entrance) does not face a Street.

e. If a garage or Carport is converted to living space, all exterior work shall have the same architectural style as the main residence.

(15) *Steps and landings~~. in Front Yard~~.* ~~Steps in the~~

(a) Front Yard: shall have a maximum width of ten feet and setback a minimum distance of 5 ft. from the front property line~~.~~

(b) Side Yard~~,~~: the maximum projection is 3.5 feet; however the width of Side Yard at the location of the steps and landing shall be a minimum of four feet.

(c) Rear Yard: not to exceed six (6) ft. into the Required Yard.

(16) *Retaining Wall, required.* A retaining Wall shall be provided ~~in the following instances:~~

~~a.~~ where any portion of a Lot that has an elevation of two feet or more above the crown of the road and is adjacent to a non-elevated Lot.

~~b. If a drain field is placed in the Front Yard.~~

(17) *Roof, roof overhangs and rooftop uses.* Principal Building roofs in all single Family districts shall adhere to the following Regulations:

a. Hip roofs shall be symmetrically pitched between 4:12 and 8:12 ratios.

b. Gable end roofs shall be symmetrically pitched between 6:12 and 12:12 ratios. Profile molded gables may be pitched to a 4:12 minimum ratio.

c. Flat roofs shall have a minimum Parapet height of one foot.

d. Shed Roofs shall have a minimum pitch of 3:12 ratio.

e. No portion of a roof, including the gutter shall be permitted to extend more than 5 ft. into a Required Yard ~~beyond five feet from the exterior Wall of a Building~~, nor may any portion of a roof extend closer than 3 1/2 feet from any interior side property line~~,~~. ~~nor 2 1/2 feet from the front or side Street property line.~~

f. When a scupper drainage system is used in connection with a flat roof, the scupper cannot be located closer than 7 1/2 feet from any property line.

g. ~~Recreational uses: No recreational facilities shall be permitted on the roof of any Structure within the single Family zoning districts.~~

h. New pitched roofs shall not use gravel or tar except for the re-roofing or repairs of existing areas.

(18) ~~*Satellite dish*~~ *Telecommunication antennas.* These antennas shall comply with the following Regulations:

a. Shall not have a diameter or height that exceeds one ~~meter~~ yard.

b. Shall be placed in a location to minimize its view from any public Street. A line of site study shall be submitted.

c. Shall employ, to the maximum extent possible, materials and colors that blend with the Building and surroundings.

(19) *Sheds.*

a. Maximum Height: 7.5 feet above the Maximum Lot Elevation.

b. Location: Not permitted in the Front Yard. Sheds are also not permitted in any Side Yard facing a Street unless it is behind a Wall or landscaping that prevents the shed from being seen from the road.

c. Setbacks: Side, 7.5 ft.; side facing a Street, 15 feet; rear, five feet; however, the side and rear setback may be 2 ft. if a dense hedge planted 5 ft. high is installed at the time the shed is placed on the property.

d. Size: 100 square feet.

e. Roof top Access: Prohibited.

f. Number: One.

g. Waterfront view corridor: Waterfront properties shall provide the

following: No Structure shall be permitted within an isosceles triangle with each side measuring 25 feet at the intersection of the rear and side Lot lines.

(20) *Solar heating panels.* All solar panels shall be visually screened from the adjacent right(s)-of-way, or set into the roof so that the upper roof surface abuts the side of the solar panel.

(21) *Swimming pool pumps, heaters, and similar equipment.* These uses are permitted to encroach into Required Yards subject to the following Setbacks for Side Yards measured from the water's edge:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not permitted**	Not permitted**	Not permitted**	Not permitted**	Not permitted**
Rear	2 ft.	2 ft. 0 ft. if waterfront	2 ft.	2 ft. 0 ft. if waterfront	2 ft.
Side, interior*	2 ft.	2 ft.	2 ft.	2 ft.	2 ft.
Side, Street*	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted

*If the equipment is located in a Side Yard, landscaping shall be planted which obscures views of said equipment. Additionally, where said equipment is located along any Street frontage it must be visually screened from the public Right-of-Way.

**If a pool is permitted pursuant to section 30-100(f)(2), the equipment shall be at least two feet from the side property line, but in no instance shall it be placed in a location that allows it to be seen from the Street.

(22) *Tennis court and similar court games.* The following Regulations shall apply for fences, lightpoles, or other Accessory Structures associated with court games:

a. Front Yard or Sideyard facing a street: Not permitted.

b. Required Side and Rear Yard: Maximum height of fences shall be ten feet and fences shall be set back 7.5 feet from the interior Side or Rear Yards. When the fence faces a Street, the maximum height shall be ten feet and the fence shall be set back at least 15 feet from the property line.

c. Accessory lighting fixtures, when customarily associated with the use of court games, shall be Erected so as to direct light only the Premises on which they are located. The maximum height of light fixtures shall not exceed ten feet when located in a Required Yard; otherwise, the maximum height shall not exceed 20 feet. Light is not permitted to be cast on any public Right-of-Way.

d. All chain link fences shall be coated with green or black materials.

e. Any play surface, whether paved or unpaved, when associated with said court games, shall have the following minimum Required Yards: front, not permitted; interior side, 7.5 feet; any side facing a Street, 15 feet; rear, 7.5 feet. Said surface shall be screened from a public right of way with landscaping of minimum 30 inch height planted 30 inches on center.

(23) *Utility lines on private property.* Developments on vacant Lots and additions and rehabilitation Work where the value of Work exceeds 50 percent of the assessed value of the Building, shall have all overhead utility lines (power, cable, telephone, etc.) placed underground.

(24) *Waterfront view corridor.* No Structure shall be permitted within an isosceles triangle with each side measuring 25 feet at the intersection of the rear and side Lot lines; however, a hedge, Wall, or fence with a maximum height of four feet is permitted.

(25) *Pipes sofit enclosure:* Pipes located below a ceiling that can be seen from the street shall be enclosed in sofit.

(26) *Garages facing a street:*

a. Lot width 80 ft. or less: No more than one (1) parking space in a garage shall have direct access to the street with a minimum 20 ft. setback.

b. Lot width greater than 80 ft. Garage doors shall not face a street. The minimum required setback shall be 10 ft. The wall facing a street shall have windows that match those in the Main Permitted Use.

(27) *Railing Required.* Whenever the Florida Building Code requires a railing, it shall be at least 50% open.

(28) *Balcony Regulations.*

a. Railings or walls shall be at least 50% open.
b. When facing a street, the minimum projection (depth) shall be 4 ft.

(29) *Generator Regulations.*

a. Not permitted in any yard that faces a street.
b. Maximum decibel level is 60 db measured at the property line.
c. Generators that were permitted prior to the adoption of this ordinance which produce a noise greater than 60 decibels measured at the property

line shall not be permitted to operate from 11:00 p.m. to 7:00 a.m. on any day of the week. The Building, Zoning, and Planning Director may grant an exception to the time limitations if an occupant of the building can provide a written statement from a physician that includes the medical condition which requires the residence to be air-conditioned.

(30) *Light.* All light shall be contained on the property.

(g) *Supplemental Use Regulations in single Family and PS Parkside residential districts.*

(1) *Bed and Breakfast Inns.* Subject to the following Regulations:

a. It is located in an existing single Family Building with a Floor Area not exceeding 2,000 square feet and built prior to the adoption of this ordinance (October 24, 2000);

b. The owner of the Bed and Breakfast Inn shall permanently reside in the Building;

c. The Structure shall maintain public rooms (living room/dining room) for use of the guests;

d. There shall be no Cooking Facilities in guest rooms with the exception of a microwave oven. One refrigerator with a maximum capacity of five cubic feet shall be permitted in each guestroom;

e. Breakfast shall be the only meal served on the Premises and shall only be served to registered guests. No other meals shall be provided. The room rate shall be inclusive of meal if it is to be made Available;

f. The entire Building shall be substantially rehabilitated and conform to the South Florida Building Code, the Code of the Village of Key Biscayne, and the Fire Prevention and Life Safety Code on the date a certificate of use and Occupational License are applied for;

g. One non-illuminated Building identification Sign is permitted. The Sign shall not exceed one square foot and shall only be located on the Building;

h. The Building shall have central air conditioning;

i. The required off-street Parking shall be the same as for a single Family residence. The Building, Zoning, and Planning Director may require additional Parking only if the single Family character of the property is maintained with adequate landscaping and open space. Tandem Parking is allowed. The Parking area shall have a hard surface as required in section

30-180(f); and

j. These Regulations apply to those facilities, which may be operating, but without any approval from the Village. They are required to comply with these Regulations within 90 days from the date this ordinance is adopted (October 24, 2000). These Regulations also apply to prospective facilities.

k. The Building, Zoning, and Planning Director may place conditions on this use to ensure that it is compatible with surrounding properties.

(2) *Community residential facilities.*

a. Total Number of residents and/or day users is limited to six;

b. That the applicant must obtain a license from the State regulatory agency responsible for the Regulation of such uses;

c. A certificate of use and an Occupational License shall be required. No such certificates shall be issued unless the Fire Department approves the issuance of said certificates. The care provided at the facility limited to personal care, shelter, sustenance, and other support services. Residents and day clients shall be ambulatory; and

d. The Building shall have central air conditioning.

(3) *Day care facilities.*

a. Total Number of children on the Premises at any given time, including those who reside in the residence, shall not exceed six;

b. That the age of children, excluding those of the resident Family, shall not exceed 11 years of age;

c. That the applicant obtain a license from the State regulatory agency responsible for the Regulation of such uses; and

d. A certificate of use, a Certificate of Occupancy, and an Occupational License shall be required. No such certificates shall be issued unless the Fire Department approves the issuance of said certificates.

e. If a swimming pool is present, fencing shall include a self-closing and locking gate, 42 inches high with vertical members every four inches on center surrounding the entire pool.

f. These Regulations apply to those facilities that may be operating but

without approval from the Village. These facilities are required to comply with the above Regulations within 90 days from the date this ordinance (October 24, 2000) is adopted. These Regulations also apply to prospective facilities.

g. Hours of operation shall be limited to 8:00 a.m.--7:00 p.m., Monday through Friday. Day care facilities shall not be operated on national holidays.

(4) *Home occupations.*

a. Signage on the property or on watercraft is prohibited. Internet websites and internet advertising is permitted.

b. No customer may be served in the home.

c. Employees in the business are limited to full time residents of the Dwelling Unit.

d. The business requires a Village Occupational License.

(h) *Grand Bay Estate Development Regulations.* The following Regulations shall apply to this Development consistent with the approved Site Plan:

(1) *Setbacks.*

Regulation	Front (ft.)	Side, Interior (ft.)	Side, Facing Street (ft.)	Rear (ft.)
Principal Building	20	5	5	20
Porches, Porte-Cocheres, Carports/Canopies	10	10	10	10
Mechanical Equipment	10	3	10	10
Swimming Pool Pumps and Equipment	10	3	10	10
Pool Decks	5	5	5	5
Swimming Pools	5	5	5	5
Screen Enclosures	20	5	15	5
Accessory Buildings	15	5	5	5

(2) *Development Regulations.*

Regulation	Requirement	Regulation	Requirement
Minimum Lot Frontage	45 ft.	Maximum Lot Coverage	40%
Minimum Lot Area	6,000 sq. ft.	Maximum Floor Area Ratio	.68
Minimum Pervious Area	25%		

(i) *Grand Bay Villas Development Regulations.* The following Regulations shall apply to this development consistent with the approved Site Plan:

(1) *Setbacks.*

Regulation	Front (ft.)	Side, Interior (ft.)	Side, Facing Street (ft.)	Rear (ft.)
Principal Building	20 ft. for 50% of width of bldg. 10 ft. for remainder	0 ft. one side 10 ft. one side	15 ft.	one Story 15 ft. two Story 20 ft.
Porches, Porte-Cocheres, Carports/Canopies	10 ft.	10 ft.	10 ft.	10 ft.
Mechanical Equipment	35 ft.	2 ft.	2 ft.	2 ft.
Swimming Pool Pumps and Equipment	35 ft.	2 ft.	2 ft.	2 ft.
Pool Decks	35 ft.	2 ft.	2 ft.	2 ft.
Swimming Pools	35 ft.	5 ft.	10% of Lot width, minimum 15 ft.	5 ft.
Screen Enclosures	20 ft.	4 ft., 0 ft. for zero Lot line sides	10 ft.	5 ft.
Accessory Buildings	10 ft.	5 ft.	5 ft.	5 ft.

(2) *Development Regulations.*

Regulation	Requirement	Regulation	Requirement
Minimum Lot Frontage	50 ft.	Maximum Lot Coverage	50%
Minimum Lot Area	5,000 sq. ft.	Maximum Floor Area Ratio	.80 Main .07 Porch
Minimum Pervious Area	20%		

~~(j) *Supplemental Landscaping Regulations.* These Regulations are in addition to those listed in Article 9. Single Family homes and Duplexes shall provide the following landscaping prior to the issuance of any type of occupancy or approval to occupy the Building. The landscaping shall be maintained and remain in place for the life of the Building. If the landscaping is replaced a permit is required and shall include materials that match the below specifications:~~

~~(1) One shade tree shall be provided for every 1,875 square feet. All shade trees shall have a six-foot clear trunk or height of 12 feet. Palm trees may be used at a ratio of three per one shade tree, but in no instance shall the Front Yard have less than one shade tree and three palms, or two shade trees. All palms shall have a six-foot clear trunk or height of 14 feet.~~

~~(2) In any Yard, which faces a Street, shrubs shall be provided at the ratio of 20 per tree, planted at a minimum height of 24 inches. Hedges shall be planted 24 inches on center with a continuous, unbroken, and solid screen.~~

~~(3) When the Structure has a side Wall in excess of 35 feet in length, there shall be a dense hedge along the property line adjacent to all portions of the Wall greater than 35 feet.~~

~~(4) The area within five feet of a side Lot line that is also within 25 feet of the rear property line shall be planted with a dense, landscape screen at a height of ten feet.~~

~~(5) For those portions of the Structure with a rear Setback of less than 25 feet, the area within five feet of the rear property line shall be planted with a dense, landscape screen at a height of ten feet.~~

~~(6) In-ground irrigation system shall be provided.~~

~~Floor Area Ratio Schedule for Single Family and Duplex*~~

~~This table summarizes the FAR bonuses which are listed in subsection 30-100(b).~~

	~~Description~~			~~FAR~~
~~Applicability~~	~~The FAR Bonus Schedule is only applied to new construction on vacant Lots and Developments that exceed 50% of the assessed value of the Building. New Floor Area which does not meet this criteria shall not result in a site having a FAR that exceeds .47.~~			~~N/A~~
~~FAR Range~~	~~Base FAR~~	~~PS and VR Districts~~	~~One platted lot**~~	~~.30~~
		~~VE and IR Districts~~	~~One platted lot**~~	~~.36~~
		~~Any district~~	~~More than one platted lot**~~	~~.13~~
		~~One Story Home regardless of zoning district or Number of platted Lots~~		~~.36~~
	~~Max. FAR~~	~~Developments on one platted Lot**~~		~~.47~~
		~~Developments on two platted Lots**~~		~~.35~~
	~~A Development may exceed the base FAR but contain no more than the maximum FAR as set forth above subject to an administrative determination by the Building, Zoning, and Planning Director that the design meets one or more of the below criteria.~~			
~~FAR Reduction~~	~~VR and PS Districts: Designs that do not receive bonuses 3 and 11~~			~~-.10~~
	~~VE and IR Districts: Designs that do not receive bonus 11~~			~~-.10~~
~~Site Plan~~	~~The FAR bonus must be listed on the site plan page and approved by the plans reviewer and the Building, Zoning, and Planning Director.~~			~~Not applicable~~
~~Certificate of Occupancy Completion~~	~~No certificate of occupancy or completion shall be issued unless the completed Development includes each of the bonuses listed on the approved site plan.~~			~~Not applicable~~

~~Bonus Criteria~~		~~How to Calculate/Explanation~~	~~Maximum FAR~~
~~1.~~	~~Porch facing a Street~~	~~.00005 per sq. ft. of Floor Area on the Porch~~	~~.03~~
~~2.~~	~~Open and unenclosed Balconies located above the first finished floor~~	~~.00005 per sq. ft. of Floor Area on the Balcony~~	~~.03~~
~~3.~~	~~Building located 15--20 ft. from the front property line~~	~~.001 per linear ft. of frontage of a Wall that is located 15--20 ft. from the front property line~~	~~.03~~
~~4.~~	~~Building located within 15--20 ft. of the rear property line~~	~~.001 per linear ft. of frontage of a Wall that is located 15--20 ft. from the rear property line~~	~~.03~~
~~5.~~	~~Garage and Carport containing 2 or more vehicles parked parallel with an exterior column separating each of the spaces~~	~~Formula not required to determine this bonus~~	~~.03~~
~~6.~~	~~Single story home~~	~~Formula not required to determine this bonus~~	~~.03~~
~~7.~~	~~Combination One and Two Story Home~~	~~Second floor occupying less than 50% of the Floor Area of the first floor under roof~~	~~.10~~

~~8.~~	~~Entrances to Parking Garage~~	~~Interior Lot:~~	~~Placed in a location that does not face the Street~~	~~.02~~
		~~Corner Lot:~~	~~Entrance from a Side Yard~~	~~.02~~
~~9.~~	~~Location of windows~~	~~Windows located above the first floor which face an adjacent Building. These windows must be at least 5 ft. above the finished floor. or~~		~~.01~~
		~~No windows facing an interior side property line~~		~~.03~~
~~10.~~	~~Side Yard Setback~~	~~VR and PS Districts:~~	~~.00005 per sq. ft. that exceeds the required Yard~~	~~.03~~
		~~VE and IR Districts:~~	~~15 ft. Setback~~	~~.03~~
~~11.~~	~~Front Building Walls~~	~~VR and PS Districts:~~	~~Structures that provide a Front Yard Setback of less than 25 ft. which have a roof at least 3 ft. lower than the roof of the main Building~~	~~.03~~
		~~VE and IR Districts:~~	~~A portion of the Building having a length of at least 10 ft. with a Front Yard Setback that exceed the required 25 ft. (.0002 per sq. ft)~~	~~.03~~
~~12.~~	~~Reduction in Building heights~~	~~.006 per ft. below the maximum height permitted~~		~~.03~~

~~*This schedule summarizes the FAR Bonuses which are listed in section 30-100(b).~~

**Platted as of the effective date of this ordinance (October 24, 2000)

* * *

Sec. 30-110 Allowable encroachments into Required Yards (all districts except Single Family and PS Parkside Residential).

* * *

(f) Fences and Walls.

* * *

(3) *Finish.*

a. *Front Zone.* All Walls between any Building and the adjacent Street(s) must be finished on all side(s). Masonry Walls must be stuccoed and painted and wood fences must have no exposed nail points.

b. *Rear Zone.* All concrete Walls must be finished on the exterior face (stucco and paint) except where adjacent and contiguous with an existing Wall. All wood fences must be finished so that no nail points are exposed or visible. For fences used in conjunction with court games (see subsection (p) below).

c. All Walls shall be finished on all side(s). Masonry Walls shall be stuccoed and painted, except where adjacent and contiguous to an existing Wall or fence. The owner shall provide documentation to the Building, Zoning and Planning Director that a good faith effort was made to obtain the adjacent owner's approval to stucco or paint the fence on the adjacent property.

d. Wood fences shall have the structural side of the fence facing the interior of the property.

e. Chain link fences shall be coated with black or green finish materials

f. Perimeter Walls and wood fences which face a Street shall be screened with a hedge that at time of planting shall have a minimum height of 24 inches and planted 24 inches on center.

g. Chain link fences which face a street shall have a hedge that at time of planting has a height equal to the height of the chain link fence and shall be planted on 30 inches on center.

h. Walls shall be painted on both sides.

i. Barbed wire and/or similar materials are not permitted.

* * *

Sec 30-112. Supplemental Use Regulations

* * *

(o). *Cabana Regulations*

A cabana shall not exceed 300 sq. ft. and not have 220 service, one (1) five (5) refrigerator is permitted. Air conditioning is permitted.

* * *

ARTICLE VI. CONCURRENCY MANAGEMENT

Sec. 30-160. Purpose.

The purpose of this article is to ensure that the infrastructure necessary to serve new Development is Available concurrently with the impacts of that new Development. Impact is measured against the adopted minimum acceptable levels of service with respect to: (a) roads, (b) sanitary sewer, (c) solid waste, (d) drainage, (e) potable water and (f) parks and open space.

Sec. 30-161. Application for Concurrency Determination.

(a) *Concurrency application.* All building permit applications shall also be treated as

applications for a Concurrency Determination under this article.

(b) In the course of reviewing the application, the Building, Zoning, and Planning Director or designee, shall determine the following:

(1) Whether the necessary facilities are in place and the Village's level of service standards are met at the time that a Development permit is issued, or that such permit will be conditioned upon the necessary facilities being in place and the level of service standards being met prior to the issuance of a certificate of occupancy; or

(2) Whether the necessary facilities are under construction at the time a permit is issued or that there is a binding contract for the construction of such facilities at the time of permit issuance; or

(3) Whether the necessary facilities are included in the Village's approved annual budget at the time of permit issuance; or

(4) Whether the Development has vested rights determined pursuant to the provisions of this article.

(5) Whether the proposed new development will decrease demand upon and use of the Village's roads, sanitary sewer facilities, solid waste facilities, drainage system, potable water facilities, and parks and open space. The Building, Zoning, and Planning Director shall utilize the following criteria in determining whether the proposed new development will decrease demand upon and use of the aforementioned facilities and services:

(i) proposed change in the residential density for the property
(ii) proposed change in the number of bedrooms
(iii) proposed change in the average size of residential units
(iv) projected change in the number of residents residing on the property

A determination that the development will decrease demand of the aforementioned facilities and services shall mean said development is consistent with the Concurrency Levels of Service.

Sec. 30-162. Determination of vested rights.

(a) The following procedures are established for the request for a determination of vested rights as to the need to meet the Concurrency requirements of this article.

(1) A request for exemption from the Concurrency requirements of this article based upon vested rights shall be submitted to the Village Council in a form provided by the Department. The request shall be accompanied by copies of any contracts, letters, appraisals, reports or other documents or items upon which the claim is

based.

(2) The following criteria shall be used in connection with a request for determination of vested rights:

a. Is there a valid, unexpired act of the Village that authorized Development and have expenditures or obligations been made or incurred in reliance thereon?

b. Has the property owner dedicated Right-of-Way and/or constructed and/or funded roadway improvements directly related to the Development for which the claim of vested rights is requested?

c. Has the property owner made on-site infrastructure improvements (e.g., water or sewer systems) directly related to the Development for which the claim of vested rights is requested?

(b) The Village Council shall determine whether the project has vested rights. The Village Council or Manager may require the submission of additional information that will assist in the determination of Concurrency.

Sec. 30-163. Level of service standards.

For the purpose of Concurrency Determinations, the Village has adopted a master plan that provides the Level of Service Standards (LOS) for public facilities and services: roads, sanitary sewer, solid waste, drainage, potable water, and parks and recreation. All Developments that are subject to a finding of Concurrency must be consistent with these standards.

Sec. 30-164. Exemptions.

(a) *Exemptions.* The following shall be exempt from the provisions of this article:

(1) Construction, rehabilitation or expansion of a Single Family Dwelling or Two-Family Dwelling on one parcel;

(2) Permits for Accessory Structures to existing residential Structures;

(3) Maintenance, renewal, improvement or alteration of any Structure where the work affects only the interior or color of the Structure or the decoration of the exterior of the Structure;

(4) Change in the Use of Land or Structures to another Use permitted within the same zoning district that is consistent with the master plan, and within the same group occupancy categories as defined by the South Florida Building Code, only if there is no expansion of the Structure; and

(5) Any Development order consistent with an approved Development of Regional Impact (DRI) pursuant to Florida Statutes.

Sec. 30-165. Failure to establish Concurrency.

No building permit shall be issued unless:

(1) The Building, Zoning, and Planning Director or designee determines, pursuant to section 30-161, that all LOS have been met;

(2) The Village Council has made a vested rights determination pursuant to section 30-162; or

(3) The Development is subject to one of the exemptions listed in section 30-164.

Sec. 30-166. Appeal.

An appeal of any determination made with regard to this article shall be considered as an appeal of an administrative decision.

* * *

ARTICLE VIII. SIGNS

* * *

Sec. 30-191. Prohibited Signs.

The following are prohibited in the Village:

(1) Abandoned Signs.

(2) Animated Signs.

(3) Balloon Signs.

(4) Box Wall Signs.

(5) Buntings.

(6) Bus Bench Signs.

(7) Flags other than one United States flag and one other noncommercial flag

together on a pole not to exceed 20 feet in height; one pole each permitted per Building.

(8) Logos as the main permitted sign. A Logo as secondary signage per establishment shall have a sign area that does not exceed to 144 sq. in.

(8) Monument Signs.

(8) Neon Signs (other than Reverse Channel and Wall Signs where permitted) and neon Building trim.

(9) Off Premise Signs/Billboards.

(10) Pole Signs.

(11) Portable Signs.

(12) Projecting Signs, except Canopy Signs.

(13) Roof Signs.

(14) Snipe Signs.

(15) Swinging Signs.

(16) V - Sign

(16) All Signs except those placed by governmental agencies located on public property.

(17) Any Sign on a utility pole except for the purpose of utility identification.

(18) Any Sign that could be confused with a traffic Signal or traffic Sign.

(19) Any Sign that in the opinion of the Village Manager constitutes a safety hazard.

(20) Any private Sign extending over a public Right-of-Way.

* * *

Sec. 30-195. Nonresidential district Signs.

~~The following Signs are authorized in all nonresidential districts in the Village:~~

~~(1) *Monument Sign or V-Sign (Village Council approval required).*~~

~~Number (maximum)~~	~~1 per parcel; A parcel that has a minimum of 300 feet of Street frontage and is served by two or more Access points may have one additional Sign(1)~~
~~Area (maximum)~~	~~24 square feet, except for gasoline station parcels where a 32-square-foot Sign shall be permitted.~~
~~Sign Height (maximum)~~	~~Four feet~~
~~Sign Width (maximum)~~	~~Eight feet~~
~~Setback (minimum):~~	
~~-From Right-of-Way line~~	~~Five feet~~
~~-From side property line~~	~~20 feet~~
~~Illumination~~	~~Externally or internally Illuminated Sign only~~
~~Supplemental provisions:~~	
~~Time and Temperature Sign authorized within total permitted Sign area~~	
~~Landscaping and visibility sight triangle on corner of lot~~	~~See section 30-197(g)~~

* * *

ARTICLE IX. LANDSCAPE REGULATIONS

Sec. 30-230. Purpose and intent.

It is the intent of this article to establish landscape standards that will enhance, improve, and maintain landscaping in the Village through the application of following principals:

(a) Promote xeriscape by encouraging the use of drought-tolerant landscape materials, grouping of plant material by water requirements and the use of irrigation systems that conserve ~~the use of~~ potable water supplies.

(b) Use landscape materials to visually define the hierarchy of roadways, and to provide shade and visual edge along roadways.

(c) Prevent the destruction of the existing tree canopy and promote its expansion.

(d) Provide for the preservation of the existing natural forest communities, specimen ~~sized~~ trees, re-establish the native habitat along the beach, and encourage the use of native plant material.

(e) Promote the use of trees and shrubs for energy conservation by encouraging cooling through the provision of shade and the channeling of breezes, thereby helping to offset global warming and affects of added absorption of carbon dioxide.

(f) Contribute to the processes of air movement, air purification, oxygen~~ation~~ regeneration, ground water recharge, stormwater runoff retention, while aiding in the abatement of noise, glare, heat, air pollution and dust generated by impervious areas.

(g) Improve the aesthetic appearance of the Village through the use of plant material, thereby protecting and increasing property values.

(h) Reduce the negative impacts of ~~exotic pest~~invasive plant species as identified by the Florida Exotic Pest Plan Council and prohibit the use of noxious exotic plants which invade native plant communities.

(i) Promote the concept of planting the appropriate ~~tree in the correct location to avoid problems~~plant materials for use based on their documented growth characteristics and to avoid conflicts with and/or potential damage to infrastructure, such as clogged sewers, cracked sidewalks, and power service interruptions.

Sec. 30-231. Applicability.

The provisions of this chapter shall be considered minimum standards for all Village of Key Biscayne Zoning Districts including Government Use (GU) properties, and shall apply to new construction on vacant Lots and for construction projects that have a value of 50 percent or greater of the assessed value of the Building(s) on a site.

Sec. 30-232. Required landscape plans.

(a) *Landscape plan required.* All new construction of Main Permitted Uses and substantial rehabilitation work where the value of the improvements exceeds 50 percent of the assessed value of the Building, shall be required to submit a landscape plan. No building permit shall be issued until the Building, Zoning, and Planning Department has approved the landscape plan. A final certificate of occupancy shall not be issued until the landscaping shown on the landscape plan has been installed and approved by the Building, Zoning, and Planning Department. All landscape plans for new construction on vacant Lots shall be signed and sealed by a landscape architect licensed to practice in the State of Florida.

(b) *Components of a landscape plan.* A landscape plan must:

(1) Be drawn to scale, including dimensions, ~~and~~ property boundaries, north arrow, and street names.

(2) Include a survey of the existing non-invasive trees and palms on the property~~, with identification of non-exotic (see subsection 30-234(a)) trees. All trees~~ with a trunk diameter of ~~four~~three inches or greater ~~shall be shown on the survey~~measured at four feet above the base of trunk.

(3) Delineate existing and proposed Structures, Parking areas or other vehicular Use areas, Access aisles, sidewalks, driveways, the location of utilities and Easements, and similar features.

(4) Designate common and botanical name, location, size (in height, spread and trunk caliper at four feet above base of trunk), quantity, and grade of living plant material proposed to be installed or maintained on the site.

(5) Provide planting specifications to current American Association of Nurserymen landscape standards including but not limited to staking, fertilization, top soil, mulching, and applicable drainage and any subsurface treatments.

(6) Identify and describe the location and characteristics of all non-living landscape materials to be used, such as walls or pavements.

(7) Show all landscape features, areas of vegetation required to be preserved by law, (including but not limited to trees, plants, shrubs, native habitats, wetlands, and mangroves), in ~~the~~ context with the location and outline of existing and proposed Building(s), fences, and other structural improvements being contemplated on the site.

(8) Indicate method to protect trees and native plant communities during construction according to the Miami-Dade County Landscape Manual standards.
(9) Include a tabulation showing the statistical information necessary to evaluate compliance with the Article including net Lot area, quantity, size, and species of all plant material to be planted, preserved, or relocated; square footage of paved area; and such other information as may be required by the Building, Zoning, and Planning Director to make a determination that the landscape plan meets the requirements of this article.

Sec. 30-233. Landscape plan review criteria.

All landscape plans shall be reviewed in accordance with the following goals and objectives:
(1) Landscape design shall enhance architectural features, relate structural design to the site, visually screen dissimilar Uses and unsightly views, reduce noise impacts from roadways and incompatible Uses, strengthen vistas and reinforce neighborhood site design and architecture.
(2) Existing specimen trees and native vegetation ~~should~~shall be preserved in place to the maximum extent possible or relocated within the site~~, but in no event shall less than 30 percent of all landscaping be done with native vegetation~~.
~~(3) The Landscape plan shall include native plant species to the maximum extent possible.~~
(4~~3~~) Trees and shrubs shall be used to reduce energy consumption by shading Buildings and paved surfaces.
(5~~4~~) Street trees shall be used to shade roadways and provide visual order. All Street tree planting shall conform to the Village's Street Tree Planting System.
(6~~5~~) Trees and shrubs ~~should~~shall be placed on the site in locations that take into consideration overhead utility lines, proximity to native plant communities, septic tanks, and sewer lines.

Sec. 30-234. Required irrigation plans.

(a) *Applicability.* All Developments which are required to submit a landscape plan shall also provide an in-ground irrigation system with the exception of the following:
(1) Single Family homes~~.~~ where drought-tolerant, xeriscape landscaping has been utilized.
(2) Duplexes and Townhomes on Sites that are 7,000 square feet or less~~.~~ where drought-tolerant, xeriscape landscaping has been utilized.
However, hose bibs shall be placed on the Building at 75-foot intervals.
(b) *Components of an irrigation plan.* Required irrigation plans shall:
(1) Be drawn at the same scale as the landscape plan.
(2) Delineate the areas that are to be landscaped.
(3) Delineate existing and proposed Structures, Parking areas or other vehicular Use areas, Access aisles, sidewalks, driveways, the location of utilities and Easements, and similar features.
(4) Include water source, design operating pressure and flow rate per zone, total volume required for typical depths of application, and application rate.
(5) Include locations of pipes, controllers, valves, sprinklers, backflow prevention devices and electrical supply.

Sec. 30-235. Tree removal permit.

(a) *Tree removal permit required.* No Person shall cut down, destroy, remove, relocate, destructively damage or cause to be cut down, destroyed, removed, relocated or destructively

damage any tree without first obtaining a permit from the ~~Village~~Miami-Dade County Department of Resource Management (DERM). ~~However nothing in this article shall prevent a Person from destroying t~~The following trees must be removed with new development and may be removed at any time without receiving a permit:

(1) Schinus terebinth~~in~~efolius (Brazilian Pepper/Florida Holly)
(2) Metopium toxiferum (Poison ~~W~~wood)
(3) Casurina equisetifolia (Austrailian Pine)
(4) Melaleuca ~~Q~~quinquenervia (Melaleuca)
(5) Araucaria ~~H~~heterophylla (Excelsa, Northfolk Island Pine)
(6) Brassa~~l~~ia ~~A~~actinophylla (Schefflera)

~~(b) *Permit Fee.* The Village Council shall establish a fee for tree removal permits. However, no fee shall be charged for a permit to remove a tree listed in subsection (a) above.~~

~~(c) *Application.* The Tree Removal Permit Application shall contain the following information:~~

~~(1) Location of the tree to be removed.~~

~~(2) A survey of the property showing the Buildings, Easements, utility services.~~

~~(3) The Building, Zoning and Planning Director may waive the above requirements where it can be determined that the information can be obtained in the Village records or through a site visit.~~

~~(d) *Tree removal evaluation criteria.* No tree may be removed unless one of the following conditions, as determined by the Building, Zoning, and Planning Director, exists:~~

~~(1) A Site Plan is submitted by the applicant that demonstrates a proposed Structure can be situated on the property only if specific trees are removed or relocated.~~

~~(2) The tree(s) is (are) located in such proximity to existing or proposed Structures that the utility or structural integrity of such Structures is materially impaired.~~

~~(3) The tree materially interferes with the location, servicing, or functioning of Public Utility lines or service.~~

~~(4) The tree obstructs views of oncoming traffic or otherwise creates a substantial traffic hazard.~~

~~(5) Any law or Regulation that requires such removal.~~

~~(e) *Replacement tree.* Any tree that is removed must be replaced with:~~

~~(1) A tree with the same number of inches of caliper diameter; or~~

~~(2) Trees that cumulatively provide the same number of inches of caliper diameter.~~

~~All replacement trees must be on the same Site that the tree was removed.~~

~~(f) *Removal of trees on public lands.* No trees shall be removed from any public land including, but not limited to Rights-of-Way and swale areas, without the approval of the Building, Zoning, and Planning Director.~~

Sec. 30-236. Protection of trees during construction or land Development.

(a) During any construction or land Development, protective barriers of specifications approved by the Building, Zoning, and Planning Director shall be placed and maintained around all trees to be retained on site to prevent their destruction or damage. The Developer shall use every precaution possible to avoid damaging such trees by preventing the compaction of soil over roots and/~~use or storage of materials or equipment,~~ or the contamination of soil with such materials as paint, oil, solvents, asphalt, concrete, mortar, and the like, within the drip line.

(b) No attachments other than those of a protective or non-damaging nature, shall be attached to any tree except those trees approved to be removed or relocated.

Sec. 30-237. Tree trimming standards.

All trees shall be trimmed in accordance with the National Arborist Association Standards except for the following tree species:

(1) Australian Pine
(2) Avocado
(3) Brazilian Pepper
(4) Citrus Species
(5) Bischoefia
(6) Mango
(7) Melaleuca
(8) Norfolk Island Pine
(9) All palm species
(10) Poison-~~W~~wood

Sec. 30-238. Minimum standards.

The following standards shall be considered minimum requirements for all landscape plans:

(1) *Tree size.*

a. Minimum height at time of planting: 14 feet.

b. Minimum tree canopy to be seven feet in diameter, centered on the trunk.

~~b~~c. Minimum diameter of tree~~s~~ trunk at ~~five~~four feet ~~height~~above crown of root structures: 2.5 inches.

(2) *Minimum number of trees.*

TABLE INSET:

Zoning District	Number of Required Trees
Single Family and Two-Family	~~three trees for Lots of 7,500 sq. ft. or less and one tree for each additional 2,500~~one tree per 1,875 sq. ft. or fraction thereof
Office	one tree for each 1,500 sq. ft. or fraction thereof
Commercial	one tree for each 1,800 sq. ft. or fraction thereof
Government Use	meet requirement of zoning district with greatest contiguous area
Multiple Family, PUD and Hotel Resort	one tree for each 1,400 sq. ft. or fraction thereof
Institutional and Private Club	one tree for each 1,200 sq. ft. or fraction thereof

a. A maximum of 40 percent of the tree requirement may be satisfied with palm trees. If palm trees are provided, ~~they~~every three palms shall be counted as ~~three palms =~~ one canopy tree.

b. Minimum height of palms to be considered for shade tree substitutes shall be ~~ten~~twelve feet ~~for standard upright forms (e.g. Sabals, Coconuts), and four feet for dwarf forms (e.g. Pygmy Date Palms)~~.

~~c. Maximum percentage of palm trees: 30 percent.~~

~~d~~c. Prohibited trees and Street trees shall not be counted towards meeting this requirement.

(3) *Shrubs and hedges--Quantity, height and spacing at time of planting.*

TABLE INSET:

Shrub quantity	10 for each required tree
Shrub and hedge height	Minimum 24 inches~~.~~
Hedge spacing	30 in. on center and maintained to form a continuous, unbroken, and solid screen

(4) *Uncovered, surface Parking Lot buffer and interior planting.* The perimeter of each Parking Lot adjacent to any property line Lot shall be planted with a five-foot wide strip of hedge and shade trees at a spacing of one per 30 linear feet.

The net interior area of all Parking Lots (the area exclusive of the Setbacks and buffer planting area), shall contain ten square feet of landscaped area per Parking space and shade trees shall be planted within this area at a rate of one tree per 80 square feet of resultant landscaped area.

(5) *Plant quality and Native Species Requirement.* All material shall meet 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 State of Florida Department of Agriculture and Consumer Services. At least 40% of all required plant materials must be native species.

(6) *Supplemental Single Family & Duplex Zoning District Landscaping Regulations.* These Regulations are in addition to those listed above. Single Family homes and Duplexes shall provide the following landscaping prior to the issuance of any type of occupancy or approval to occupy the Building. The landscaping shall be maintained and remain in place for the life of the Building. If the landscaping is replaced a permit is required and shall include materials that match the below specifications:

(a) In no instance shall the Front Yard have less than one shade tree and three palms, or two shade trees.

(b) In any Yard which faces a Street, shrubs shall be provided at the ratio of 20 per tree.

(c) When the Structure has a side Wall in excess of 35 feet in length, there shall be a dense hedge of minimum 30" height planted 24" on center along the property line adjacent to all portions of the Wall greater than 35 feet.

(d) On non-waterfront Residential lots, the area within five feet of a side Lot line that is also within 25 feet of the rear property line shall be planted with a dense, landscape screen at a height of at least four feet at time of planting, planted 36" on center, and attaining at least a 10 foot height. Within that same area on waterfront Residential lots, a hedge of minimum 24 inch height and 24 inches on center must be planted and cannot exceed a height of four feet.

(e) On non-waterfront Residential lots, for those portions of the Structure with a rear Setback of less than 25 feet, the area within five feet of the rear property line shall be planted with a dense,

landscape screen at a height of at least four feet at time of planting, planted 36" on center, and attaining at least a ten foot height.

Sec. 30-239. Hatracking prohibited.

Hatracking or topping shall not be permitted; however, crown reduction in excess of one-third shall be permitted under the following conditions:

(1) If a tree interferes with utility lines or utility Structures.

(2) If a tree has storm damage and in the opinion of the Building, Zoning, and Planning Director should be hatracked or topped in order to preserve the tree.

(3) All tree pruning shall conform to current standards of the National Arborist Association.

Sec. 30-240. Landscape manual.

The Village shall utilize the Miami-Dade County Landscape Manual until such time as one is developed by the Building, Zoning, and Planning Department and adopted by Council resolution. The purpose of the manual is to provide illustrative interpretations of the Regulations listed in this article, best landscape practices, and related guidelines to insure that landscaping is installed and maintained in a manner that is consistent with the objectives [of] these Regulations.

Sec. 30-241. Certificate of occupancy and certificate of completion.

No certificate of occupancy or certificate of completion shall be issued until such time as all of the required landscaping is installed and approved by the Building, Zoning, and Planning Department. However, nothing herein shall prevent the issuance of a temporary certificate of occupancy so long as at least the sod portion of the landscaping has been installed.

* * *