



# VILLAGE OF KEY BISCAYNE

Office of the Village Manager

## MEMORANDUM

*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

DATE: October 6, 2009  
TO: Honorable Mayor and Members of the Village Council  
FROM: Genaro "Chip" Iglesias, Village Manager  
RE: Zoning Ordinance Review Committee: Report and Recommendation

### RECOMMENDATION

It is recommended that the Council:

1. Accept the Report and Recommendations by the Zoning Ordinance Review Committee. Acceptance only acknowledges receipt of the attached documents.
2. Schedule three (3) workshops to further consider the ordinance.  
  
Workshop 1: Definitions, Administration of the Ordinance, Parking, Signs, and Landscaping  
Workshop 2: Development Regulations and Concurrency  
Workshop 3: HR Hotel Resort Zoning Ordinance
3. Request the Village Attorney to identify those sections of the ordinance which require a referendum.

### BACKGROUND

Attached to this memorandum is the ZORC Report and Recommendations and a document that includes specific changes to the Zoning and Land Development Regulations. This document also includes notes in the margins which explain the changes.

Chronology:

- Dec 6, 2006 Council creates the Zoning Ordinance Review Committee with 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 ZORC holds 47 meetings.  
to Oct 2, 2009

ZORC Membership:

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

**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 BISCAIYNE, FLORIDA, AS FOLLOWS<sup>1</sup>:

**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, <del>and Single Family, Townhome,</del> or multiple Family residences: in a manner that is consistent with the mass and scale of adjacent properties.	<ol style="list-style-type: none"> <li>1. <u>Single Family</u></li> <li>2. <u>Townhome</u></li> <li>3. <u>Hotel</u></li> <li>4. <u>Apartment Building</u></li> <li>5. <u>Public Park</u></li> <li>6. <u>Any Combination of the above referenced uses</u></li> <li>7. <u>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</u></li> </ol>	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) <u>Hotel and Apartment Buildings are prohibited within 120 ft. of the Holiday Colony subdivision.</u>

<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, shaded text reflects changes made from First Reading.

	<u>50% of the permitted area is free of any such structures; and (3) no such individual structure shall exceed 15% of the permitted area.</u>			
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(b) *Development Regulations.*

TABLE INSET:

<u>Use</u>	<u>Density</u>	<u>Setback</u>	<u>Height And Floor Area Ratio</u>	<u>Lot Coverage</u>	<u>Minimum Lot Area</u>
<u>Single Family</u>	<u>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.</u>	<u>See Section 30-100 (e)</u>	<u>See “Floor Ratio and Height Zone Sketch.”</u>	<u>See Section 30-100(b)</u>	<u>12,000 sq. ft.</u>
<u>Townhome</u>	<u>16 Units per acre. Lot dimensions shall be as shown on the approved Site Plan.</u>	<u>See Section 30-100 (b)</u>	<u>See “Floor Ratio and Height Zone Sketch.”</u>	<u>See Section 30-11(b)</u>	<u>As set forth on the approved site plan</u>

<u>Hotel Only</u>	<u>30 Units per acre. No Hotel shall exceed 350 units</u>	<u>Front:</u> <u>25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.</u>  <u>Side:</u> <u>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").</u>  <u>Rear:</u> <u>25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.</u>	<u>See "Floor Ratio and Height Zone Sketch."</u>	<u>.40</u>	<u>The site shall be subdivided as of the date of this ordinance</u>
<u>Apartment Building Only</u>	<u>16 Units per acre.</u>	<u>Same as Hotel above</u>	<u>See "Floor Ratio and Height Zone Sketch."</u>	<u>.40</u>	<u>The site shall be subdivided as of the date of this ordinance</u>

<u>Hotel and Apartment Building (either combined in one building or separate buildings on the same site)</u>	<u>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.</u>	<u>Same as Hotel above</u>	<u>See "Floor Ratio and Height Zone Sketch." 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).</u>	<u>.40.</u>	<u>The site shall be subdivided as of the date of this ordinance</u>
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c. Hotel and Apartment Building Bonus Schedule

If a Hotel and Apartment Building (either combined in one building or separate buildings on the same site) is constructed, the development may exceed 12 Units per acre for an Apartment Building(s) and 30 Units for a Hotel Building(s) as provided below:

1. Dedication of a public park

A. An additional one (1) Apartment Building Unit or 2.5 Hotel Units shall be permitted for each 10,000 square feet of public park dedicated to the Village within the Zone 1 on the "Floor Ratio and Height Zone Sketch."

B. If land off site is dedicated to the Village for a public park the following bonuses shall apply:

i. For every dedicated platted lot an additional two (2) Apartment Building Units or five (5) Hotel Units shall be permitted. This bonus shall be increased to an additional eight (8) Apartment Building Units or 20 Hotel Units if an adjacent platted lot is also dedicated.

ii. For every dedicated platted lot adjacent to the Government Use (GU) zoning district an additional 16 Apartment Building Units or 40 Hotel Units shall be permitted.

iii. For every dedicated platted lot on a canal an additional 20 Apartment

Building Units or 75 Hotel Units shall be permitted.

- iv. If a bayfront platted lot is dedicated, 100 Apartment Building Units and 250 Hotel Units shall permitted. If this bonus is utilized, the development will not be eligible for any other bonuses under this section.

2. Separation buildings. For every ten (10) linear feet greater than 50 linear feet between buildings in Zones 2-4 on the "Floor Ratio and Height Zone Sketch" an additional one (1) Apartment Building Unit or 2.5 Hotel Units shall be permitted.

3. Leadership Energy and Environmental Design (LEED)

A. An additional three (3) Apartment Building Units or 7.5 Hotel Units shall be permitted if a LEED Certified Silver Building is constructed.

B. An additional six (6) Apartment Building Units or 15 Hotel Units shall be permitted if a LEED Certified Gold Building is constructed.

C. An additional 12 Apartment Building Units or 30 Hotel Units shall be permitted if a LEED Certified Platinum Building is constructed.

4. Streetscape Improvements.

A. Sonesta Drive. If the following streetscape improvements are made to Sonesta Drive an additional two (2) Apartment Building units or five (5) Hotel Units shall be permitted:

1. New curb and gutter.
2. Sidewalk
3. Street lighting
4. Drainage
5. Underground utilities
6. Pavers
7. Traffic Calming Devices
8. Street furniture
9. Bicycle path

B. East Heather Drive. If the following streetscape improvements are made to East Heather Drive an additional two (2) Apartment Building units or five (5) Hotel Units shall be permitted:

1. New curb and gutter.
2. Sidewalk
3. Street lighting
4. Drainage

5. Underground utilities
  6. Pavers
  7. Traffic Calming Devices
  8. Street furniture
  9. Bicycle path
5. Unified site plan. 100 Apartment Building Units and 250 Hotel Units shall be permitted if a unified site plan for 301 and 350 Ocean Drive is approved by the Village Council and: (1) the Silver Sands principal buildings shall be retained; (2) Additional square footage on the Silver Sands property shall be solely limited to a restaurant, bar, or storage facilities; and (3) All of the Silver Sands Units shall be operated as Hotel Units. If this bonus is utilized, the development will not be eligible for any other bonuses under this section.
  6. Affordable housing. For every apartment unit sold or leased on an income restricted basis to persons or families who have resided in the Village for more than 10 years and are 65 or older with incomes below 140% of Area Median Income 1/10 of a credit will be given to a maximum of ½ credit for up to 5 units of this type. This income and age restriction will be for 20 years.
  7. Height. If a development contains a Hotel that has been granted additional Hotel Units pursuant to this section, the building(s) (either Hotel or Apartment) within this development may have a maximum height of 205 feet based upon the following schedule:
    - A. If the development contains 101-150 Hotel Units height shall not exceed 172 feet.
    - B. If the development contains 151-250 Hotel Units height shall not exceed 205 feet.

d. 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.

d. The maximum FAR for a Development is 1.88.

e. The FAR assigned to Zone 5 shall only be distributed to Zones 3 and 4.

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.

5. Service Areas and Loading Docks. All service areas shall be adequately screened or buffered from adjacent properties. In addition, loading docks shall be internal to the building.

**INSERT TRIANGLE SKETCH**

**INSERT FLOOR AREA RATIO AND HEIGHT SKETCH**

**YARD DETERMINATION SKETCH**

<del>Density</del>	<del>Maximum Height</del>	<del>Lot Coverage</del>	<del>Minimum Lot Area</del>
<del>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.</del>	150 ft.	.40	The site shall be subdivided as of the date of this ordinance.

TABLE INSET:

	<del>Setback</del>	<del>Floor Area Ratio</del>
<del>Front</del>	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:
<del>Side</del>	<p>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).</p> <p>Side Setbacks shall be measured from the dedicated Easement as required in the Floor Area Ratio calculation.</p>	<p>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</p> <p>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.</p>
<del>Rear</del>	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	<u>± .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.</u>	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

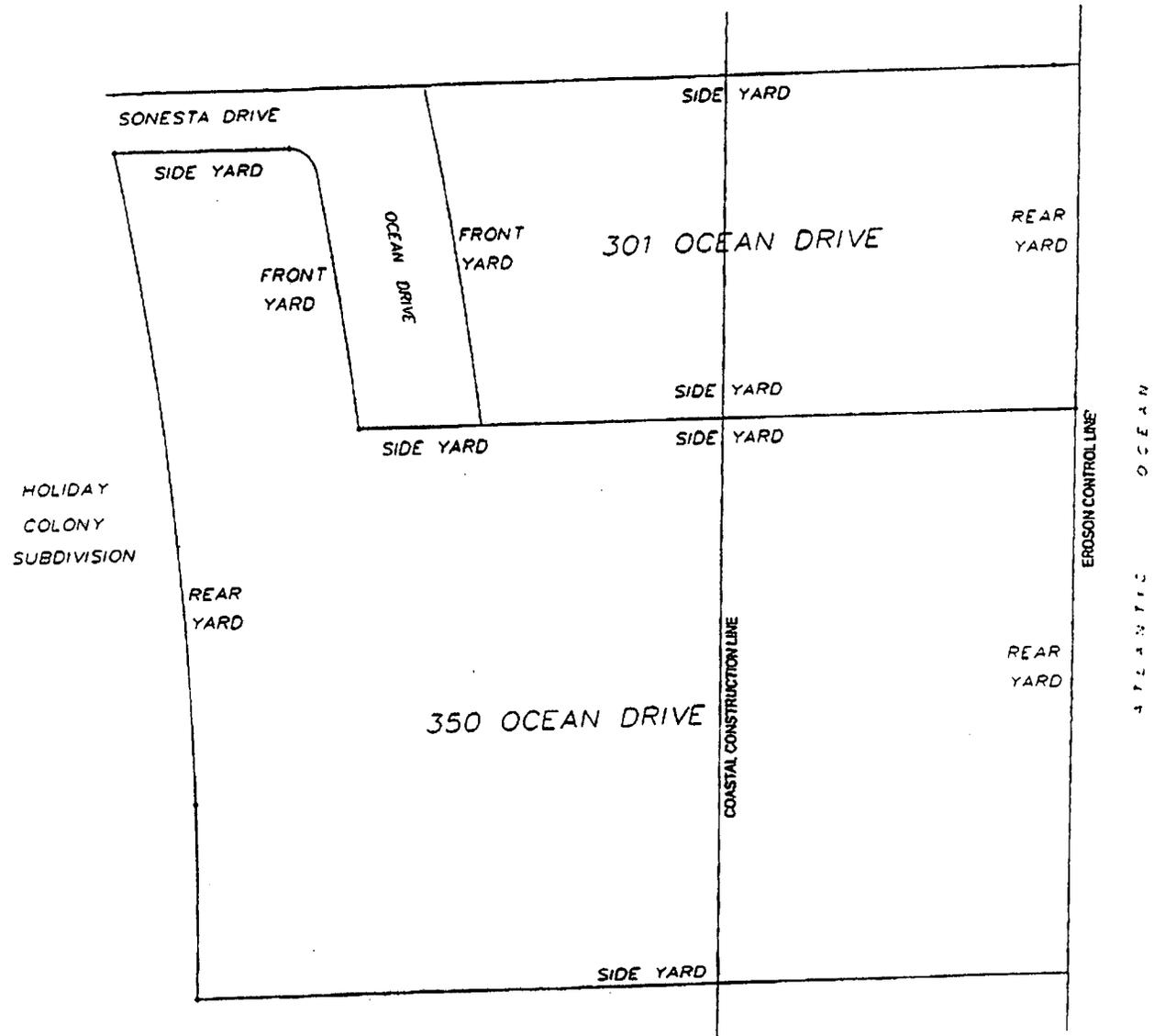
ATTEST:

\_\_\_\_\_  
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

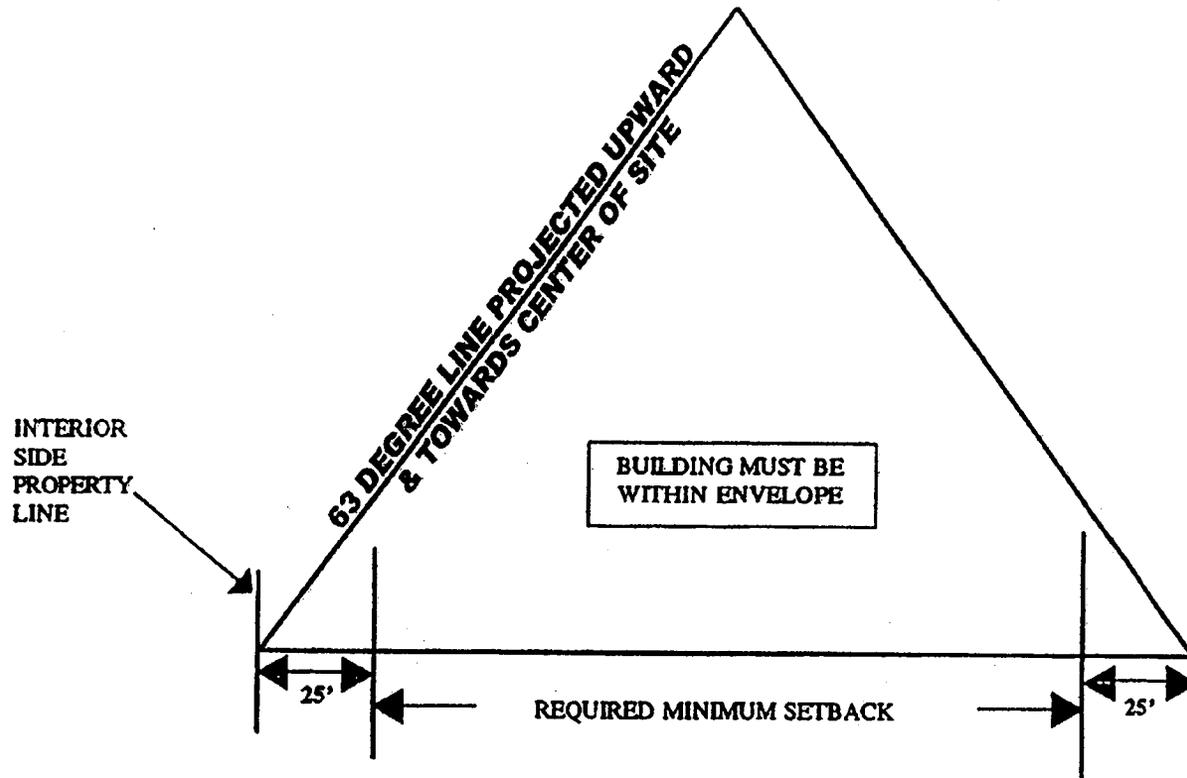
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
VILLAGE  
ATTORNEY

# YARD DETERMINATION SKETCH



# BUILDING ENVELOPE SKETCH



# FLOOR AREA RATIO AND HEIGHT ZONE SKETCH



ATLANTIC OCEAN

EROSION CONTROL LINE

COASTAL CONSTRUCTION LINE

SONESTA DRIVE

301 OCEAN DRIVE

OCEAN DRIVE

HOLIDAY COLONY SUBDIVISION

350 OCEAN DRIVE

VILLAGE OF KEY BISCAYNE  
ZONING ORDINANCE REVIEW COMMITTEE

REPORT AND RECOMMENDATIONS

Presented October 13, 2009  
on behalf of the ZORC  
by  
Franklin H. Caplan, Chair

## CONTENTS

OVERVIEW	Page 1
Organization	Page 1
Acknowledgements	Page 1
Recommendation Highlights - Summary	Page 2
Road Not Taken – Close Calls	Page 2
Section I. BACKGROUND	Page 3
Third ZORC	Page 3
Subcommittees	Page 3
Prior ZORC Experience	Page 3
Drafting and Quality Control	Page 3
Revised Texts	Page 4
Progress Completion	Page 4
Work in Progress	Page 4
Chair’s Report	Page 4
Section II. OBSERVATIONS, METHODS & GOALS	Page 4
Initial Impressions	Page 4
Prior ZORCs and Code Evolution	Page 4
BPZ Input	Page 5
ZORC Conclusions	Page 5
Jumping-Off Point	Page 5
Work Method	Page 5
Code Critique	Page 5
Look Outside	Page 6
ZORC Rapport	Page 6
Incrementalism	Page 6
Specific Issues; Specific Goals	Page 6
Bulk of Houses	Page 6
Neighborliness; Streetscape	Page 7
No Redevelopment Surprises	Page 7
Consistency with Comp Plan	Page 7
Public Confidence	Page 7
User-Friendly Presentation	Page 7
Sustainability – Green Initiatives	Page 7
Judgment Calls; Competing Principles; Finding Balance	Page 7
Ideas vs. Answers	Page 7

Delegation to Staff vs. Limits on Discretion	Page 8
Property Rights vs. Regulation	Page 8
Cautionary Note / Concerns about Effectiveness	Page 8
What is Most Effective?	Page 8
Reliability – Zoning as a tool	Page 8
SECTION III.            ZORC RCOMMENDATIONS	
– Summary of What and Why	Page 8
Article I.          Title, Intent, Purpose, Method and Fees	Page 8
Article II          Rules of Construction and Definitions	Page 9
Article III         General Provisions	Page 10
Article IV          Administration of the Zoning Ordinance	Page 11
Article V          Schedule of District, Use and Setback Regulations	Page 13
Article VI          Concurrency	Page 19
Article VII         Off-Street Parking and Loading	Page 19
Article VIII         Signs	Page 19
Article IX          Landscape Regulations	Page 20
Article X          Legislative	Page 20
Other Suggestions	Page 20
SECTION IV.          RECOMMENDED NEXT STEPS	Page 20
Roll-Out / Workshops	Page 20
Sustainability – Green Initiatives	Page 21
Standing ZORC or Successor	Page 21
Rationale	Page 21
Criteria	Page 21
Zoning In Progress	Page 22
Map and Follow The Road Not Taken	Page 22

VILLAGE OF KEY BISCAWAYNE  
ZONING ORDINANCE REVIEW COMMITTEE

Chair's Report and Summary of ZORC Recommendations

October 13, 2009

**OVERVIEW**

This document, referred to as the "Chair's Report", summarizes the work and recommendations of the 2007-2009 ZORC. The Chair's Report accompanies a draft of the Zoning Code itself. That draft, referred to as the "Draft Ordinance", sets forth the ZORC-proposed revisions to the Code, marked in color to show how the proposed changes differ from the existing Code. Comments of the ZORC, the BPZ Director or legal counsel are shown in "balloons" along the right side of the draft. The Chair's Report and Draft Ordinance together comprise the ZORC report to the Council and community. With this presentation, the ZORC's mission is completed.

- **Organization:** The Chair's Report is in four main parts following this overview:
  - I. Background
  - II. Observations, Methods & Goals
  - III. Recommended Changes
  - IV. Recommended Next Steps
  
- **Acknowledgements:** We acknowledge, with gratitude:
  - The support, guidance and assistance of Jud Kurlancheek, BPZ Director, and Chad Friedman, Esq., our liaison with the office of the Village Counsel. Their knowledge and collaboration were essential. We thank Bill Fehr as well for his support and help along the way.
  - The dedication and skill of Kelly Josephson of the *Islander News*, who attended every meeting, accurately reported on our work and contributed critically to our goal of communicating with the public.
  - The Council for its wisdom in establishing a ZORC. It was needed, and remains so. We thank the Council as well for the opportunity to serve our community.
  - Those in the community that have followed and expressed interest in our work. Many contributed ideas and criticisms for which we are grateful.
  - The individual members of this ZORC.

- **Recommendation Highlights:** Major ZORC recommendations are, in sum:
  - Renewed attempt to manage bulk and mass in Residential District, stopping short of full-blown architectural regulation, principally by:
    - Establishing Gross FAR, comprising everything that contributes to visual mass
    - Bringing front-entrance and driveway close to grade to moderate the sense of looming verticality and for better streetscape
  - Push houses forward for more privacy and better streetscape
  - Garages to the side yard on larger lots
  - HR District – a “salvage” effort to improve the site plan, protect Holiday Colony and induce a new hotel
  - Substantial HR District changes include FAR reduction by nearly 300,000 square feet, FAR and height zones resulting in low scale, low intensity development nearest Holiday Colony, and bonuses to achieve a hotel
  - C-1 Commercial District:
    - L’Esplanade and 240 Crandon: change from Office to a Commercial and Office mix, allowing for greater flexibility and mix of compatible uses
    - Attempt to catalyze entryway development by approving a small hotel with ground floor retail, as a permitted use for the entry block; subject to traffic management and design standards
  - Administrative and regulatory clean-up; clarifications regarding purpose, communications with the public, guidance on discretion and to aid interpretation, and refinement of district regulations
  - “Personalized” to Key Biscayne; less generic; better tailored to the casual, neighborly 2020 Vision “Village in the Village” ethos
  - Many grammatical edits; improved readability; consistency
  - Establishment of a ZORC-like standing committee to address long-term planning and zoning issues and to recommend changes in regulations to correspond to changing needs in the Village
- **Road Not Taken; Close-Calls:** Examples, in sum:

- Architectural Standards; Architectural Review Board
- Eliminate outright Multi-Family Residential in the HR District
- Thoughts and recommendations as to Comp Plan and zoning provisions governing redevelopment of the PUDs (Grand Bay, Ocean Club and Key Colony) if a major casualty loss or natural disaster occurs (study item)
- Other forms of coding (modified form-based; Best Practices)
- Redevelopment vs. demolish and rebuild. Owner economics and discretion vs. FEMA constraints -- policy of sustaining our population, helping parents stay and kids return

### **SECTION I BACKGROUND**

- **Third ZORC.** The current ZORC was established in December 2006. Members were appointed in January 2007, and have met in full committee approximately 50 times beginning that month and ending October 2, 2009. The members are:

Frank Caplan, Chair  
Deborah de Leon  
Willie Borroto  
Roberto de Cespedes  
Basha Hicks

Arturo Aballi, Vice Chair  
Mario Garcia-Serra  
Barry Goldmeir  
Jose Ortega  
Julie Alvarez

- **Subcommittees.** Various working subcommittees met separately on numerous occasions throughout the ZORC tenure. These covered, among other things, Definitions, Graphics and Presentation, FEMA and Renovations, FAR Bonuses, transferrable development rights (TDRs), HR – Density Bonuses, and Green Ordinance.
- **Prior ZORC Experience.** Three of the current members, Willie Borroto, Julie Alvarez and Deborah de Leon, were members of the two prior ZORCs. ZORC I's work ended in approximately 2000. ZORC II's work ended in approximately 2002. This ZORC's review therefore is the first comprehensive review in approximately five years.
  - We considered reflections from the Director and the prior ZORC members as to what they set out to accomplish and prior ZORC successes and disappointments.
  - Prior ZORC disappointments were a preoccupation of this ZORC.
- **Drafting & Quality Control.** The Draft Ordinance was prepared under the supervision of Mr. Friedman at the office of the Village's counsel. The drafting followed discussion points and decisions reached at our meetings, as recorded by Mr. Kurlancheek. Minutes were approved by the ZORC.

- **Revised Texts.** Substantive recommendations took the form of actual proposed text in a revised draft code. This in part was for efficiency and was also based on ZORC I and ZORC II experience of difficulty in assuring that decisions were translated as intended, without seeing actual revised text.
- **Progress Completion.** ZORC reviewed draft sections as they progressed and at first draft completion as time permitted. Often, time did not permit. While edits and sections were being typed and incorporated, the ZORC typically was discussing other topics. Opportunities to review previous work product were limited.
- **Work in Progress.**
  - Despite ongoing transcription of ZORC decisions into revised text, the Draft Ordinance was being assembled and edited even after the last full ZORC meeting on October 2, 2009.
  - We did not conduct a final substantive review or even proofread the entire Draft Ordinance. To assist ongoing review, the Chair noted a number of still-unresolved discussion topics, and questions or typos that arose in transcription. These are shown by comment “balloons” in the Draft Ordinance. Thus, the Draft Ordinance remains a “work in progress”. The FAR Bonuses and Gross FAR text especially requires substantial editing as of the preparation of this report.
- **Chair’s Report.** This report was prepared without the benefit of a blacklined Draft Ordinance, which was still in preparation during the weekend prior to submission to Council. ZORC and the Director reviewed a draft of the Chair’s Report on October 2, 2009. ZORC requested continuing review of this report and the Draft Ordinance by the Director, legal counsel and the Chair, and by delegated members if they continue, in order to catch and correct errors or material omissions, if there are any. If there are, they are inadvertent.

## **SECTION II** **OBSERVATIONS, METHODS & GOALS**

- **Initial Impressions**
  - **Prior ZORCs and Code Evolution**
    - 2 Prior ZORCs and some 15 amendments since ’95 adoption
    - Prior ZORC focus was similar to ours in RU, but...to what result?
    - Code amendments in ’00 and ’02 are positive
    - But, Code was never flyspecked top to bottom

- Our Code derived from the Miami-Dade Zoning Code; a dubious parentage, justifying a close read
- **BPZ input**
  - Code is basically easy to administer; it works
  - No perceived major deficiencies
  - New houses are disproportionately large on relatively small lots
  - No disconnects between Comp Plan and Zoning Code
  - Anticipated fresh look and clean-up -- no radical surgery
- **ZORC Conclusions**
  - Sense of dissatisfaction with building mass, design and proportionality of neighboring developments; and effects on the as-built character of the Residential districts, despite 2 ZORCs
  - Unhappiness with traffic congestion & loss of “The Way We Were”
  - Sonesta Aftermath:
    - Substantial Residential Density in HR?
    - No Hotel?
    - Skepticism about Our Code and Comp Plan – Sense that they failed us
    - Skepticism about our Process –
      - Contentious, More Heat than Light
      - Widespread dissatisfaction with result
    - Charter Amendment results portend lack of confidence
    - Need to restore confidence (Charter Amendment shackles process)
- **Jumping-Off Point**
  - The Code is good in substance
  - Complex and not so good in presentation
  - Overall could be better
  - Mixed results from prior ZORCS, which substantially reduced size of single family houses but did not address architectural standards or otherwise seek to moderate the appearance and effects of disproportionate mass
  - What can we do that prior ZORCs didn't? How can we improve?
  - Why doesn't zoning work more reliably?
- **Work Method**
  - **Code Critique** – Read critically, in detail
    - Deep Dive as distinct from cursory read or spot review -- a full critical review after 5 years, post-2020 Vision, post-Sonesta, post-Charter amendment, based on observed conditions and criticisms

- Look for internal consistency & clarity – obvious room for improvement
- Presentation: Generic vs. “Us”
- How well does our Code serve us? How could it be better?
  
- **Look Outside:** consider current and anticipated conditions
  - Explore the Island / look at what’s built
  - Analyze unattractive or controversial features - what makes them so?
  
- **ZORC Rapport**
  - Patience, effective debate, team-building for full exchange
  - Non-ideological approach
  - Draw on local experience
  - Think Listen, Learn:
    - What’s needed to advance our goals?
    - How best to regulate: minimize interference, cost and still be effective
  - Develop expertise; ***understand cause and effect***
  - Think Representatively:
    - Whose interests are affected?
    - Different Viewpoints.
    - What views are not at the table?
  - Seek Consensus
    - Consensus-seeking process more credible and assuring
    - Consensus product likely to be well-received
  
- **Incrementalism**
  - Work with Code as it is – avoid the “Bridge Too Far”
  - Seek effective results – decision-oriented
  - Analyze & brainstorm, but not to detriment of decisiveness
  - Don’t let radical change subvert mission
  - Focus on presentation and readability
  
- **Specific Issues; Specific Goals**
  - **Bulk of houses**
    - Effect of mass on privacy and streetscape aesthetics
      - Architecture & Design – “good” vs. “bad” vs. “who are we to say?”
    - Focus on why RU continues to be unsatisfactory

- **Neighborliness; Streetscape**
  - Interrelationships – house to house; house to street; district to district
  - Compatibility & proportionality
- **No Redevelopment Surprises**
  - Sonesta reactions
  - Look at every Lot in every district
  - What about PUD redevelopment?
  - Anticipate placement of future houses of worship
- **Consistency with Comp Plan**
  - No issues or concerns noted (except HR, entryway and district mixed-use recommendations)
  - But larger question: how well does our Comp Plan describe our goals and promote our desired built and natural environment?
  - 2020 Vision Statement
    - We all buy into the “Village in the Village” ethos (but we do not cite to it since it has no force of law)
- **Public Confidence**
  - Inherent cynicism; attention only when something adverse occurs
  - Shared values? – we think so
  - No end-runs by variances
  - Reliability, sensible delegation and discretion
  - Enforcement – make rules work as intended
- **User-friendly presentation**
  - Clarity; ease of understanding; internal consistency
  - Remove redundancies and wordiness
  - Graphics / Best Practices
- **Sustainability – Green Initiatives**
  - Green Building Ordinance
  - Best Practices (organic composting etc.)
- **Judgment Calls; Competing Principles; Finding Balance**
  - **Ideas vs. Answers**

- Not often a right or best answer
- Value judgments /competing principles are at issue throughout
- Judgment calls; Search for most effective, least offensive ideas
- Competing principles need to be reconciled, resulting in imperfect solutions
  
- **Delegation to Staff vs. Limits on Discretion**
  - Practical administration requires delegation
  - Effective delegation requires discretion
  - Control and standards mitigate concerns about mistake/abuse of discretion
  
- **Property Rights vs. Regulations**
  - Age-old question of balance
  - “Serve and Protect” vs. “Don’t Tread on Me”
  
- **Cautionary Note: Concerns about Effectiveness**
  - **What is most effective?**
    - Regulation of Use vs. Form
    - Regulation by Prescription vs. Inducement (bonuses)
  
  - **Reliability – Zoning as a tool**
    - If you want a particular result, prescribe it; mandate it
    - How reliable are inducements by bonuses?
    - Potential for manipulation
    - Reliable “cause and effect” requires clairvoyance
    - Enlightened thinking about “cause and effect” in zoning is a major asset
    - ZORC ambivalence about FAR Bonuses – inadvertent “McMansion Effect”

**SECTION III**  
**ZORC RECOMMENDATIONS –**  
**SUMMARY OF WHAT AND WHY**

**ARTICLE I**  
**TITLE, INTENT, PURPOSE, METHOD AND FEES**

**Goals Throughout:**

More consistent use of defined terms. Reduce wordiness and redundancies.

***Intents and Purposes – 30-2:***

Personalized to Key Biscayne. Added community character, ecological quality; refer specifically to Comp Plan “values”; interrelationship between natural and built environment; landscaping. More specific statement of purpose can assist in cases where interpretation is needed.

***Road Not Taken:*** Architectural standards, architectural review process

***Boundary Line Standards @ bay or canal in absence of a bulkhead – 30-3 (e) (4).***

Clarify standards in determining mean high water mark to establish waterfront lot line

**ARTICLE II  
RULES OF CONSTRUCTION AND DEFINITIONS**

***Goals Throughout:***

Less ponderous presentation. Less bloated with jargon, but still precise, clear, defensible, easily administered and enforceable to protect our interests and champion our goals.

There are 274 defined terms in Article I. We propose approximately 215 and question the need for a number of those that remain in the Draft Ordinance. We propose in some instances replacement definitions that we think do a better job of defining accurately and succinctly what they intend to define.

Sentence structure and proper English. Fewer dependent clauses.

***Proposals Throughout:***

- Eliminate defined terms not used
- Eliminate or consolidate multiple or confusing terms for same concept
- Eliminate definitions used only in common usage and not substantively
- Tailor defined terms to reflect substantive usage
- Fix inaccuracies and inconsistencies in terminology
- Put regulatory substance in the regulations sections
- Consolidate qualifications or exceptions within the definition or within the regulatory text, as appropriate
- Reduce wordiness and run-on examples
- Use defined terms consistently

## ARTICLE III GENERAL PROVISIONS

### ***Scope - 30-20.***

Include affirmative statement re: scope and purpose: “These Regulations shall govern the Development and Use of land and activities affecting the use of land within the Village.”

### ***Re-subdivision or Altered Use of Hotels – 30-23.***

Clarified text relative to hotel rooms as being distinct from multi-family dwelling units, regardless of existence or installation of cooking facilities.

Conversion from one use to another requires compliance with Use change provisions. Current text was vague on this point.

### ***Storage on Residential Properties 30-28.***

Example of property rights vs. regulation debate. We discussed aesthetics relative to PODs, trailers, etc. and opted in favor of owner discretion and convenience.

Recommend: Include provision for Director discretion and imposition of standards as needed to protect the neighborhood. Director is administering this presently, but authority is unclear.

### ***Non-Conforming Setbacks and Extension of Buildings – 30-29.***

Example of policy to encourage renovations. Clarified ability of owner to extend into setback to enlarge existing residence.

### ***Non-Conforming Structures and Uses. 30-30.***

Clean-up re: requirements for lawful non-conforming uses and structures. Sunset if abandoned for 6 months. Goal is to recognize legal status of non-conforming structures but to be strict in evolving into full compliance.

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

We impose a more defined standard on Director discretion in approving as permissible a Use not listed expressly as Permitted. No adverse effect, similar character and intensity in the vicinity and the district overall, and no increase in Density, Height, Floor Area or FAR.

### ***Development Permits – 30-34.***

We provide for notice to abutting owners.

***Additional Miami-Dade Regulations – 30-41***

Recommend eliminate residual incorporation by reference clause. Our Code is all ours.

***Floor Area and FAR – 30-42.***

Overall text clean-up. We added to Floor Area the space occupied by a generator (BPZ suggestion). As of writing of Chair's Report, editing is still needed to this section and correlative regulations at 30-100. Clean-up needed from transcription of ZORC minutes.

***Height – 30-44***

Single family and Two-family district – we refer to elevation measured to top of the roof, instead of highest tie-beam. Anecdotal feedback referred to this as an ambiguity and source of dispute.

**ARTICLE IV  
ADMINISTRATION OF THE ZONING ORDINANCE**

***Variance Procedures – 30-63***

**Prohibition: Use, Density, Height, Signage Variances.**

- Prohibition on signage variances is new.
- Strong ZORC consensus to prohibit sign variances. We are aware of 1 such variance and think it was a mistake.
- Recommend prohibition on height variances, except as needed for solar panels.

***Supervisory, Administrative and Regulatory Variances – 30-64 - 30-66.***

- “shall” changed to “may” in context of supervisory Variances.
- Suggest specific allowance for minor fence variances if agreed to by neighbors. Policy of convenience, flexibility, and cost-savings.
- Suggest consideration of limited height variance for sole purpose of affixing a solar panel. Policy of encouraging Green technology and practice.
- We question the purpose and effect of administrative variances and suggest limits on the applicability of administrative variances.
- Public notice requirement – we suggest expanding public notice requirements. Policy of transparency and public confidence.

- We propose better clarity that Council may impose conditions when granting variances, as necessary to further the purpose of the district or compatibility with other property. We found this provided in the area of conditional use permits, but not in the variance area.
- We suggest consolidating provisions dealing with procedures and appeals. They are scattered, presently

***Public hearing and notice requirements – 30-68.***

- We propose a firmer statement requiring notice to property owners of record located within 300 foot radius, or such greater distance as the Manager may prescribe. The current text implies that notice is a courtesy, not required, and that there is no consequence to failing to give notice.
- Policy of transparency and public confidence.

***Ex Parte Communications – 30-69***

***Road Not Taken.*** Tension between easy communication, idea exchange and effective brainstorming, and concerns about lobbying and disproportionate influence.

We recommend action on this, whether or not change results. Policy of transparency and public confidence.

***Administrative Building Moratoria. 30-73 etc.***

We suggested slightly broader scope to factors that might justify a moratorium, to include inquires into whether the district regulations need improvement in addition to whether districts themselves are appropriate. Sonesta is an example of this: At some point along the way, we might have frozen permitting and re-thought whether MF residential belongs in HR.

We suggested that public hearing be required if Council thinks to vacate an administrative moratorium or zoning in progress status. We thought it strange that the Manager could conceive of a situation so worrisome as to justify a moratorium and that Council could negate that precaution without a hearing. Policy of transparency and public confidence.

***Site Plan Review- 30-80***

Suggested tweaks to a section that seems to be well-conceived. Main point - an application should include a specific description of FAR bonuses that are included in the design. This is consistent with the current text as regards FAR bonuses. We think this makes the basis for bonuses more clear.

For tabular presentation, we add Lot Coverage and pervious area, and distinguish between Dwelling Units and Hotel Rooms.

As a design goal, we suggest re-thinking the site plan “value” of clustering buildings. A given site might be better served by building separation. Ocean-front development is an example.

We added stronger references to improving the tree canopy and fix what we viewed as a drafting glitch, by suggesting that open space be reviewed and approved by the Director in addition to the Village Attorney.

We added stronger references to pedestrian and bike accommodations and buffers.

## **ARTICLE V SCHEDULE OF DISTRICT, USE, AND SETBACK REGULATIONS**

### **Single Family and Two – Family – 30-100**

**Major ZORC focus:** to address the “bulk”, “privacy” and “streetscape” criticisms. We edited the FAR Bonuses and added a new concept for Gross FAR. The Gross FAR concept is a major step: A device to limit and diminish the appearance of mass while not affecting Floor Area.

#### **Goals:**

- Guide good design, reduce mass; encourage better proportionality; more variety in facades; detailing to minimize a monolithic appearance; step-backs for privacy; more openness
- Encourage push-forward toward street, for better uniformity on streetscape and larger private realm in rear
- Prescribe garage doors on the side on larger lots
- Address driveway grade for improved drainage and better relationship of house to street
- Look for ways to encourage renovation
- Emphasis on tree canopy, landscaping and enforcement

**Road Not Taken:** Or rather, Blind Alleys: Architectural standards; architectural review.

#### ***30-100 Changes – A Short-List of What and Why***

- We clarify starting or base FAR as distinct from maximum FAR, which is achieved through FAR Bonuses
- We tinker with the FAR Bonuses to get to maximum FAR

- We establish a new Gross FAR standard to define gross “building envelope” including everything that contributes visually to mass
- We added porch dimensions for FAR Bonus – visually better and more functional
- We changed Front and Rear Setback bonuses to push structure forward – better streetscape and larger private realm; better buffering for neighbors
- We increased bonus for garages not facing the street
- We added bonus for roof line variety. Encourages more than one plane for visual interest. Reaction to the monolithic block design and build.  
But, residual ZORC concern and Road Not Taken: beware of McMansion effect.
- We added bonuses for some architectural detailing – reveals and moldings.  
But, residual ZORC concern and Road Not Taken: McMansion effect.
- We added a maximum height qualification to better provide for limited habitable space above a second story. Encourages attic space planning.
- We added exterior Wall step-backs and better treatment for balconies and terraces. Visual interest, mitigate against the monolithic.  
But, residual ZORC concern and Road Not Taken: McMansion effect
- We added an “openness” design requirement at and above 22.5 feet. Less uninteresting, uninterrupted mass. Mitigate against the monolithic.  
But, residual ZORC concern and Road Not Taken: privacy and McMansion effect
- We specify architectural design projections at 22.5 feet. Encourage less uninteresting, uninterrupted mass. Mitigate against the monolithic.  
But, residual ZORC concern and Road Not Taken: privacy and McMansion effect
- We fix maximum elevation of the lowest finished floor and of main entrance at Base Flood Elevation.  
Improves height relative to grade and street, and consistency and proportionality among neighbors. Better visual and design conception at streetscape by making front entrance obvious as such.  
Unlike the McMansion concerns, this is widely seen at ZORC as a very good idea.
- We tweak allowances for roof ornaments and parapets
- We fix grade of a driveway at no more than 20% above the crown of the road.  
We think this has an important streetscape value.

- We simplify setback regulations, eliminating unneeded distinction between IR interior and waterfront
- We increase setbacks on larger lots – better separation, better privacy, more pervious space
- We allow 1 story additions to follow existing Wall line. 2 story additions are subject to the height step-backs we've recommended.  
Encourage renovation
- Boat and trailer storage perpendicular to street. Nose-on view.  
Better curb appeal.  
Road Not Taken: more restrictions on storage in yards

***The Paradox:***

- A lot of architectural specs despite reluctance to specify architecture.
- Architecture standards - an early and intense discussion that was never revisited. It should be.
- Reaction to Coral Gables: good and bad. For Key Biscayne, its not a question of Coral Gables ARB or nothing. There are maps for this Road Not Taken.

***Effectiveness Concerns:***

- Its easier to criticize what you don't like than it is to define what you like – a difference between creation and kvetching.
- This gets into subjectivity; which we are loathe to do ... at a point.
- As stated above, if you want a desired result, require it. Inducements by bonuses are uncertain. But, competing principles, politics and deference to subjectivity impose restraints.

***Docks***

Covered separately

***Fences and Walls***

- ZORC favors fencing and hedges for curb appeal, better articulation of private vs. public realm, with privacy but not complete visual barricade
- New. Maximum height at 4 feet. Fences 75% open. Streetscape value.
- Somewhat inconsistent treatment re: hedge height. Enforcement argument.

***Front Yard Sculptures and Structures***

- New. Response to anecdotal comments. 5 feet above grade. 10 foot area

***Garages***

New section requiring siting off the street for larger lots.

Goal: Improve front elevations and impart streetscape value.

***Railings and Balconies***

New:

- 50% open
- 4 foot minimum balcony dimension – imparts functionality and improves appearance

***Cabanas***

Goal: Eliminate disguised residence. Not to exceed 300 feet and no 220 volt service. No air conditioning. Reduces dependency on difficult enforcement.

***Generators***

- New. Staff Directed.

***Ambient Light.***

- New. Light sources must be directed so light remains within property boundaries.

***Pool Pumps.***

- New. We recommend a study on acoustical screening.

***Helipad / Aircraft.***

- New. We recommend proscribing helipads and private, non-military, non-emergency aircraft operations within specified areas. Discussion led to recommendation to study float-plane use.

***Commercial - 30-101***

Include in purposes regulation of Development and Uses within the district.

Include Office as Main Permitted Use sub-set of Commercial. Limited Mixed-Use

For L'Esplanade and 240 Crandon, allow Commercial and Office mix as main permitted use. Abrogate restrictive covenants at L'Esplanade.

Entry way proposal: boutique hotel, subject to traffic management plan and architectural standards as to be determined. To facilitate this, recommendations include retaining Lot Coverage and footprint, increasing FAR from .5 to 1.0, and increasing height from 35 to 50 feet. Projected result: a 100 room (+/-) hotel, with retail and accessory uses at ground level; buffered from the surrounding area by Calusa Park and Harbor Plaza

**Governmental – 30-102** – no change

**HR – 30-103**

**Notes on HR and Goals:**

- Consensus on need for hotel and for better site plan
- Consensus on need to better protect Holiday Colony
- Attempt to guide consolidated project at Sonesta and Silver Sands and/or low intensity improvements, including 2<sup>nd</sup> story, at Silver Sands
- Economic Straightjacket: We're immobilized on eliminating residential use altogether because of proposition that residential density must be allowed to subsidize a hotel. Study question.
- Pros and cons debate:
  - Does a hotel support the commercial sector?
  - What is the likelihood that a residential project will be an underused 2nd home community?
  - What is the likelihood that a largely primary-use residential project will evolve regardless of whether the initial use is as a second-home community?
  - Which use is less intense: residential or hotel?
  - Which use is better for Key Biscayne overall?

**HR Recommendations:**

- o Establish Height Zones at 120 foot intervals. Zones 1 – 5. Step-down in height eastward toward Holiday Colony.

- Zone 1 adjacent to Holiday Colony at same height and limited to single family, townhouse or Hotel bungalows.
- Zones 2 – 4:
  - MF, Hotel or Both.
  - Plan A. Reduce Residential density from 16 to 12 if no Hotel. Hotel stays at 30.
  - Plan B. Mixed-Use Bonus Plan. Beginning Density @ 60 for Residential and 150 for Hotel, with density bonus apportioned among each use
  - FAR spread within Zones 2-4
- Bonuses keyed to material “wants”. Examples:
  - Dedication of public park in Zone 1
  - Dedications of park space within Village, especially:
    - Contiguous lots
    - Lots adjacent to GU
    - Bay front lots
  - Building separation
  - LEEDs certification
  - Streetscape improvements
  - Affordable Housing
  - Unified Site Plan
- FAR reduced approximately by 1/3
- 4 story height allowance in Zone 2 to spread densities for better site plan - insignificant height difference, visually.

***Institutional. 30-104***

Include “regulate Development and Uses”.  
Include historical and cultural Uses.

***MF District – 30-105***

- “Include “regulate Development and Uses.
- Suggest consideration of Grand Bay, Key Colony and Ocean Club redevelopment.
  - Comp Plan: density / intensity equivalence on development

- Question this -- Goal of No surprises. Recommend make clear applicable standards upon re-development
- District uniformity in height at MF-16.

**Office - 30-106**

- Include “regulate Development and Uses”.
- Include Commercial / retail as Main Permitted Use along with Office.

**Other:**

**30-113.** Clarification re Prohibited Uses. If not identified as Permitted, then, prohibited.

**30-114.** Lawful Non-conforming uses. Moved.

**ARTICLE VI  
CONCURRENCY**

**30-161.** Application. Provide that permit application includes a compliance statement from the Developer.

**30-163.** Refer to Comp Plan for LOS standards.

**ARTICLE VII  
OFF-STREET PARKING AND LOADING**

No changes

**ARTICLE VIII  
SIGNS**

Recommend that logos be permitted as a “secondary” sign in an area up to 144 square inches, but prohibited as a main permitted sign.

Recommend that monument signs be prohibited.

As noted in Article III, recommend no sign variances.

Recommend further look at need for numerous definitions.

**ARTICLE IX  
LANDSCAPE REGULATIONS**

- 30-230** Strengthen purpose by referring to enforcement; invasives by reference to Exotic Pest Plan Council; and growth potential and propensity to damage infrastructure
- 30-232** Broaden requirements of landscape plans, including methods to protect landscaping during construction
- 30-233** Protection of Specimen Trees. Stronger requirement of sidewalk shade
- 30-234** Irrigation exceptions for drought-tolerant xeriscaping
- 30-236** Protection of root ball during construction
- 30-238** Minimum Standards. Minimum canopy, 40% palm tree limitation emphasizes shade trees, plus minimum height, minimum standards in single family and duplex districts
- 30-239** Hat racking Prohibited. Refer to National Arborist Association standards. ZORC discussion: special permit; certification?

**ARTICLE X  
LEGISLATIVE**

No changes

***Other Suggestions***

- Fonts and Formatting
- Graphics
- Other coding methods

***SECTION IV  
RECOMMENDED NEXT STEPS***

- ***Roll-Out / Workshops***
  - Critical review by BPZ and Council
  - Final edits
  - Introduction to the Community
    - Explain What and Why

- Explain Why its Better
- Feedback
- Review vs. Redo?
  
- ***Sustainability – Green Initiatives***
  - Green Building Ordinance – Draft submitted
  - Basha Hicks Draft based on ZORC meetings and attendance at Miami-Dade County Model Green Ordinance Workshop
  - Look at Best Practices
    - Separate pick-up and composting for gardening and organic waste
    - conservation efforts, water management, cistern use, alternative energy generation measures, etc.
  - Look at LEEDs standards and bonuses
  - Look at TDRs
  - Recommend Mixed-Use - Entrance Block and C, O Districts (but no residential absent TDR)
  
- ***Standing ZORC or Successor***

***Rationale:***

- Finish this work. Facilitate education and review process
- Retain and leverage hard-earned technical expertise and understanding of **Cause and Effect** – This is a major advantage
- Advise, assist the Manager relative to his review functions and the Council
- Think Thank benefits –
  - Comp Plan and Zoning assessments
  - FAR Bonuses / ARB
- Divert political steam so topics and projects can be assessed and the Code administered dispassionately, and to help with transparency and public confidence
- Trend in Florida
- Empanelled and knowledgeable pessimists: better chance at catching problems

***Criteria:***

- Professional background, while relevant, is a misleading indicator
- Knowledge of the Community
- Dedication to Public Service
- Technical expertise, but more...
  - Understand zoning tools and cause and effect
  - This is not a given in an architect, developer, real estate professional or lawyer – It can be and must be learned

- ***Consider Zoning In Progress***
- ***Map and Follow The Road Not Taken:***
  - Other code-writing techniques – more effective LDRs
  - Modified Form-Based Coding
  - Deemphasize Text and Tables - Extensive Graphics
  - Population sustainability – affordability
  - ARB – How to do it without Big Brother?

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**ZORC RECOMMENDED CHANGES<sup>1</sup>**

**ARTICLE I:  
TITLE, INTENT, PURPOSE, METHOD AND FEES**

**Sec. 30-1. Title.**

(a) ~~These Regulations shall be known and cited as~~ This Chapter 30 is entitled the "Zoning and Land Development Regulations of the Village of Key Biscayne, Florida." The Regulations in this Chapter may be referred to as the "Regulations", the "Zoning Code", the "Code", or this "Chapter".

(b) ~~The provisions, requirements and limitations set forth herein may be known and cited as the "Regulatory Controls."~~

**Comment [FHC1]:** consistent use of defined terms - avoid multiple references to same term - simplify text

**Sec. 30-2. Intent and ~~purpose.~~ Purposes.**

~~The purpose of these~~ These Regulations is ~~are adopted and will be enforced~~ to promote the health, safety, order, convenience, comfort, and general welfare of the public ~~by regulating the Density of Development; the Use of Land; and to promote and preserve the character and ecological quality of the Village as articulated in the Comprehensive Plan, and a healthy and sustainable interrelationship between the built and natural environments by regulating in accordance with this Chapter, among other things, the Use and development of Land, Density, the size and configuration of Buildings for Dwellings, trade, industry and other purposes; the Density of population; and Structures, landscaping, the size of Yards and other open spaces, the relationship of developments and the natural environment and of proximate developments within and among zoning districts.~~

**Comment [FHC2]:** More personalized to Key Biscayne. Stronger statement of purpose helps where interpretation is needed. Added: character / ecological quality; refer specifically to Comp Plan "values"; interrelationship between natural and built environment; landscaping. Road Not Taken: Architectural Standards. Ongoing ZORC topic.

**Sec. 30-3. Method; Zoning Districts.**

(a) *Listing of zoning districts.* ~~The Village shall be divided into zoning districts of such number, shape and area as may be deemed~~ the Village Council deems best suited to ~~carry out~~ fulfill the ~~purpose~~ purposes of these Regulations. Such districts shall be represented on the Official Zoning Map ~~adopted, and from time to time amended, by the Village Council.~~ The table below explains the symbols used for each designation: district:

**Comment [FHC3]:** Re-title to reflect establishment of districts

TABLE INSET:

<i>Single Family Districts</i>	<i>Specialized Use Districts</i>

<sup>1</sup> Coding: Red strikethrough denotes deletions, Blue underline denotes additions, and Green underline or strikethrough denotes provisions moved to other sections.

IR - Island Residential	PC - Private Club
VE - Village Estate	GU - Government Use
VR - Village Residential	PROS - Public Recreation and Open Space
	PUD-1 - Ocean Club
	PUD-2 - Grand Bay
	PUD-3 - Key Colony
<i>Single Family and Two-Family District(s)</i>	<i>Office District</i>
PS - Parkside Residential	O-1 - Low Intensity Office
<i>Multiple Family Districts</i>	<i>Commercial Districts</i>
RM-10 - Low Density Multiple Family	C-1 - Low Intensity Commercial
RM-16 - Medium Density Multiple Family	
RM-30 - High Density Multiple Family	
<i>Hotel Districts</i>	<i>Other Districts</i>
HR - Hotel Resort	I - Institutional

**Comment [FHC4]:** HR designation is meaningless if a hotel doesn't result in the district

Note:

~~(b)~~ District Regulations may be found. Regulations particular to the respective zoning districts are set forth in Article V.(b) Zoning district designation of this Chapter.

**Comment [FHC5]:** New subsection for ordering consistency and readability

~~(c)~~ Zoning district designation of government -owned property. All government owned or ground leased properties shall be deemed zoned GU; (Governmental Use, although they may not be so), regardless of whether such properties are designated as GU on the Official Zoning Map.

~~(e)~~ (d) Repository of the Official Zoning Map. The Official Zoning Map shall be on file and available to the public in the Building, Zoning, and Planning Department.

~~(de)~~ Interpretation of district boundaries.

~~(1)~~ (1) The respective zoning districts are indicated by colored areas demarked by boundary lines on the Official Zoning Map, and identified by the district name or letter-number symbols used in Section 30-3. A district name or symbol shown on the Official Zoning Map indicates that the Regulations pertaining to the district designated by that name or letter-number combination that district extend throughout the whole area in the municipality bounded by the district boundary lines within which such name or symbol is shown or indicatedentire district, except as otherwise

provided by this section.

- (2) In cases where a boundary line is given a position within a Street or alley, Easement, canal, navigable or non-navigable Waterway, ~~it other Right-of-Way, the boundary line shall be deemed to be in the center of the Right-of-Way of the affected~~ Street, alley, Easement, or Waterway ~~Right-of-Way~~.
- (3) If a site is crossed by a zoning district boundary and thus lies in more than one district, the district boundary shall be treated as if it were a Lot line separating the two separately zoned parcels.
- (4) The boundary line for properties having a Lot line adjacent to the bay or a canal is the bulkhead. If a bulkhead does not exist, the property line shall be as shown on a survey that is signed and sealed by a registered surveyor in the State of Florida.
- (5) The boundary line adjacent to the Atlantic Ocean is the erosion control line as determined in accordance with Florida Statutes.

**Comment [FHC6]:** street, alley, easement, canal etc. all defined under rubric "Right of Way".  
Reduce wordiness

**Comment [FHC7]:** Suggest add: "If a bulkhead does not exist, the property line adjacent to the water shall be the mean high water mark as confirmed by DERM standards and as depicted on a survey ..."

#### Sec. 30-4. Zoning and planning application fees.

The Village Council is hereby authorized to impose fees for the filing and processing of zoning and planning applications, including applications for Development Permits, Variances, rezonings, comprehensive plan amendments, appeals of administrative interpretations and other zoning or planning related services provided by the Village Building, Zoning and Planning Department. Such fees shall be set and may be amended from time to time by resolution of the Village Council following a public hearing.

**Comment [FHC8]:** Added "Development Permits". Most encompassing defined term

**ARTICLE II:  
RULES OF CONSTRUCTION AND DEFINITIONS**

**Sec. 30-10. General rules of construction.** ~~(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:**

**Comment [FHC9]:** Instead of "Regulations of this Code". Example of simple text clean-up

(~~b~~a) The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.

(~~e~~b) Words used in the present tense include the past and future tenses, and words used in the future tense include the present tense.

(~~c~~) Words of either gender shall be deemed and construed to include correlative words of the other gender.

(~~d~~) The word "words "shall" is", "must" or "will" are mandatory, the, The word "may" is permissive and connotes discretion.

(~~e~~) The word "Building" or "Structure" includes any part thereof, and the word "Building" includes the word "Structure."

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

**Comment [FHC10]:** moved to definitions: former (f) "Building/Structure"; former (h) "land/lot"; and (j) "Required Yards"

(~~f~~) The word "Lot" includes the word "Plot" or "parcel" or "tract" or "site." (~~g~~) The words "used" or "Used" or "Occupied" include the words "actually" Used or Occupied and/or "intended", " " "designed" or " ", "arranged", or "required" to be used "Used or Occupied, unless the context clearly indicates the contrary.

**Comment [FHC11]:** Counsel recommended moving to definitions. FC- left as is. No sensible location within definitions. Helpful clarification and device to reduce wordiness

(~~h~~) The words "Required Yards" or "minimum Required Yards" and "minimum Yards" includes the word "Setback."

(~~i~~g) When this Code refers to the Charter, other ordinances, codes or statutes, unless otherwise stated the reference shall imply to the most up-to-date ordinance, code Charter provisions, ordinances, codes or statutes, as amended and in effect from time to time.

(~~j~~h) Words and terms not expressly defined herein this Code shall be interpreted in accordance with their normal first usage Webster's dictionary meaning and customary usagemeanings.

**Comment [FHC12]:** Moved former (m) & (n) - uses; and (o) manager / delegation

(~~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.~~

~~(n) When this ordinance refers to a "Director," the referral shall automatically include the Director's "designee" unless specifically otherwise stated.~~

~~(o) Words of any gender shall be deemed and construed to include correlative words of the other gender.~~

~~(p) i) 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.~~

~~(Ord. No. 2000-5, § 2, 5-9-00)~~

(j) 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.

**Comment [FHC13]:** response to Charter amendment

(k) 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 when computing the time, but the day on which such proceeding is to occur or such result is to be obtained shall be counted.

**Comment [FHC14]:** Counsel recommended deleting section (r)- regulated by F.S. 166.041. FC- left as is - one-source on interpretation preferred to "silent" reference to other sources

**Sec. 30-11. Definitions.**

~~[As used in this chapter these 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 these Regulations, the 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 from the property subject to review under these Regulations such Lot.~~

**Comment [FHC15]:** "or Waterway" deleted. FC- agree, but suggest use of "Right of Way" to eliminate run-on examples

~~**Access.** The principal means of ingress and egress to a Lot from a publicly dedicated Right-of-Way.~~

~~**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. any road or Right-of-Way.~~

**Comment [FHC16]:** Access needed? Is sense of defined term limited to "principal" means of ingress/egress?

**Accessory Building or Structure.** A subordinate Building or Structure on the same Plot with, or a part of, the main Building, which is Occupied by, or devoted to, used for an Accessory Use.

**Comment [FHC17]:** Accessory Building or Structure needed?

\*\*\*

**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 code. "Operated Code. 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 not depend upon actual profit or loss. An Establishment which has an Local Business Tax Receipt or an Establishment which advertises itself as a type of Adult Entertainment Establishment shall be presumed to be "operated for commercial or pecuniary gain".

**Comment [FHC18]:** Counsel recommended keeping original text and making no changes. FC -- left as is, as ZORC preferred revised language if regulatory need ever arises. Question need of this as defined term.

**Alterations.** Any change requiring a building permit in size, shape or character of construction of a Building[, ] Structure, or Sign, or Sign, or in landscaping, or in grading of a Lot. The definition includes the term "remodeling".

\*\*\*

**Antique.** ~~An A 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~~ particular period of history.

**Comment [FHC19]:** Antique needed?

**Apartment Building.** A Building with or without resident supervision ~~Occupied or intended to be Occupied by more than two families living separately with~~ featuring three or more Dwelling Units, where each Unit has separate cooking and sleeping facilities in each Unit.

\*\*\*

**Architectural Features.** Design elements of a Building or Structure.

**Comment [FHC20]:** Architectural features needed? Road Not Taken

**Architectural Style.** The characteristic form and detail of Buildings and Structures, representing a particular historical period or architecturally recognized mode of design.

**Comment [FHC21]:** Architectural Style needed? Road Not Taken

**Attic Space.** An unfinished, non-habitable space directly under a roof.

**Comment [FHC22]:** Eliminate non-habitable? See Art. V re 3rd story habitable space. Check consistency & clarity .

**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 Simple automotive or other motor vehicle maintenance and repair, including motor tune-up and repair, upholstery, tire repair and replacement and muffler installation, but not including any operations listed under Automobile Repair, Major, or any other operation similar thereto replacement and repair, muffler replacement, and similar ordinary and customary work.

*Automatic or Coin Operated Service Trade Machine.* Any machine or device other than an amusement device, Vending Machine, or juke box, such as a laundry washing machine or drying machine and direct access to the outside or to a common hall.

\*\*\*

*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 Concurrence Determinations).

**Comment [FHC23]:** Needed? This relates only to concurrence. We can deal with this in the concurrence Article.

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

*Awning.* ~~Hood~~ A 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.* ~~A~~ An unenclosed platform that projects from the ~~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.~~

*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.

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*Bay Window.* A projection of windows extending beyond a Wall, cantilevered above finished grade.

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

**Comment [FHC24]:** Cf. "Lodging House"; "Rooming House". "Boarding house" eliminated. "With or without meals as part of room rate" is not a critical distinguishing point relative to use

**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 ~~en~~**conducted at** the Premises where ~~it~~**the Sign** is located, or ~~which Sign~~ is located ~~on~~**at a site** remote site from ~~the location of the service or site referred to by~~**in** 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 Waterway or other Right of Way, park,~~ other public space, or combination thereof.

**\*\*\***

**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, Gazebos or Cabanas and screened enclosures. 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.~~

**Comment [FHC25]:** 30-10 qualifier moved to definitions.

**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, and Miami-Dade County and the State of Florida.

**Comment [FHC26]:** Consider defining building envelope, to make FAR more comprehensible

**Building Height.** See Section 30-44 (Building Height Calculation).

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

**Building, Zoning, and Planning Director (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 not be air conditioned and which may or may not have kitchenette or sanitary facilities.

**Comment [FHC27]:** ZORC open item -- extent of kitchenette / sanitary facilities

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

**Café, Sidewalk.** A Use An Outdoor Café featuring tables and chairs, that may be shaded by Canopies, Awnings or umbrellas, located in the 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 in whole or in part self-supporting, with open sides, that provides shade or weather protection.

**Carport.** A roofed Structure which that is completely open, on at least two sides except for supporting columns (may include kneewall, kneewalls with a maximum height 2.5 feet above grade), on two sides and that is 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 motor 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.

**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.

\*\*\*

**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 wherein and/or beverages, and music and/or dancing entertainment, floor shows or other forms of entertainment are provided.

Commercial Uses. Any activity where there is an Use. A Use 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 Retail, service, entertainment, eating and drinking facilities establishments, theaters and similar Uses establishments.

Communication Tower, Cellular. 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 Accessory Building used to house necessary (and any adjacent Accessory Structure) used to house 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 having 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 licensed and/or monitored by the State A Building or portion thereof licensed to serve Residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families (or any successor agency) to provide a Family living environment (Family Services, or a Building or portion thereof licensed by the Agency for Health Care Administration which provides a living environment for between seven and fourteen unrelated Residents who operate as the functional equivalent of a family, 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). by supportive staff. Buildings or portions thereof serving six or fewer Residents in the same or substantially similar manner as expressed above and which otherwise meet the definition of a Community Residential Home shall be treated as a single-family residential Use.

**Comment [FHC28]:** Community Residential Facility is used often. Took counsel advise changing usage to Community Residential Home)

Community Home Resident (or Resident). Any of the following: a frail elder as defined in Florida Statutes § 429.65; a physically disabled or handicapped person as defined in Florida Statutes § 760.22(7)(a); a developmentally disabled person as defined in Florida Statutes § 393.063; a nondangerous mentally ill person as defined in Florida Statutes § 394.455(18); or a child who is found to be dependent as defined in Florida Statutes § 39.01 or § 984.03, or a child in need of services as defined in Florida Statutes § 984.03 or § 985.03.

**Comment [FHC29]:** Took counsel advise adding statutory definition consistent with Community Residential Homes

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Comprehensive Plan. The adopted Key Biscayne Comprehensive Plan, as amended.

**Concurrency.** The requirement under applicable State law administered by the 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 Council as to whether required Concurrency standards are satisfied for all facilities and services needed to support Development will be Available concurrent, both generally from time to time and concurrently with the impacts of such proposed new Development.

\*\*\*

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

**Comment [FHC30]:** Is this used consistently in the regs? Note uses of "kitchenette" in "Cabana" and allowances for limited facilities in hotel rooms

**Copy.** The wording on a Sign surface, either in permanent or removable letter form, including trademark/trademarked or non-trademarked art, emblems or reproductions.

\*\*\*

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

**Covenant.** A written agreement executed by and between a property owner and the Village, and recorded in the public records of Miami-Dade County, Florida, pursuant to which the owner agrees to certain conditions, restrictions and/or limitations on the Use, maintenance or sale of property, which shall run with the land and be binding upon the owner, and successors and assigns.

**Day Care Facility.** A place supplementing parental care by providing for the care, enrichment, protection and health and other supervision of more than five children unrelated to the operator, on a regular basis, for a period of less than twenty-four hours per day, for which a payment, fee or grant is made. This definition includes the terms "Day Nursery" and "Nursery School".

**Comment [FHC31]:** counsel recommendation

**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 or conveyance 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 or hotel rooms within a standard measure of land area, which shall be expressed as a number of units per acre unless otherwise specified in these Regulations.

\*\*\*

**Department.** The Village of Key Biscayne Building, Zoning and Planning Department.

**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, 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 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.

**Development.** As defined in Section 380.04, Florida Statutes, as amended, 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 Council or the electors having the effect of permitting the any Development of land.

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**Drive-In/Drive-Thru Establishment.** Any place or premises that by design or service methodology, encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

**Duplex or Two-Family Residence.** Two (2) Dwelling Units within a single detached Building, each of which Dwelling Units provide a residence for a single Housekeeping Unit.

**Dwelling or Dwelling Unit.** A Structure or portion thereof used for human habitation.

**Comment [FHC32]:** Note: this doesn't include hotel room., which is now defined separately. Need to tailor "Residential Use"

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

\*\*\*

**Elevated.** The characteristic of a Structure situated entirely at or above BFE.

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

**Enforcing Official-Officer.** The Village Manager, the Director, or 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.

\*\*\*

**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~~ street, the Established Grade shall be the average elevation of the sidewalks abutting such building site, or if there are ~~not~~ no sidewalks, the average elevation of the crown of the ~~road on~~ roads or Streets abutting such building site.

**Family (or Housekeeping Unit).** Any number of individuals living together as a single housekeeping unit and cooking on the Premises, as distinguished from any number of individuals occupying a Lodging House or Hotel.

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

\*\*\*

**Floor Area.** See Section 30-42.

**Floor Area, Gross (Gross Floor Area).** See Section 30-42.

**Floor Area Ratio.** The total Floor Area of a Building or Buildings on a building site divided by the area of the site. See Section 30-42.

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

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

\*\*\*

**Gazebo.** ~~A detached roofed trellised covered Structure open on at least three sides. A detached roofed or trellis-covered Structure. This definition includes the terms "Chickee Hut" and "Palapa".~~

**Comment [FHC33]:** Caplan: The definitions of Floor Area, FAR, etc probably should in the definitions section instead of 30-42. These terms and the table at 30-100 need careful review and clean-up.

**Comment [FHC34]:** Add "Accessory Use", similar to Cabana?

**Function.** The Uses allowed on property according to these Regulations.

**Comment [FHC35]:** Is "function" needed? Out of order, alphabetically

**Grade, Elevated.** A series of Elevations along a horizontal constructed or natural surface.

**Comment [FHC36]:** Not sure if Grade – Elevated and Non-Elevated came out as intended

**Grade, Non-Elevated Building.** Equal to the Base Flood. ~~An Elevation.~~ **Grade, Non-elevated Building.** Equal equal to the crown of the adjacent road.

**Hazardous Substances/Waste.** Any substance ~~or~~ of 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.~~

\*\*\*

**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.

**Comment [FHC37]:** Is "Home" the proper term? "Residence"? "Dwelling"

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

- (1) A Hotel Room (meaning a sleeping room within a Hotel);
- (2) A living or sleeping room within a Dwelling used as a Hotel, having a separate entrance from outside the Dwelling other than the principal entrance of Building in which the Dwelling is located; and
- (3) A living or sleeping room within a Dwelling Unit ~~of~~ in a Multiple Family Dwelling, having a separate entrance from outside the Dwelling Unit.

**Comment [FHC38]:** Note the multiple types. For HR, do we want to specify (1), as opposed to (2) or (3)?

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

**Linear Foot Frontage.** A distance of one foot of a Main Street Frontage.

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

**Level of Service (LOS).** An indicator of the extent or degree of service capacity 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 existing and future Development.

**Local Business Tax Receipt.** A receipt issued by the Village as a prerequisite to the maintaining and conducting of a business, service or profession.

**Local Business Tax Receipt (Restricted).** Any Local Business Tax Receipt issued to a Person engaged in any business or profession whose place of business is his residence.

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

**Comment [FHC39]:** Collapse with B&B?

**Loft.** An upper room or floor.

**Comment [FHC40]:** This definition should be reviewed in light of usage and different types of Loft meanings

**Lot.** A parcel or tract of land designated and identified as a single Unit of areabuilding site, 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”, “property”, “land”, “tract” or “parcel and” as well as land described by metes and bounds; and all such terms are synonymous and may be used interchangeably. The words “Lot” or “land” shall include surface water upon the land and land under water.

**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 other Waterway.

~~**Lot Coverage.** 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. The percentage of Lot Area occupied by Structures.~~

**Comment [FHC41]:** The December draft put lot coverage definition and calculation within its own code section. Caplan – not sure this works. Re-think

**Lot, Interior.** All Lots other than Waterfront Lots ~~Any Lot that is not a Corner Lot.~~

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

**Lot Line, Front.** The line dividing a Lot from a Street. 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, 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).

Comment [FHC42]: "(reversed corner)" deleted.  
FC: What is "this situation?" Can't we simplify this?

**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, 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.

**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 or an automatic or coin-operated service machine such as a laundry washing machine or drying machine,~~ that, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for ~~Use~~ use as a game, entertainment or amusement, whether or not registering a score; including ~~but not limited to such devices such as marble machines, mechanical grab machines, indoor shuffle boards, pinball machines, skill ball, shuffle alleys, mechanical grab machines, electronic game machines or movie machines.~~

Comment [FHC43]: Needed?

**Mixed Use.** Multiple Uses within the same Building or in multiple Buildings on the same site.

**Motel.** A one-story or two-story Building, or part thereof, in which sleeping rooms and/or living accommodations, with or without Cooking Facilities, 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.

Comment [FHC44]: 1 or 2 story to jibe with HR bonuses

N/A. Not applicable.

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

Comment [FHC45]: Needed?

**Nonconforming Building or Structure.** A Building or other Structure which lawfully existed prior to the adoption, revision or amendment of ~~this ordinance~~ these 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~~ these 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.

\*\*\*

**Occupied.**—Includes Utilized; not abandoned or temporarily vacant. The definition includes arranged, designed, built, altered, converted, rented or leased to be Occupied.

**Office Building.** A Structure designed to provide office space and space for ~~Professional Offices and~~ 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:~~ uses for medicine, law, accounting, real estate, insurance, architecture, engineering, ~~stockbroker~~ stock trading and investments, banking and financial services, and private investigator services (excluding bail bonds).

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

\*\*\*

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

**Comment [FHC46]:** Does this definition have value? - HR bonus application; function of Bld. Separation; Site plan value generally?

**Package store-Store.** A vendor establishment licensed to sell all alcoholic beverages, in sealed containers only, for consumption off the premises.

**Parapet.** That portion of a Wall which that 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 recreation or as Open Space.

**Parking.** The temporary, transient storage of private passenger automobiles used for personal transportation, while their operators are engaged in other activities motor vehicles. 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.

\*\*\*

**Patio. See Terrace.**

**Comment [FHC47]:** This said "see Deck". A patio is not a deck. Terrace at grade?

**Person.** Includes a natural person, association, or legal entity, including a partnership, corporation, 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, including hair salons, laundry and dry cleaning services (drop off only), pet grooming salons services, shoe repair, diaper service, alterations, tailoring and alterations, jewelry repair, carpet and upholstery cleaning, photographic studios, funeral services, steam baths, reducing fitness salons, and health clubs, and clothing rental establishments.

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

**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 record in the office of the Clerk of the Circuit Court of Miami-Dade County.

\*\*\*

~~*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).~~

~~*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.~~

~~*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.~~

\*\*\*

~~*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.~~

\*\*\*

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

~~*Porch.* An unairconditioned An un-airconditioned, open air, roofed Structure attached to a residence Building at an entry to the Building, 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. The definition includes the terms “Lanai”, “Loggia” and “Portico”.~~

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

\*\*\*

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

~~*Psychic Help Uses*Use. Establishments primarily engaged in providing advice or counseling to Persons based on readings of objects and/or extrasensory perceptions for either for guidance or entertainment. ~~Including but not limited to,~~ including 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~~Permitted Use.~~

Comment [FHC48]: Needed?

**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~~provides 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.

**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.

~~\*\*\*~~

**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 including a Street or alley, an Easement, or a canal or other navigable or non-navigable Waterway.

**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 Dish 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~~erected of metal ~~which framing and overhead supports are only~~ wood covered only with insect screening of metal, fiberglass or other approved insect screening. ~~The material, whose~~ framing and overhead supports of such Screened Enclosure shall bear solely for the purpose of supporting such screening.

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

**Setback.** The minimum horizontal distance within a Lot 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).~~ lines and the points at which a Structure may be located on the Lot.

**Shed.** A detached enclosed Structure used for storage.

**Shopping Center.** A group (grouping of two or more) of Retail stores, service establishments or any other business, planned to serve businesses serving 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 and 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, device which advertises, identifies or conveys information, with the exception of the flags of the United States, the State of Florida, and the Village. For the purpose of removal, Signs shall also include all Sign Structures.

**Comment [FHC49]:** 34 sub-species? Prohibited signs at 30-191 include at least 6 that aren't defined. Follow up.

**Sign, Advertising.** ~~Any form of A~~ 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 ~~that~~ includes action or motion of any part by any means, including wind power.

\*\*\*

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

**Sign, Banner (Including Pennant, Streamer).** ~~Any A~~ Sign that is intended to be hung, either with or without frames, possessing characters, letters, illustrations, or ~~ornamentations~~ ornamentation 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~~ these Regulations.

**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 and changing Copy ~~changes~~ of a public service ~~non-commercial~~ non-commercial nature are shown on the same lampbank.

\*\*\*

**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, Flat Wall.** A Sign attached to or ~~Erected~~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~~erected on a freestanding frame, mast or pole, and not attached to any Building or ~~any~~ other Structure.

\*\*\*

**Sign, Illuminated.** A Sign ~~which is~~ lighted by any light source, internal or external, whether or not ~~said~~the 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 not exceeding two square feet in area providing identifying restrooms, public telephones, walkways, exits, and such locations, which provides instructions and is located entirely on the property to which it pertains and which 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, Nonconforming.** A Sign or Sign Structure ~~which that~~ was lawfully ~~Erected~~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 as in effect from time to time.

\*\*\*

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

\*\*\*

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

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

**Comment [FHC50]:** The term "public service" is used within sign definitions.

\*\*\*

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

\*\*\*

**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, 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 for 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~~erected by an owner or his or her agent indicating that the real property upon which the Sign is located is for rent, ~~for lease or for~~ or sale.

\*\*\*

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

\*\*\*

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

**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 that~~ 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 Right-of-Way, and any other information pertinent to depicting the proposed physical Development of property.

**Specimen Tree.** A tree meeting the requirements of Section 18A-3(BBB) of the Miami Dade County Code, as amended.

**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~~affording 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.

**Comment [FHC51]:** Do we need all of these sub-species of “Street”?

**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.~~ For purposes of these Regulations, a Collector Street shall be considered a Street of higher classification than a Local Street.

\*\*\*

**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~~Rights-of-WaysWay for expressways includes the acquisition of Access rights thereto.

\*\*\*

~~**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~~Minor 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.~~

Comment [FHC52]: Used only in definitions.

~~**Street, Minor (or Local).** A Street designed and maintained to provide Access to Abutting Property. A Local Street is of limited continuity and not for through traffic. Shall carry the same meaning as the term Local Street.~~

Comment [FHC53]: Used only in definitions. But critical to definition of "Street, Minor" which is used. Recommend deleting "Street, Local" and moving definition to "Street, Minor".

**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 ~~intermittently~~ than a major arterial and ~~carries~~ carrying 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~~ Any Street that has not been dedicated for public Use and not accepted for ownership or maintenance by the Village Council.

Comment [FHC54]: Needed?

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~~**Street, Public.** Any Street other than a Private Street.~~

Comment [FHC55]: Needed?

**Structure.** Anything constructed or ~~Erected,~~ erected ~~that~~ requires location on the ground or is 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.

\*\*\*

**Subdivision.** Any division or re-subdivision of a Lot, ~~tract~~ or 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.~~

Comment [FHC56]: 1 acre limit?

\*\*\*

**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.~~ That portion of a Building or Structure that is greater than 50 feet in height, 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 Lot such that no Unit is above another Unit with each Unit having separate 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 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.)

~~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.

~~Unit.~~ See (Apartment Unit, Duplex, Hotel, Dwelling Unit or Townhome.) a Hotel Room.

Comment [FHC57]: Hotel room and dwelling are different

~~Unity of Title.~~ A Written/written agreement executed by and between a property owner and the Village of Key Biscayne, and recorded in the public records of Miami-Dade County, Florida, whereby the property owner agrees that the Lots and/or parcels of land constituting the Building site shall be not be 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 and successors and assigns.

~~Use.~~ The purpose or activity for which land or a Structure thereon is Occupied, utilized or maintained designed, arranged or intended, or for which land, Structures or water is used.

~~Use, Accessory.~~ A Use subordinate to the Principal Use of a Building or Lot, serving a purpose customarily incidental and subordinate to the Principal Use.

~~\*\*\*~~

**Use, Conditional.** A Use that is not a Permitted Use in a District but that is deemed appropriate for that District upon specific finding by the Village Council and/or electors, subject to ongoing compliance with specified criteria and standards.

**Use, Permitted.** The Principal Use or an Accessory Use as permitted in a district, or a Conditional Use approved as such in accordance with criteria and standards attributable to Conditional Uses.

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

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

**Comment [FHC58]:** Suggest: "non-institutional Use for living or sleeping of Persons ..."

**Comment [FHC59]:** Treat hotel use as residential use? Follow up

**Vacation.** To abandon, discontinue or close any existing Public Street, alleyway, Easement or any public lands and, Waterways or other Right-of-Way so as 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 these Regulations which is 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, ~~Trailer~~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 or per vehicle top.

**Vehicle, Recreational.** Any vehicle or portable Structure designed primarily to provide temporary living quarters for recreation, camping or travel use: either, consisting of 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.

Comment [FHC60]: Sub-species of "trailer" needed?

\*\*\*

**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.

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

Comment [FHC61]: Needed?

\*\*\*

**Yard.** A space on the same Plot/Lot 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.~~ Lot lines.

**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.~~

**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.~~

**Yard, Front.** The area of a Lot bounded by the Building façade continuous to all of the Side Lot Lines and the Front Lot Line.

**Yard, Rear.** The area of a Lot bounded by the rear Building façade extended to all of the Side Lot Lines and the Rear Lot Line.

**Yard, Required.** ~~The minimum Required Yard or Setback required by, taking into account the Setback, FAR, Lot Coverage and landscaping requirements pursuant to 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 by 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.

\*\*\*

**Zone, Front.** The area between the Building and any adjacent Street(s), but in no event being less than 15 feet from any Street(s).

**Zone, Rear.** The area from the back of the Front Zone to the rear property line, or to the waterfront zone (if applicable).

**Zone, Waterfront.** The entire area within 25 feet from any body of water.

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

**ARTICLE III:  
GENERAL PROVISIONS**

**Sec. 30-20. Scope of Regulations.**

These Regulations shall govern the Development and use of land and activities affecting the use of land within the Village. No Building or Structure or part thereof shall be ~~Erected~~erected, constructed, reconstructed or altered and maintained, and no existing Use, new Use, or change of Use of any Building, Structure or land or part thereof shall be made or continued, except in conformity with the provisions of these ~~Zoning and Land Development~~ Regulations.

**Comment [FHC62]:** Added affirmative statement of purpose.

**Sec. 30-21. Uncompleted Structures.**

No Building or Structure ~~which~~that has not been completed in substantial conformity with a Site Plan or ~~Building Development~~ plans and specifications upon which the building permit for its construction was issued shall be ~~maintained or be permitted~~ to remain unfinished for more than six months after active construction operations have been suspended or abandoned.

**Comment [FHC63]:** "Development" rather than "Building"

**Sec. 30-22. Errors and violations.**

The issuance or granting of a permit or approval of plans and/or specifications shall not be deemed or construed to constitute a waiver or alteration of any provisions of these Regulations, nor shall any permit or approval be deemed or construed to be a permit for or an approval of, a violation of any of the any Development, use or activity that would violate any provisions of these Zoning and Land Development Regulations. No permit ~~conferring authority or~~ presuming or purporting to give the confer authority to violate or cancel the provisions of ~~these~~these Regulations shall be valid except insofar as the work or Use ~~that it authorizes~~authorized by the permit is lawful. ~~Not and consistent with these Regulations. No permit shall such permit prevent the enforcing Officer/Director from thereafter requiring the correction of errors in said plans and specifications or from preventing Building causing compliance with these Regulations. The Director may prevent Development operations from being carried on thereunder when pursuant to any permit in violation of these Regulations.~~

**Comment [FHC64]:** Reworded slightly. Permit wouldn't violate Regs. The violation would result from the permitted activity

**Sec. 30-23. ~~Replatted Lots and re-subdivision; Re-subdivision or Change of Use of~~ Hotels and Motels.**

(a) *Replatted Lots.* No ~~re-subdivision~~re-subdivision of platted Lots shall be permitted except by an approved and recorded amended Plat. In such ~~re-subdivision~~re-subdivision,

no Lot shall be created ~~which~~that does not conform to the Regulations of the zoning district within which such land is located.

**(b) ~~Resubdivision~~ Re-subdivision or altered Use of Hotels or Motels.**

**Comment [FHC65]:** Added "altered Use" and re-worded.

~~(1) No resubdivision~~ (1) No re-subdivision or change of Use of Hotels or Motels into Multifamily~~Multi-family Dwellings shall be permitted unless the Building Official issues~~Village Council and/or Director determine that the intended re-subdivision or change of Use would comply with these Regulations in all material respects, and issue approvals as required under the circumstances, including a new certificate of occupancy ~~illustrating that the resubdivision~~based on their determination and demonstrating that the re-subdivision or altered Use is in compliance with these Regulations and all codes, including the South Florida Building Code and the Life Safety Code, as may be amended from time to time.

~~(2) The installation of~~ Cooking Facilities may not exist or be introduced into a Hotel or Motel Unit will convert the prior Use into a Multifamily Dwelling, thus requiring compliance with multifamily Building, life safety, and Zoning Code requirements except in compliance with these Regulations.

**Comment [FHC66]:** This whole section is worrisome. Substantial editing proposed here: I don't follow the logic of (b). Cooking Facilities can't be introduced except as permitted. If they're permitted, the result shouldn't be conversion to multi-family. The result should simply be a hotel / motel with compliant cooking facilities. We don't want a forced use change to multi-family under any circumstances, no?

~~(3) Prior to the issuance of a certificate of occupancy, upon resubdivision, the new Use of the Multifamily Dwelling must meet all of the requirements for Multifamily Dwellings, be consistent~~ (3) Any intended conversion of Hotel or Motel Units into multi-family Dwellings will be conditioned upon and made subject to the Village Council's determination that the proposed multi-family Use complies with the Regulations for Multi-family Dwellings, including consistency with Density, Parking, Lot Coverage, and Floor Area Ratio Regulations as set forth in requirements applicable within the district where the property is located. In addition, a new certificate of occupancy is required as a condition of and prior to conversion of Hotel or Motel Units into Multi-Family Dwellings.

**Comment [FHC67]:** As with (b) (2), substantial edits here

**Sec. 30-24. Street frontage required.**

No ~~Plot~~Lot may be built upon unless said ~~Plot~~the Lot is accessible by a dedicated public way, or by a Private Street or way which has been approved by the Village Council following a public hearing.

**Sec. 30-25. Use of Premises without Buildings, a Building.**

Where a ~~Plot~~Lot is to be Occupied for a Permitted Use without Buildings ~~or Structures~~, the Side Yards and Front Yard required for such ~~Plot~~Lot shall be provided and

maintained unless otherwise stipulated within these ~~Zoning and Land Development~~ Regulations, except that Side and Rear Yards shall not be required on ~~Plots used~~ Lots that do not include Buildings and Structures and that are used only for private gardens or public park or recreational purposes when such Uses do not include Use of Buildings or Structures.

**Comment [FHC68]:** I don't understand this. Why the exception for side and rear setbacks where there are no structures. In any case, I added "park"

**Sec. 30-26. Use of residentially zoned land for Access.**

No ~~land which is residentially~~ zoned land shall be used ~~for~~ a driveway or for vehicular Access ~~purposes to any other Plot which is non-residentially zoned~~ Lot or used for any purpose not permitted in a residential zoning district unless specifically permitted by the Village Council following a public hearing.

**Comment [FHC69]:** Edited: why limit to use of residential lot for access to non-residential lot?

**Sec. 30-27. Reductions of Plots/Lots below minimum requirements.**

No parcel of land, which has less than the minimum width and area requirements ~~of as applicable in~~ the zoning district within which it is located may be separated from a larger parcel of land ownership ~~for the purpose, whether immediate or future, of building or Development as a separately owned Plot. No such separation shall occur unless the~~ resulting parcel(s) meet the minimum requirements set forth in these Regulations.

**Comment [FHC70]:** This is qualified by intent to develop, immediately or in future. Present intent may not be manifest at time of separation, arguably defeating effect of this section. Why not just prohibit too-small separation?

**Sec. 30-28. Storage on residential property.**

No land shall be used for the open storage of building materials or construction equipment except in connection with construction on the same property for which a valid building permit is in effect.

**Comment [FHC71]:** ZORC discussion point – duration of PODS, size and location of trailers, etc.

**Sec. 30-29. Extension of Buildings with nonconforming Setbacks.**

A legally constructed single ~~Family~~ family home ~~which exists with~~ Setbacks less than those required by current ordinance may be extended along the ~~established~~ same line as the existing Building Lines, within the required Setback areas, provided that:

- (1) Such additional construction shall not encroach past the existing Building line further into the required Setback area ~~than the existing Building Line;~~ and
- (2) The property owner requesting such construction obtains ~~Written~~ written approval from the ~~immediately~~ owners of the Abutting ~~Property owner(s).~~ The Building, Zoning and Planning Properties. The Director is authorized to require improvements to the property to insure that the proposed construction is consistent with the intent and purposes of the zoning district; ~~however(3) The above applies only to the extension of One Story~~

**Comment [FHC72]:** Reference to extend along Building Line didn't work, b/c definition assumes Required Yards aren't encroached. Note suggested elimination of (3), based on important policy of encouraging improvements, renovation and retention of existing housing stock

Homes that are constructed below the Base Flood Elevation.

Sec. 30-30. Nonconforming Structures and Uses.

~~It is the~~Any Use that is lawfully existing as a Permitted Use shall automatically become a lawful Nonconforming Use upon adoption of an ordinance that renders such ~~formerly Permitted Use a Prohibited Use.~~ ~~The purpose and intent of the Regulations within this section~~Section 30-30 is to provide ~~impose~~ procedures whereby lawful Nonconforming Structures and Uses as defined may be maintained where such maintenance will not have a detrimental effect upon other ~~and~~ qualifications so that ~~possible detrimental effects from lawful Nonconforming Structures and Uses upon Persons or property within the vicinity, and in so doing to bring and district will be eliminated or reduced to the maximum possible extent, and that such Uses and Structures are brought up to present standards to the maximum possible extent under the circumstances described below.~~

Comment [FHC73]: This sentence is lifted from former 30-10 (m).

- (1) **Nonconforming Use of a conforming Building.** ~~The lawful Nonconforming Use of [a] Building may be continued, although such Use does not conform to the Regulations of the applicable zoning district, within which the Building is located. Any such Use shall only be changed to a permitted Use. A Nonconforming Use shall not be expanded and shall only be changed to a Permitted Use. If such Nonconforming Use is discontinued for a period of six months, it shall no longer be a lawful Nonconforming Use, and any further Use of said Building shall be in conformity with the Regulations of the applicable zoning district unless otherwise approved by the Village Council pursuant to the Conditional Use Procedures. conditional Use procedures specified in these Regulations.~~
- (2) **Conforming Use of a ~~nonconforming~~Nonconforming Building.** A lawful ~~nonconforming~~Nonconforming Building may be utilized for any Use ~~which that~~ conforms to the Regulations of the applicable zoning district within which the Building is located, provided no structural Alterations; ~~except are made to the Building~~except those required by law, ~~are made to the Building.~~
- (3) **Nonconforming Use of a ~~nonconforming~~Nonconforming Building.** The lawful Nonconforming Use of a lawful ~~nonconforming~~Nonconforming Building may be continued ~~although such Use and Building do not conform to.~~ Such Use shall not be expanded or altered ~~except in compliance with the Regulations of pertaining to conforming Uses within the applicable zoning district within which the Building is located. Such Use shall not be expanded.~~ ~~district.~~
- (4) **Nonconforming Use of Land.** The lawful Nonconforming Use of

Comment [FHC74]: My suggested edits change this in effect. I've thought about this section repeatedly. I thought to align this with 30-10 (m), in part because the current text seems to impose a qualification that's different than 30-10 (m) – that the “automatic” nonconforming use must not have a detrimental effect in order to be lawful, and that its brought into current compliance to the “maximum possible extent”. That last clause is strange in context. Spending enough money could bring a nonconforming use into compliance. If there is an ambiguity here, it cuts against the owner of a non-conforming structure. This is for Chad, Jud, Frank follow up.

Comment [FHC75]: Building changed to Structure. The “although” clause seems redundant.

Comment [FHC76]: Clarification: a discontinued non-conforming use is no longer lawful as such

Comment [FHC77]: The last clause re: expansion and alterations is already covered

~~Land~~ land may be continued although such Use does not conform to the Regulations of the applicable zoning district within which the land is located. However, no such Use shall be enlarged, intensified or extended to occupy a greater area of land or reinstated following discontinuance for a period of six months.

Comment [FHC78]: Land is not defined term

- (5) **Nonconforming Structures.** Lawful Nonconforming Structures other than Buildings are likewise permitted to remain, provided no structural Alterations other than those required by law are made, and further provided that the discontinued Use of such Structure or the Use of the Building in which it is necessary for a period of six months or more shall require ~~its~~ the modification of the Nonconforming Structure, up to and including removal, so as to comply with the Regulations of the applicable zoning district.
- (6) **Maintenance and repairs.** Necessary maintenance and repairs may be made to any ~~noneonforming~~ Nonconforming Building or Structure, provided no structural Alterations are made, and further provided that such work in any 12-month period does not exceed 50 percent of the value of such Building or Structure as shown on the County tax assessment records or as established by an independent appraiser who is a designated member of any nationally recognized professional appraisers organization.
- (7) **Compliance with Regulations.** Nothing in this section shall diminish the responsibility of an owner to maintain his or her Use or Structure in full compliance with all other Village, County, State or federal Regulations or licensing procedures.
- (8) **Establishment of nonconformity.** For the purpose of this section, the mere possession of a valid approval ~~to Use land or Buildings or valid or~~ license to de so Use land or Structures without actual demonstrable Use of such land or Structure is an insufficient basis to establish lawful nonconformity.
- (9) **Approvals to run with land.** All approvals pursuant to the provisions of this section shall run with the land and are not personal to the owner of the land at the time of approval, unless limited by the Village Council.

Comment [FHC79]: So, difference between Structure and Building is forced removal if discontinued

**Sec. 30-31. Duplex Subdivision.**

In all zoning districts within which Duplexes are permitted, the property owner may file an application with the ~~Building, Zoning, and Planning~~ Director to subdivide an otherwise legally sited Duplex Structure into two separate ownerships. The Director shall review the application based upon the criteria set forth below:

- (1) The applicant has filed a parallel application for Subdivision of the Lot and Structures into two separate single Family residential properties; and
- (2) The Structure proposed for division is designed, sited and subdivided in a manner that will not have a detrimental impact on the adjoining property or character of the surrounding area.
- (3) Should the Director deny the request, the applicant may file an appeal of an administrative decision.

**Comment [FHC80]:** Should procedures / appeals be consolidated in one place? There are various procedures for various functions. See Art. IV. Chad/Jud/Frank follow up

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

~~When~~ If a Use is not ~~specifically~~ listed as a Main Permitted Use, or Conditional Use or ~~prohibited~~ Accessory Use in a particular zoning district ~~within which such Use has been requested, such Use may be permitted as follows:~~ By, it is a Prohibited Use, unless the Director issues an administrative decision of the Building, Zoning, and Planning Director subject to a finding that such Use exhibits and must maintain a character and intensity similar to a Use allowed in the district, and otherwise would not have a detrimental effect on the vicinity or district. The Director shall not issue an administrative decision determining that a particular Prohibited Use is permitted if said determination has the effect of increasing the Density, Height, Floor Area or FAR of the affected property over and above the standards applicable to Permitted Uses in that 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, said Use is automatically considered as a Prohibited Use.~~

**Comment [FHC81]:** I've qualified and limited Director discretion. Consolidate appeals and procedures?

**Sec. 30-33. Maximum allowed Density.**

Density is used to determine the maximum number of Units allowed on a site based upon the maximum allowed Density as set forth in the zoning district and as determined below:

- (1) Easement areas located within the site are calculated in the area used for determining Density;
- (2) Density from one site shall not be transferred to another site unless specifically allowed in a particular context for an expressed purpose in these Regulations; and
- (3) The maximum allowed Density on a site shall not exceed the limit as established in the zoning district Regulations, except as provided for in the ~~master plan~~ Comprehensive Plan (Future Land Use Plan, page 15). In such cases, where the maximum Density may be exceeded, the repair or

**Comment [FHC82]:** What is this FLUE exception?

reconstruction of a Building shall only occur within the same building envelope as was originally permitted and approved at the time the certificate of occupancy was issued. This exception only applies to multiple Family Buildings that are consistent with the land use element of the master plan. Comprehensive Plan.

**Comment [FHC83]:** Define Building envelope?

**Comment [FHC84]:** Fixed typo

**Sec. 30-34. Building permits.**

**Comment [FHC85]:** Should this say "Development Permits; broader concept?"

All applications for building permits shall be accompanied by a Site Plan complying with Section 30-80, drawn to scale, showing the actual dimensions of the Lot to be built upon, the size of the Building to be ~~Erected~~erected, the Setback lines observed, landscaping requirements, and such other information as may be requisite and necessary to provide for the compliance with and enforcement of ~~the Regulation contained in these~~ Regulations. A record of such application and copy of Site Plans shall be kept by the ~~Building, Zoning, and Planning~~ Director and be available for public inspection. The Director will provide Abutting property owners with notice of the receipt of such application and Site Plan.

**Comment [FHC86]:** Added Notice to Owners. Policy of full communication; transparency

**Sec. 30-35. Certificate of occupancy or certificate of completion.**

No land shall be Occupied or used and no Building ~~hereafter Erected~~erected or altered shall be Occupied or used in whole or in part for any purposes whatsoever until a certificate of occupancy, a temporary certificate of occupancy or certificate of completion shall have been issued by the ~~Chief Building Official~~Department, stating or evidencing that the ~~Premises or Building and site on which it is located~~ complies with all the provisions of these Regulations.

**Comment [FHC87]:** Added: site on which it is located. Correct?

**Sec. 30-36. Moving Buildings.**

No Building, or part of a Building, or Buildings shall be moved from the site of original construction.

**Sec. 30-37. Uses and activities to be conducted in enclosed Building.**

All business Uses and activities shall be conducted within a Completely Enclosed Building that is completely enclosed except as provided for in these Regulations.

**Comment [FHC88]:** Clear enough re sidewalk cafes etc ?

**Sec. 30-38. Enforcement and penalties.**

Failure to comply with these Regulations shall subject the violator to the penalties set forth in Article X of the ~~Zoning and Land Development~~ these Regulations.

**Sec. 30-39. Appearance of Structures and sites under construction.**

Sites where construction activity is occurring must be ~~made secure at the conclusion of construction activity each day with~~ secured by a 42-inch plastic mesh fence or better placed neatly around the entire perimeter of the site. The fence must be made secure at the conclusion of construction activity each day. The fence must be maintained until all windows and exterior doors have been installed. The site shall be maintained in a neat and orderly appearance. As soon as practical, the exterior of Buildings shall have the final finishes applied and windows installed.

**Sec. 30-40. Fencing of vacant Waterfront Lots.**

All vacant Waterfront Lots shall have a six-foot black or green coated chain link fence along those portions of the site that face the water.

**Comment [FHC89]:** Black or green. Right?

**Sec. 30-41. Additional Regulations.**

When not addressed in these Regulations, the provisions of the Code of Metropolitan Miami-Dade County shall continue to be applicable until such time as the Village Council expressly repeals them.

**Comment [FHC90]:** Suggest delete this. What is left re: zoning from MD?

**Sec. 30-42. Floor Area and Floor Area Ratio Calculation.**

**(a) Certain Definitions:**

**(i) Floor Area.** The sum of the areas of the floors of a Structure, measured from the exterior faces of exterior Walls or from the exterior face of an architectural projection, or from the centerline of a party Wall between two attached Buildings, to the interior face of an exterior Wall. 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; subject to the exceptions identified in subsection (b), below.

**Comment [FHC91]:** This section needs major editing. I've eliminated the definitions and replaced them here. The definitions were inconsistent with the new ZORC text. What have we done, compared to existing? We added the area that a generator occupies. Check especially (b) (5) re garage and (8) re below BFE.

**Comment [FHC92]:** Structure or Building?

**(ii) Floor Area (Base).** As specified in Sections 30-100, 30-101, 30-102, 30-103 and 30-104, for the various Uses identified in those Sections.

**Comment [FHC93]:** Base FAR used but not defined. Not sure if this works. Also, Maximum Base FAR (which is less than Gross FAR)

**(iii) Floor Area (Gross).** The total Floor Area contained within a Structure, including the horizontal area of external Walls, plus the sum of the area of Balconies, porches, Garages, Carports and Attic Space, regardless of whether a floor is laid in the Attic Space.

**Comment [FHC94]:** Review with Chad, Frank, Jud & ZORC

(iv) Floor Area Ratio. The total Floor Area of a Structure divided by the Lot Area of the Lot on which the Structure is located.

(b) Exceptions in determining Floor Area. The Floor Area of a Structure shall include all areas within the Structure for purposes of calculating Floor Area Ratio, except for those areas listed below, unless otherwise provided for in these Regulations:

(1) Accessory water tanks or cooling Towers.

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

**Comment [FHC95]:** Eliminated stairwells. Covered by open staircases, steps

(3) The portion of Attic Space, whether or not a floor actually has been laid, providing structural headroom within habitable space up to the maximum height for such space as set forth in the Florida Building Code and Fire Code, whichever is less.

**Comment [FHC96]:** Reworded.

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

**Comment [FHC97]:** Unenclosed hallway? Carports? In any case, wording is off – carports are not unenclosed

(5) Any floor space utilized for parking within an off-street Parking garage [within the governmental, institutional, office, commercial, hotel resort, or multi-family residential districts?]. 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. 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 entire Floor Area of all Parking levels shall be included in the calculation of Floor Area Ratio.

**Comment [FHC98]:** This section needs help. What does “off-street” add to this? Are we distinguishing b/w single family and duplex and everything else?

**Comment [FHC99]:** WSH: Definition inconsistent with FEMA. Staff recommendation in yellow. Needs additional discussion to resolve conflict.

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

**Comment [FHC100]:** This didn't come out right. Ceiling no higher than BFE makes no sense in context of single family and duplexes

(7) Exterior unenclosed private or public Balconies.

**Comment [FHC101]:** What does private or public add?

(8) Floor Area located below BFE is excluded from the calculation of Floor Area Ratio. However, if the ceiling of a Structure located below BFE protrudes 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 for purposes of calculating Floor Area Ratio.

**Comment [FHC102]:** This needs an explanation

**Comment [FHC103]:** Is this correct?

(9) Exterior elevators, landings and stairs; provided that the area encompassing the elevator, landing or stairs on one level is included for purposes of calculating FAR.

**Comment [FHC104]:** Grammar.

(10) Interior elevators, landings and stairs; provided that the area encompassing the elevator, landing or stairs on one level is included for purposes of calculating FAR.

**Comment [FHC105]:** Grammar.

**Comment [FHC106]:** Why not combine 9 and 10?

(11) The area comprising chases.

**Comment [FHC107]:** Clarification. Speak to area, not the installation itself.

(12) Areas encompassed by a service station or automotive repair facility when located within a parking garage.

(13) In Structures where there are no interior floors above a single finished floor, the Floor Area shall be calculated as if there were a floor every ten feet extending vertically. Volumetric space between ten and 13 feet above the finished floor is not counted in Floor Area. Volumetric space above 13 feet above the finished floor 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 areas:

**Comment [FHC108]:** i/o/w a single story?

(a) In interior entranceways that contain 225 square feet or less.

**Comment [FHC109]:** Clarify: interior space

(b) In space between ten and 13 feet above the finished floor.

**Comment [FHC110]:** Already said above

(c) Space above stairs, except as provided in subsections (9) and (10).

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

**Comment [FHC111]:** new

(c) Floor Area Ratio. Floor Area Ratio is the total Floor Area of a Structure on a Lot divided by the Lot Area of the Lot.

**Comment [FHC112]:** Said above

**Sec. 30-43. Lot Coverage Calculation.**

(a) Lot Coverage Defined. Lot Coverage shall mean the lot area occupied by Structures and shall be calculated as follows:

**Comment [FHC113]:** Existing: Buildings, Structures and covered Terraces . All we've really done here is reorganize, and eliminate a few exclusions

(i) Lot Coverage shall include any non-roofed areas enclosed by Building Walls that exceed six (6) feet in height and that are attached to or otherwise form an integral part of a Building.

(ii) The Lot Coverage Calculation shall exclude the following:

(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;

**Comment [FHC114]:** New. Patio?

(4) Carports, Porte-Cocheres, Porches and landings which are at least 75% open on at least three sides, and which occupy less than 300 square feet in area;

**Comment [FHC115]:** 75% open is new. 300 foot limit in current code. How about at least 10 foot setback as in current code?

(5) Gazebos or Sheds which occupy less than 2% of the lot area.

**Comment [FHC116]:** Sheds are excluded in current Code. Delete "utility". We exclude "carports and porches providing 10 ft. setback; planters with max. ht. 4 ft above grade and patios, decks and pools located below max. lot elevation"

**Sec. 30-44. Structure Height Calculation.**

The Height of a Structure shall be calculated as follows:

**Comment [FHC117]:** This is reworked, compared to existing. In RU, highest point of roof instead of highest tie-beam

(a) Single Family and Two Family Residential Zoning Districts. The height of a Structure shall be its overall height measured from the Base Flood Elevation to the highest point of the roof for Elevated Homes and from the crown of a road to the highest point of a roof for Non-Elevated Homes.

(b) All other Zoning Districts. The height of a Structure shall be the vertical height from the crown of the road to the top of highest tie beam for Non-elevated Buildings and the vertical height from the BFE to the top of the highest tie beam for Elevated Buildings.

**ARTICLE IV.  
ADMINISTRATION OF THE ZONING ORDINANCE**

**Sec. 30-60. General provisions.**

All licenses, Development or building permits or other permits issued by any department, agency or official of the Village for the erection, ~~alteration~~Alteration, demolition or Use of any Building or Structure or part thereof, or for the Use of any land or water, shall comply with these ~~Zoning and Land Development~~ Regulations as follows:

**Comment [FHC118]:** Added Development permit. Collapsed 2-5. They all say the same thing

~~(1) Use which involves~~ (1) Approvals in violation of chapter. Unless otherwise required by law, no license, approval or permit shall be issued by any department, agency or official of the Village for the Use of any Premises~~land or Structure~~ or the operation of any business, enterprise, occupation, trade, profession or activity which would involve or constitute a violation of these ~~Zoning and Land Development~~ Regulations.

~~(2) New construction~~ (2) Changes, Additions, Rehabilitations and/or Use of Land. The construction of any new Building or Structure, including any change, addition or rehabilitation, and/or the initiation of any Use of presently unused property, and additions or rehabilitations to existing Buildings or Structures, and a change of Use of any Building, Structure or property, shall conform with all of the applicable provisions of these ~~Zoning and Land Development~~these Regulations.

\*\*\*

**Sec. 30-61. Enforcement.**

The Village Manager shall assign the responsibility of enforcement and implementation of the provisions of these ~~Zoning and Land Development~~ Regulations to the appropriate departments, officials and employees of the Village. The Village Council has the ultimate responsibility for ensuring that these Regulations are enforced.

**Comment [FHC119]:** Added Council responsibility

**Sec. 30-62. Reserved.**

**Sec. 30-63. Variance procedures.**

(a) Variance criteria.—A Subject to the exceptions stated in subsection (b) of this Section 30-63, a Variance shallmay be granted upon a finding that the desired Variance and the petition meetsin support thereof meet the following criteria:

**Comment [FHC120]:** General observation: these apply to all Variances. Specific types of Variances have their own procedures, below. Clarity may be served better if we collapse the different procedures for each into this Section

**Comment [FHC121]:** This says "shall" in current code. Variances shouldn't be "shall".

(1) Maintains the basic intent and purpose of the zoning, Subdivision and other land Use

(1) The Variance will result in conditions that maintain and are consistent in all material respects with the intents and purposes of these Regulations, which is to protect and that the general welfare of the public, particularly as it affects the, stability and appearance of the community will be protected and maintained; and

**Comment [FHC122]:** Changes standard to focus on resulting conditions if granted

(2) Is The Variance will be compatible with the surrounding land Uses and would, and otherwise be consistent with these Regulations and the Comprehensive Plan, and will not be detrimental to the community.

**Comment [FHC123]:** Changes standard to include general consistency with Regs and Comp Plan

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

**Comment [FHC124]:** Adds prohibitions - no Sign variances. Also, no change in Permitted Use, consistent with (e), below. Question: what about Height variances? ZORC discussion, with exception for solar panels

(c) **Types of Variances.** There are three types of Variances ~~which that~~ may be granted under these Regulations. These ~~include are~~ supervisory Variances, administrative Variances, and regulatory Variances.

(d) **Resolution.** The resolution ~~which that~~ memorializes the approval of any type of Variance shall be recorded in the public records of Miami-Dade County at the applicant's expense. A copy of the proof of recordation shall be submitted to the ~~Building, Zoning, and Planning~~ Department prior to the issuance of any building permits. No building permit shall be issued until proof of recordation has been submitted to the ~~Building, Zoning, and Planning~~ Department.

(e) **Village Attorney opinion for Variance applications which are considered by the Village Council.** The Village Attorney shall provide the Village Council with an opinion as to whether the application is properly submitted and that it does not constitute a change of zoning, or a Use Variance, or Density Variance or Sign Variance.

~~(f) Building, Zoning and Planning~~ (f) **Director recommendation for Variance applications which are considered by the Village Council.** The Director of the ~~Building, Zoning and Planning~~ Department shall provide the Village Council with a recommendation for each application that is considered by the Council.

(g) **Time limit.** The approval of any type of Variance shall automatically become null and void unless the appropriate Development order (as defined in F.S. § ~~163.3164, 163.3164~~), building permit, ~~Local Business Tax Receipt~~ Occupational License, certificate of occupancy or certificate of completion has been issued within 12 months of the date the resolution was executed by the Village Mayor. Requests for an extension of time for a maximum additional 12 months ~~shall may~~ be considered by the Village Council. Notice requirements for such requests are the same as those that were used for

the original application.

(h) **Application forms.** The ~~Building, Zoning, and Planning~~ Department shall provide the applicant with the Variance application form.

(i) **Order or notice of violation.** When the ~~Building, Zoning, and Planning~~ Director determines that ~~an a~~ Variance application is complete, prosecution of a violation shall be stayed until the Village Council approves or denies an application ~~which~~that would remedy the violation if approved. If the ~~Building, Zoning and Planning~~ Director determines that a stay would imperil the life or property or otherwise create substantial risk or injury or would amount to a public nuisance, a stay shall not be issued.

(j) **Appeals.** An appeal of a decision made by an official of the Village shall be to the Village Council. Following a public hearing, a majority vote of the Council members in attendance at the meeting is required to reverse or amend a decision of said official. This shall not be applied to conflict with the Village Charter requirement of action by four affirmative votes. Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction by petition for certiorari, and within the time frames allowed by the rules of appellate procedures. For purposes of filing an appeal of a decision of the Council, any party who appeared ~~in~~ Writing, orally, or was represented by an attorney, or any party who received Written notice of the hearing from the Village Clerk or the ~~Building, Zoning, and Planning~~ Department, shall be considered as an aggrieved party, subject to judicial rules of standing.

(k) **Consideration of petitions after denial or withdrawal.** When ~~an a~~ Variance application is denied by the Village Council or withdrawn after public notice has been provided, no other application that is substantially the same as the original application shall be filed within one year from the date of denial or withdrawal. This prohibition may be waived by the Village Council by permitting the withdrawal or denial without prejudice. Any subsequent application that provides Setbacks, ~~Density~~, or Parking spaces of an additional ten percent or more of the counts that were provided in the original application, shall be determined to be a new application and not subject to provisions of this ~~paragraph~~.

**Comment [FHC125]:** Removed "Density" since Density variance is prohibited. Also, reworded slightly "... an additional 10% or more of the counts"

(l) **Notification.** Whenever notification to property owners is required, the applicant making the request shall submit the following to the ~~Building, Zoning, and Planning~~ Department:

- (1) A list of the names and addresses of all property owners within the notification ~~distance that was required by this article~~ Article IV and a letter certifying as to the accuracy and completeness of the list by a Licensed Professional Engineer, Licensed Architect, Licensed Landscaped Architect, Licensed Real Estate Broker, Licensed Real Estate Appraiser, an attorney who is a member of the Florida Bar, a Licensed Land Surveyor, or a Land Planner who is a member of the American Institute of Certified Planners (AICP).

**Comment [FHC126]:** 300 feet? If so, say so.

- (2) Two duplicate sets of self adhesive mailing labels containing the names and addressees of property owners indicated on the certified list.

**Sec. 30-64. Supervisory Variances.**

The supervisory Variance procedure shall be used for a Variance from the provisions of the Code of Key Biscayne ~~these Regulations~~, limited to improvements existing at the time of application as opposed to planned construction and involving the following matters exclusively: Setbacks, spacing of Buildings, Floor Area Ratios, Lot Coverage, Pervious Area, and Parking. The supervisory Variance procedures may only be used for applications ~~which~~that receive the approval of the ~~Building, Zoning, and Planning~~ Director and are subject to the following:

**Comment [FHC127]:** limited to the case of minor construction errors – to give a pass. Suggest state this more clearly, so distinction between this and Administrative is more clear. The idea of preserving limited practical flexibility seems right. Suggest clarify that this also covers fence agreements between neighbors

- ~~(1) The Building, Zoning and Planning~~ (1) The Director shall have the authority to waive up to two feet or ten percent, whichever is greater, of the required Setbacks, Lot Coverage, Pervious Area, or Parking for projects ~~which~~that have been completed or are under construction (see paragraphs (3) and (4) below). Applicants are restricted to current property owners.
- (2) The applicant shall provide a Written statement from the Abutting Property owner consenting to the waiver. There shall be no other notice requirement.
- (3) For existing construction that has received a certificate of use or certificate of occupancy, the applicant shall provide an affidavit stating ~~they~~the applicant did not construct that portion of the project ~~which~~that encroaches into the required Setback.
- (4) For projects that are under construction and ~~an~~where encroachment into the required Setback has occurred, the applicant shall provide a statement that the encroachment has resulted from an error during construction.

**Comment [FHC128]:** Consent from neighbors within 300 feet?

**Sec. 30-65. Non-Use Administrative Variances.**

~~(a) Administrative~~ (a) The administrative Variance procedure shall be used for a non-Use Variance from the provisions of the Code of Key Biscayne ~~these Regulations~~, limited to improvements existing at the time of application as opposed to planned or pending construction and involving the following matters exclusively: Setbacks, spacing of Buildings, height, Floor Area Ratios, Lot Coverage, Pervious Area, and Parking. The administrative Variance procedures may only be used for applications ~~which~~that receive the approval of the ~~Building, Zoning, and Planning~~ Director. The maximum amount of the waiver is 20 percent of the requirement.

**Comment [FHC129]:** We don't need to say "Non-Use". There are no Use variances. Discussion on this section was incomplete. Minor supervisory waivers for practical flexibility makes sense, but why this 20% waiver allowance, as distinct from regulatory variance provisions?

- (b) An application for an administrative Variance shall be made by the fee

**Comment [FHC130]:** Eliminate height variance, or limit height variance to cases of solar panel installation or weathervanes? FAR waiver? Lot Coverage? How substantial are 20% waivers?

owner of the property on a form prescribed by the ~~Building, Zoning and Planning Department~~ Director and shall be submitted to the ~~Building, Zoning and Planning Department~~ Director, together with a processing fee ~~which that~~ shall be set and may be amended from time to time by the Village Council. The application shall include a recent survey of the property, an accurately dimensioned Site Plan showing the existing Structures on the subject property, the general location and Use of existing Structures on the Adjacent Properties from which the non-use Variance is being requested and a letter of intent explaining the reason and justification for the non-use Variance. The application shall be accompanied by:

- (1) The Written consent of all the owners of all adjacent or abutting Lots to the subject property, including Lots immediately across the Street from the subject property; and
- (2) The Written consent of all utilities and/or Easement holders if the proposed work encroaches into any Easements;
- (3) No other form of public notice is required.

**Comment [FHC131]:** 300 foot radius?

**Comment [FHC132]:** This should apply across the board. See earlier comment re: consolidating procedures.

Administrative Variance applications shall not be processed unless and until all the information set forth in this subsection (b) is delivered to the ~~Director of the Building, Zoning and Planning Department~~.

(c) Upon receipt of the completed application for the administrative Variance, the ~~Director of the Building, Zoning and Planning Department~~, prior to making his or her decision, shall inspect or shall have a staff member of ~~his department~~ the Department inspect the subject property and its surrounding properties to determine what impact, if any, the proposed request will have on the area. The applicant shall submit a petition from the residents and/or owners of the Adjacent Properties including the property or properties immediately across all adjacent Streets, attesting to their approval of the administrative Variance. The ~~Building, Zoning and Planning Department~~ Director shall determine who is required to sign the petition.

**Comment [FHC133]:** Also covered in (1) above

(d) Upon receipt of all necessary information including a staff report, the ~~Director of the Building, Zoning and Planning Department~~ shall review the information and render his or her decision either approving, approving with modifications, or denying the request. A copy of said decision shall be published in a newspaper of general circulation in the Village of ~~Key Biscayne~~. A courtesy notice containing the decision of the ~~Director of the Building, Zoning and Planning Department~~ shall be mailed to adjacent and Abutting Adjacent Property owners of record, their tenants or their agents, that are duly as noted on the application. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder. In granting any administrative Variance, the ~~Director of the Building, Zoning and Planning Department~~ may prescribe any appropriate conditions and safeguards he may feel necessary to protect and further the interest of the area and Abutting Adjacent Properties. ~~The decision of~~ If a Variance is granted, the ~~Director of the Building, Zoning and Planning Department's decision~~ shall

be recorded/reflected on the Official Zoning Maps of the Village of Key Biscayne Map.

(e) The applicant or any aggrieved property owner may appeal the decision of the Director of the Building, Zoning and Planning Department to the Village Council within 15 days from the date the decision is published. A building permit shall not be issued until the appeal period has expired. In the event the Director of the Building, Zoning and Planning Department should determine that the prohibition of issuing a building permit could cause imminent peril to life or property, the Director may permit the issuance of a building permit upon such conditions and limitations, including the furnishing of an appropriate bond, as may be deemed proper under the circumstances. All appeals hereunder shall be in the form prescribed by the Village Council or Village Manager and shall include a processing fee which shall be set and amended from time to time by the Village Council.

(f) A request for judicial review of a decision of the Village Council shall be made pursuant to a petition for certiorari.

#### **Sec. 30-66. Regulatory Variances.**

The Village Council shall have jurisdiction regarding the disposition of ~~Regulatory~~ regulatory Variances. The following procedures shall be used in the processing of applications for Regulatory Variances.

- (1) **Application forms.** The Building, Zoning, and Planning Department shall have the responsibility of assisting applicants in the filing of applications for Regulatory Variances.
- (2) **Public notice and hearing requirements.** The Village Clerk shall schedule a public hearing pursuant to the procedures set forth in ~~section~~ Section 30-68. An application for a Regulatory Variance requires one public hearing before the Village Council.

All public hearings and meetings of the Council with regard to a Regulatory Variance are open to the general public. Interested parties shall have the right to appear at any meeting or public hearing, personally or by an attorney, and have the right to object or to express favor before the Council. Any interested Person may file their objection or approval In Writing prior to the time the Council makes a decision on the application.

- (3) **Vote.** Except as provided for in the Village Charter, a majority vote of the members of the Council in attendance is required to deny, approve or approve a request with conditions. Violations of the conditions shall be deemed to be a violation of this article.
- (4) **Modification of conditions.** Should the applicant request to modify any

condition, said request must be approved by the Village Council. Public notice shall be the same as that which was required for the original request.

- (5) **Resolution.** The Village Council shall memorialize its decision in the form of a resolution. The resolution shall be recorded in the public records of Miami-Dade County and be considered as a covenant running with the land. No building permit, certificate of occupancy, certificate of use, or ~~Local Business Tax Receipt~~Occupational License shall be issued until the applicant provides evidence of the recordation. A copy of the proof of recordation shall be submitted to the ~~Building, Zoning, and Planning~~ Department prior to the issuance of any building permits.

- (6) **Conditions.** The Village Council may stipulate conditions and requirements in granting any application for a Regulatory Variance, when it is found by the Village Council to be necessary to further the purpose of the zoning district or compatibility with other property within the vicinity.

**Comment [FHC134]:** Added. Same thought as relates to text change and Conditional Use

- (7) **Appeals.** Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction by petition for certiorari, and within the time frames allowed by the rules and appellate procedures. For purposes of filing an appeal of a decision of the Council, any party who appeared in writing, orally, or was represented by an attorney, or any party who received Written notice of the hearing from the Village Clerk or the Department, shall be considered as an aggrieved party, subject to judicial rules of standing.

**Comment [FHC135]:** Unlike Admin. Variance section, this Section doesn't **speak** to appeal, jurisdiction. 30-70 doesn't cover this. This is lifted from 30-72 (j) – re Conditional Use.

**Sec. 30-67. Summary of Variance Regulations.**

**TABLE INSET:**

Regulation	Supervisory Variance	Administrative Variance	Regulatory Variance
Variance relating to:	Setbacks Floor Area Ratios, Lot Coverage, Pervious Area, Parking	Setbacks Floor Area Ratios, Lot Coverage, Pervious Area, Parking	All Variances (excluding <u>Use, density and Signs</u> )
% or footage that may be waived	2 ft. or < 10% of requirement	> 10% but < 20%	Any percentage
Requires Building, Zoning, and Planning Director approval prior to processing	Yes	Yes	No
Approval of Adjacent Property owner nearest to request	Yes	Yes	No
Approval of all Adjacent Property owners (petition)	No	Yes	No
Mailed notice to property owners within 300 ft. of property which is subject of the application	No	No	Yes
Notice in newspaper	No	Yes	Yes
Posting of property	No	No	Yes
Appeal to	Village Council	Village Council	Court

**Sec. 30-68. Public hearing and notice requirements.**

(a) When an application is filed which requires a public hearing before the Village Council, the Village Clerk shall schedule same and provide public notice as set forth below.

(b) Written recommendations of the Village Manager or his designee shall be developed and such recommendations shall become a part of the hearing file and record, and open for public inspection.

(c) Notice of the time and place of the public hearing describing the nature of the application and Street address of the property shall be published in a newspaper of general circulation in the Village not less than ten days prior to the public hearing.

(d) A ~~courtesy~~ notice containing substantially the same information set forth in the published notice ~~may~~shall be mailed to the property owners of record located within a radius of 300 feet of the property described in the application or such greater distance as the Village Manager may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceedings taken under this section.

(e) The property shall be posted no later than ten days prior to the hearing in a manner conspicuous to the public, by a Sign ~~or Signs~~ containing information concerning the application including but not limited to the applied for zoning action and the time and place of the public hearing.

**Comment [FHC136]:** Why is this called courtesy notice? Its required, no? Also, changed "may" to "shall" give notice. What about last clause - failure to give notice?

(f) All costs of advertising, mailing and posting shall be borne by the applicant.

(g) Number of required public hearings:

TABLE INSET:

Type of petition	Number of required public hearings
Regulatory Variance	1
Appeal of Administrative Decision	1
Text Amendment	2
Change of Zoning District	2
Conditional Use	1

**Sec. 30-69. Ex-parte communications.**

The following process shall apply to quasi-judicial actions pending before the Village Council:

- (1) **Communications between Village Council and public.** All oral and Written communications with the public involving quasi-judicial action pending before the Village Council must take place at the public hearing. Outside of the public hearing, the Council is prohibited from discussing the merits of any matter on which action may be taken by the Council.
- (2) **Communications between Council and staff.** Written and oral communications between Council members and staff shall be allowed.
- (3) **Written communications.** In the event that a Council member receives a Written ex-parte communication, the Council member shall immediately submit the Written communication to the staff so that it can be placed in the file and made a part of the record either before or during the public hearing prior to the Council voting on the application.
- (4) **Site visits.** A Council member may make a site visit regarding a quasi-judicial matter pending before the Council, provided that the existence of the site visit is made part of the record prior to the Council taking final action on the application.

**Comment [FHC137]:** ZORC – unfinished item.. Concerns about “influence” vs. concerns about communication

**Comment [FHC138]:** Add “Village” before Council

**Sec. 30-70. Appeal of an administrative decision.**

(a) Village Council. The Village Council shall hear, decide and rule upon the matters set forth herein.

**Comment [FHC139]:** What matters? Be specific. Regulatory Variances, District or Text Change, Conditional Use?

(b) ~~Appeal~~ Appeals. Any party in interest, aggrieved by an order, decision or interpretation rendered by the pertinent officials of the Village, in the enforcement of the terms and provisions of this chapter may file an appeal with the ~~Building, Zoning, and Planning Director~~ subject to the following:

**Comment [FHC140]:** Inconsistent with earlier text. Confusing

- (1) The appeal shall be In Writing, specifying the grounds thereof on forms as provided by the ~~Building, Zoning, and Planning Department~~ Director.
- (2) The appeal shall be filed within 30 days of the date the administrative decision is made.
- (c) Public notice shall be provided as set forth in section 30-68.

**Comment [FHC141]:** Note: deleted "courtesy" and changed may to shall. The cite to this section repeats below, where notice is required

**Sec. 30-71. Procedures for a text change or zoning district change.**

(a) *Text amendment procedures.* The text of these ~~Zoning and Land Development~~ Regulations may be amended in accordance with the following procedures:

- (1) A petition for change of text or zoning district may be submitted to the ~~Building, Zoning and Planning Director~~ by any of the following:
  - a. Village Council;
  - b. Village Manager;
  - c. Village Attorney; or
  - d. An owner of property in the Village.
- (2) All petitions shall be on forms provided by the ~~Building, Zoning, and Planning Director~~.
- (3) A petition filed by a property owner that changes the boundaries of a zoning district or creates a new zoning district shall include documentation that a majority of the owners of the property in said district approve of the petition.
- (4) A petition that results in the designation of a new zoning district shall include a minimum of one acre of land. A petition that expands the boundary of an existing zoning district has no minimum area.
- (5) Public notice shall be provided as set forth in section 30-68.

(b) *Review criteria.* In order to approve a text amendment, or change of zoning district the Village Council must find that the petition is consistent with all of the

following criteria. The applicant is required to provide a report at the time the petition is filed which includes documentation that the petition is consistent with each of the below criteria:

- (1) The proposed amendment is consistent with the Comprehensive Plan;
- (2) The proposed change will result in Buildings that are consistent in scale and otherwise compatible with those within 300 feet of the site area;
- (3) The resulting boundaries of a zoning district are logically drawn;
- (4) The proposed change will enhance property values in the Village;
- (5) The proposed change will enhance the quality of life in the Village; and
- (6) There are substantial and compelling reasons why the proposed change is in the best interests of the Village.

**Comment [FHC142]:** Also best interest of those in the vicinity within the affected district

(c) **Conditions.** The Village Council may stipulate conditions and requirements in granting any application for a text or district change, when it is found by the Village Council to be necessary to further the purpose of the zoning district or compatibility with other property within the vicinity.

**Comment [FHC143]:** Added. Same thought as relates to Regulatory Variance, as added, and to Conditional Use.

(d) **Appeals.** Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction by petition for certiorari, and within the time frames allowed by the rules and appellate procedures. For purposes of filing an appeal of a decision of the Council, any party who appeared in writing, orally, or was represented by an attorney, or any party who received Written notice of the hearing from the Village Clerk or the Department, shall be considered as an aggrieved party, subject to judicial rules of standing.

**Comment [FHC144]:** Again, added section on appeals, like at Regulatory Variance and text/district change sections

#### **Sec. 30-72. Conditional Use procedures.**

(a) **Background.** Certain Uses are listed as Conditional Uses and are permitted in zoning districts subject to the approval of the Village Council. These Uses are considered basically suitable for the districts in which listed, but the character and nature of the Uses are such that they may necessitate controls and safeguards on the manner of establishment and operation, which, by being determined by the Council at public hearing, would better serve the interests of the community and the owners of the property in question.

(b) **Notice.** Public notice requirements shall be as set forth in section 30-68.

(c) **Criteria.** In order to approve a petition for a Conditional Use, the Village Council must find that the application is consistent with all of the below review criteria:

(1) The Use is consistent with the Comprehensive Plan.

(2) ~~That the configuration and design of the site will facilitate~~ That there will be adequate provision for safe traffic movement of, both vehicular and pedestrian traffic, both internal to the Use and upon the adjacent ~~roadways area~~ that will serve the Use.

**Comment [FHC145]:** Wordsmithing throughout. Question some of these deletions.

(3) ~~Utilities, roadway capacity, drainage, and other necessary public facilities, including police, fire, emergency services, shall exist at the Village's adopted level of service, or will be available prior to issuance of any certificate of occupancy;~~

(4) ~~The proposed use shall be consistent with the existing natural environment and community character of the immediate neighborhood of the proposed use;~~

(5) ~~Where the proposed conditional use is a package store, the Village Council shall consider the following additional criteria:~~

a. ~~The adverse effects that the proposed package store will have upon neighboring properties, with particular attention to the effects of noise, traffic patterns, and glare from exterior lighting or headlights on nearby residential properties.~~

b. ~~The amount and degree of law enforcement activities which could reasonably be anticipated to be generated by the proposed package store, both outside and inside, with particular emphasis upon noise, vehicular use by patrons, and vandalism.~~

c. ~~Whether the proposed package store makes adequate provision for the elimination of the potential for adverse impact upon adjacent residential areas from hazardous or illegal overflow parking.~~

d. ~~The proximity of the proposed package store to schools, parks and places of worship.~~

(3) That there are adequate Setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust or other potential nuisances.

(4) That the application of the Use at the subject location is consistent with the purpose of the underlying zoning district.

~~(d) In considering any application for conditional use approval, reasonable restrictions may be imposed by the Village Council in granting an~~ (d) **Conditions.** ~~The Village Council may stipulate conditions and requirements in granting any~~ application for a Conditional Use, when ~~such condition~~ it is found by the Village Council to be necessary to further the purpose of the zoning district or compatibility with other property within the vicinity.

(e) **Resolution.** The resolution which memorializes the approval of a Conditional Use shall be recorded in the public records of Miami-Dade County at the applicant's expense. A copy of the proof of recordation shall be submitted to the ~~Building, Zoning, and Planning Department~~ prior to the issuance of any building permits.

~~(f) Building, Zoning and Planning Director recommendation for applications which are considered by the Village Council. The Director of the Building, Zoning and Planning Department~~ (f) **Director Recommendations.** ~~The Director~~ shall provide the

Village Council with a recommendation for each Conditional Use application that is considered by the Council.

(g) *Time limit.* The approval of any type of Conditional Use shall automatically become null and void unless the appropriate Development order as defined in F.S. § 163.3164, building permit, ~~Local Business Tax Receipt~~Occupational License, certificate of occupancy or certificate of completion has been issued within 12 months of the date the resolution granting the Conditional Use was executed by the Village Mayor. Requests for an extension of time for a maximum additional 12 months shall be considered by the Village Council. Notice requirements for such requests are the same as those that were used for the original application.

(h) *Application forms.* The ~~Building, Zoning, and Planning Department~~Director shall provide the applicant with the application form.

(i) *Pending notice of violation.* When the ~~Building, Zoning, and Planning~~ Director determines that an application is complete, prosecution of any pending violation shall be stayed until the Village Council approves or denies an application which would remedy the violation. If the Building, Zoning and Planning Director determines that a stay would imperil the life or property or otherwise create substantial risk or injury or would amount to a public nuisance, a stay shall not be issued.

(j) *Appeals.* Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction by petition for certiorari, and within the time frames allowed by the rules and appellate procedures. For purposes of filing an appeal of a decision of the Council, any party who appeared ~~In Writing~~in writing, orally, or was represented by an attorney, or any party who received Written notice of the hearing from the Village Clerk or the ~~Building, Zoning, and Planning~~ Department, shall be considered as an aggrieved party, subject to judicial rules of standing.

(k) *Consideration of petitions after denial or withdrawal.* When an application is denied by the Village Council or withdrawn after public notice has been provided, no other application that is substantially the same as the original application shall be filed within one year from the date of denial or withdrawal. This prohibition may be waived by the Village Council by permitting the withdrawal or denial without prejudice.

**Sec. 30-73. Administrative building moratoria.**

(a) Whenever it shall be made to appear to the Village Manager or Village Council that it is in the public interest to make a comprehensive determination as to whether existing ~~Village~~ zoning districts ~~applying to a portion of the area of Village of Key Biscayne~~ regulations for zoning districts within the Village are appropriate, and it is further made to appear to ~~him~~ that the said existing zoning districts or any regulations pertaining to them may be detrimental to the ~~said area in which they apply~~ should they

**Comment [FHC146]:** Throughout, minor editing such as Village Clerk instead of Clerk of the Village Council

**Comment [FHC147]:** Added references to whether regs are appropriate in addition to whether districts are appropriate. Example of MF residential in HR

continue to remain applicable and building permits be issued predicated thereon, the Village Manager shall immediately issue his administrative order delineating the area in question and prohibiting the issuance of building permits therein.

(b) Any administrative order issued pursuant to subsection (a) shall be complied with by all Village of ~~Key Biscayne~~ personnel and shall be effective until reversed, modified or superseded by order of the Village Council.

(c) Immediately upon issuance of any administrative order pursuant to subsection (a), the Village Manager shall notify the ~~Clerk of the Village Council~~ Clerk, whose duty it shall be to place the matter before the Village Council for consideration and review following a public hearing as soon as is reasonably practicable.

(d) The ~~aforsaid~~ Village Clerk shall give reasonable notice by publication in a newspaper of general circulation in Village of ~~Key Biscayne~~ of the public hearing that he has scheduled before the Village Council.

(e) At the public hearing the Village Council shall inquire into the propriety of a building moratorium and may reverse, modify or supersede any moratorium order previously issued. The Council's determination shall be predicated upon the reasonable necessity for a detailed comprehensive analysis of the area in question and the probability of detriment to the character of the area by the continued application of the existing zoning districts or regulations applicable to them.

**Comment [FHC148]:** Again, added regs applicable in districts in addition to districts

(f) Should the Village Council determine that a building moratorium is reasonably necessary, it shall order the same and direct that no building permits be issued within the affected area. The Council's order shall fix a time within which the Village Manager shall report back to the Council with his recommendation relating to appropriate zoning districts for the affected area. The said time limitation shall be a reasonable one, predicated upon the time needed for a comprehensive analysis of the area. The initial ~~emission~~ moratorium shall be for a period not to exceed 120 days. The ~~Commission~~ Village Council, on its own motion or otherwise, may continue any moratorium for a longer period of time if reasonably necessary. This provision is supplemental to subsection (g) hereof.

(g) Should the Village Manager be unable to report back to the Council within the time prescribed by its moratorium order, upon timely request by the Village Manager and after public hearing on the need therefor, the Council may reasonably extend the time limitation.

(h) Upon the submission of the Village Manager's report and recommendations to the Clerk of the Council, the Clerk shall call a public hearing thereon before the Council at the earliest practicable time, after reasonable notice by publication in a newspaper of general circulation in the Village of Key Biscayne. After said public hearing the Council shall make its determination as to whether the zoning districts shall remain the same or shall be changed. Should the Council determine that the

zoning districts shall remain the same, it shall immediately issue its order terminating the building moratorium. Should the Council determine that the applicable zoning districts or any regulations applicable within them should be changed, or new districts or regulations created therefor, it shall issue its order continuing the building moratorium and shall immediately take the actions required ~~elsewhere within the Village of Key Biscayne Code for to implement~~ such changes. ~~Provided; provided,~~ however, that where zoning district boundary changes are involved the Village Council shall hear the matters directly without intervening administrative review.

(i) Upon the completion of all zoning district changes relating to the affected area, the Council shall issue its order terminating the building moratorium.

(j) If any planning study performed by the Department, the Village Council, or a specially hired or appointed Village agency, indicates the necessity for zoning changes, the provisions of sections 30-73 through 30-76 of this Code, may be utilized to restrict the issuance of building permits until such changes have been finally considered by the Village Council. These provisions of sections 30-73 through 30-76 of this Code which anticipate a future planning study are rendered inapplicable to this subsection.

(k) An administrative building moratorium shall be imposed upon the occurrence of the following events:

- (1) As soon as the Village Manager learns that a grand jury has indicted or that an information has been formally returned against a Village Council member charging said Council member with bribery, accepting unauthorized compensation, or other act of fraud in a zoning case relating to a particular parcel or parcels of real property, then the Village Manager shall immediately issue an administrative order identifying the real property in question and prohibiting the issuance of building permits for said property. Such order of moratorium shall remain in effect until the completion of the criminal judicial process and the determination of guilty or not guilty as to the Village Council member involved being reviewed by the highest judicial tribunal to consider the case. Should the Council member be found not guilty, then the administrative order shall be deemed dissolved. Should the Village Council member be found guilty, then a motion to reconsider the zoning on the real property in question may properly be made by any Village Council member.
- (2) If an order of moratorium is imposed on a parcel ~~or parcels of real~~ property pursuant to this subsection, and the owner ~~or owners~~ of such property ~~request~~requests the Village Council to reconsider the zoning on that property, then a motion to reconsider the said zoning may properly be made by any Village Council member. If the motion to reconsider is approved by the Village Council and the reconsideration of the zoning on the said property occurs, then the building moratorium shall end with the conclusion of the reconsideration process delineated below in subsection

(3).

- (3) Upon passage of a motion as provided in subsection (2) above, the Village Clerk of the Council shall immediately notify the Director. The Village Council shall conduct its reconsideration only after notice of the time and place of the meeting has been first published as provided in section 30-68 herein. The sole issue to be considered by the Village Council shall be whether the present zoning on the subject property is appropriate. In determining this issue, the Village Council shall be guided by the standards and guides specified in this chapter. The Village Council, or where appropriate, the Community Zoning Appeals Council after considering the items delineated herein and the criteria specified in this chapter, shall by resolution either reaffirm the existing zoning or rezone the subject property.

**Comment [FHC149]:** What is Community Zoning Appeals Council?

#### **Sec. 30-74. Other building moratoria.**

(a) Should any Person make ~~Written~~written application to the Village Manager for the issuance of an administrative order provided by subsection 30-73(a); ~~Village of Key Biscayne Code of these Regulations~~, and the Village Manager refuses to issue such order, or fails to take action thereon within 30 days, such Person may make Written~~written~~ application to the Village Council for the issuance of a building moratorium by ~~that~~the Village Council. Such application to the Village Council shall be filed with the Village Clerk of the ~~Village Council~~, whose duty it shall be to place the matter before the Village Council as soon as is reasonably practicable for the Council's determination as to whether a public hearing shall be called thereon. The Village Manager shall be notified by the Village Clerk of the date that the matter is to be considered by the Council. The word "Person" as used in this subsection includes, but is not limited to, any individual, firm, corporation, and governmental entity, including the Village Council.

(b) Should the Council determine that a public hearing should be held as to whether a building moratorium is appropriate, it shall call the same for the earliest practicable date and give reasonable notice thereof by publication in a newspaper of general circulation in the Village of Key Biscayne. Pending the public hearing the Council may issue an order prohibiting the issuance of building permits in the affected area.

(c) The procedure to be followed for this section, after the completion of the steps provided in subsections (a) and (b) above, is that set forth in subsections 30-73(e) through (i), ~~Village of Key Biscayne Code of these Regulations~~.

#### **Sec. 30-75. Exceptions to the moratoria.**

Notwithstanding the issuance of any moratorium order, the Village Manager may

authorize the issuance of building permits for ~~nondeleterious~~non-deleterious items including, but not limited to, fences, repairs and like matters, where he determines that such permit will not affect the outcome of ~~the~~ planning study or zoning in progress, and is not otherwise inconsistent with the basis for the moratorium; provided, however, that with regard to any particular moratorium the Village Council may by ordinance increase or decrease allowable exemptions and may by ordinance provide either a supplemental or exclusive procedure for acting upon requests for exemptions. Such procedure may vest jurisdiction and responsibility for acting upon requests for exemptions in the Village Manager or any Village administrative or quasi-judicial body or Council.

**Comment [FHC150]:** Added zoning in progress to planning study, and added requirement that the permit is not otherwise inconsistent with the basis for the moratorium

**Sec. 30-76. Variances, Conditional Uses and zoning changes during a moratorium.**

During the existence of any building moratorium, no applications for Variances, Conditional Uses, zoning district or Use changes, minimum square footage requirement changes, unusual and new Uses, modifications or elimination of conditions, restrictions or limitations within the affected area shall be acted upon by the Village Council or any Village agency, except as provided in subsection 30-73(h), or section 30-75, or unless otherwise specifically provided by the Village Council by ordinance with regard to a specific moratorium.

**Comment [FHC151]:** Added reference to Council stand-still

**Sec. 30-77. Administrative zoning moratoria.**

(a) Whenever it shall be made to appear to the Village Manager or Village Council that it is in the public interest to make a comprehensive determination as to whether the existing ~~Village master plan~~Comprehensive Plan as it applies to a portion of the area of the Village of Key Biscayne is outdated and of little or no use in formulating correct zoning patterns in relation thereto, or as to whether existing zoning districts are compatible with existing or proposed growth patterns and land Uses, the Village Manager shall immediately issue his administrative order delineating the area in question and prohibiting the consideration by any Village department, Council or agency of any zoning amendment, modification, Variance, Conditional Use or other zoning change, in said area. However, applications for Conditional Uses not involving zoning changes but incorporating requests for Site Plan approval only may be considered and appropriate action taken thereon.

(b) Any administrative order issued pursuant to subsection (a) shall be complied with by all Village of ~~Key Biscayne~~ departments, ~~Councils~~the Village Council and all agencies and shall be effective until reversed, modified or superseded by order of the Village Council after public hearing.

**Comment [FHC152]:** Added public hearing. Strange that action is binding on Council unless overturned by Council

(c) Immediately upon issuance of any administrative order pursuant to subsection (a), the Village Manager shall notify the ~~Clerk of the Village Council~~Clerk whose duty it shall then be to place the matter before the Village Council for

consideration and review following a public hearing as soon as is reasonably practicable. The ~~aforsaid clerk~~Village Clerk shall give reasonable notice by publication in a newspaper of general circulation in ~~the Village of Key Biscayne~~ of the public hearing which he has scheduled before the Village Council.

(d) At the public hearing the Village Council shall inquire into the propriety of the zoning moratorium and may reverse, modify or supersede the zoning moratorium order previously issued. The Council's determination shall be predicated upon the need for a detailed and comprehensive analysis of the area in question which would enable the Council to correct any deficiencies in the ~~master plan~~Comprehensive Plan or to provide any changes necessary or desirable in the ~~master plan~~Comprehensive Plan.

(e) Should the Village Council determine that a zoning moratorium pending the preparation of a detailed and comprehensive analysis of the area in question is necessary or desirable, it shall order the continuance of the Village Manager's zoning moratorium order. The Council's order shall fix a time within which the Village Manager shall report back to the Council with his recommendations relating to modifying or correcting the ~~Village master plan~~Comprehensive Plan as to the affected area. The said time limitation shall be a reasonable one, predicated upon the time needed for a comprehensive analysis of the area by the Village Manager and all planning agencies of the Village.

(f) Upon the submission of the Village Manager's report and recommendations to the ~~Village Clerk of the Council~~, the Clerk shall call a public hearing thereon before the Council at the earliest practicable time, after reasonable notice by publication in a newspaper of general circulation in the Village of Key Biscayne. After said public hearing, the Council shall either amend the ~~master plan~~Comprehensive Plan and terminate the zoning moratorium order or, if it finds no amendment in order or necessary, terminate the zoning moratorium; provided, however, the Council may continue the moratorium or any portion thereof for an additional period of time if the Council finds such continuance to be reasonably ~~necessary~~.

(g) Should the Village Manager be unable to report back to the Council within the time prescribed by its moratorium order, upon timely request, by the Village Manager and after public hearing on the need therefor, the Council may reasonably extend the time limitations for the report and the moratorium if the Council finds such extension is reasonably necessary.

**Comment [FHC153]:** Minor wordsmithing. Comp Plan instead of master plan. Village Clerk. "Written" not a defined term

#### **Sec. 30-78. Other zoning moratoria.**

(a) Should any Person make ~~Written~~written application to the Village Manager for the issuance of an administrative order as provided by subsection 30-77(a), and the Village Manager refuses to issue such order, or fails to take action thereon within 30 days, such Person may make direct application ~~In Writing~~in writing to the Village Council for the issuance of a zoning moratorium order. Such application to the Council

shall be filed with the Village Clerk ~~of the Village Council~~, whose duty it shall be to place the matter before the Village Council as soon as is reasonably practicable for the Council's determination as to whether a public hearing should be called thereon. The word "Person" as used in this subsection includes, but is not limited to, any individual, firm, corporation, or governmental entity, including the Village Council.

(b) Should the Council determine that a public hearing should be held on whether a zoning moratorium is appropriate, it shall call the same for the earliest practicable date and give reasonable notice thereof by publication in a newspaper of general circulation in the Village ~~of Key Biscayne~~. Pending the public hearing the Council may issue an order prohibiting the consideration by any Village department, Council or agency of any zoning amendment, modification, Variance, Conditional Use or other zoning change in said area.

(c) The procedure to be followed for this section, after the completion of the steps provided in subsections (a) and (b) above, is that set forth in subsections 30-77(e) and (f).

**Sec. 30-79. Zoning in progress procedures.**

(a) During the period of time that a petition for zoning district change or text amendment is under consideration pursuant to the applicable ordinances, no permit or license of any kind shall be issued if such permit or license would result in the nonconforming or unlawful Use of the subject property should the petitioned change be finally enacted by the Village Council.

(b) The period of time of such freeze on permits and licenses shall begin on the date of notification for the initial public hearing before the local planning agency and shall continue for a maximum period of six months; provided, however, that such six-month period may be extended for up to an additional six months by resolution of the Village Council where the scope and magnitude of the petition requires additional time for study and deliberation.

**Sec. 30-80. Site Plan review procedures.**

(a) *Purpose.* Site Plan review is designed to achieve the following objectives:

(1) To insure that infrastructure (water, sewer, and roads) is in place at the time the project is completed, as mandated by Florida's Growth Management law;

(2) To encourage logic, imagination, architectural compatibility and variety in the design process;

**Comment [FHC154]:** We're trying to inject architectural criteria without specifying design

- (3) To insure that projects are compatible, both aesthetically and functionally, with the surrounding area;
- (4) To promote excellence in urban design, landscape design and architecture; and
- (5) To encourage Buildings that are consistent with the high quality environment associated with the Village.
- (6) To ensure that projects comply with these Regulations.

**Comment [FHC155]:** Added. A basic premise, better stated than not.

(b) **Applicability.** Site Plan review shall be required for each Development activity that ~~meets the following criteria: The proposed Development~~ is not located in a single Family, Two-Family, GU - Governmental or PROS - Public Recreation and Open Space zoning districts, and that features:

- (1) Any new construction on a vacant Lot (this applies to Lots that had Buildings that have been demolished); or
- (2) Any addition to an existing Structure that increases the Structure's square footage by 50 percent or more.

(c) **Jurisdiction.** The Village Council shall have jurisdiction regarding the disposition of Site Plan review applications.

(d) **Vote.** The Village Council vote on proposed Site Plans shall follow a public hearing where interested Persons can provide the Council with testimony and evidence.

(e) **Time limit.** The approval of a Site Plan shall automatically become null and void unless the appropriate Development order, as defined in F.S. § 163.3164, has been issued within 12 months of the date the resolution was approved by the Village Council. A request for an extension of time, for a maximum of an additional 12 months, shall be considered by the Village Council. Notice requirements for such requests are the same as those that were used for the original application.

(f) **Application forms.** ~~The Building, Zoning, and Planning~~ Department shall provide the applicant with all necessary application forms. A complete application shall include the following:

- (1) Existing site characteristics map. A certified property survey extending to the center line of all adjacent Streets and alleys illustrating:
  - a. Existing natural features, including but not limited to lakes, trees

and other vegetation and soils and topography unless deemed unnecessary by the ~~Village Building, Zoning, and Planning~~ Director.

- b. Existing Buildings and other Structures, including Use, height, dimensions and Setbacks.
- c. Existing utility lines and Easements.
- d. Lot Lines.

(2) Site Development plan.

- a. A scale drawing clearly illustrating proposed Buildings and other Structures, and any existing Buildings and Structures which are to be retained, including Use, height, dimensions and Setbacks.
- b. Proposed off-street Parking spaces, driveways and sidewalks, including location, construction material, dimensions and Setbacks. This shall demonstrate compliance with Handicapped Accessibility Requirements and Chapter 52.11 of the South Florida Building Code.
- c. Proposed fences and Walls, including location, construction material, dimensions, Setbacks and height.
- d. Proposed utility lines and Easements.
- e. Alignment of Miami-Dade County trafficways on property (if applicable).
- f. Distance of existing Buildings on Adjacent Properties from property line.
- g. Location of all existing and proposed fire hydrants and Siamese connections.

(3) Landscape plan.

- a. A scale drawing clearly illustrating proposed trees, shrubs, grass and other vegetation, including location, height, size and type of plant by both common and botanical classifications.
- b. Proposed berms, watercourses and other topographic features.
- c. Method of irrigation.

d. Identification of Specimen Trees.

e. Site grading.

(4) Architectural plan.

- a. A scale drawing clearly illustrating the building foot-prints, proposed floor plans and elevations, including height, dimensions and color.
- b. Proposed location and elevations of Signs, including height, dimensions, Setbacks, construction material and color.
- c. Floor plans at a scale of one-eighth inch = one foot, zero inches or larger for all floors within any proposed ~~Structured Parking~~structured parking facility illustrating columns and all other obstructions to the movement of automobiles together with fully dimensioned driveway and Parking space layouts.

d. A description of features leading to FAR bonuses as described in Section 30-100 (b).

**Comment [FHC156]:** This is consistent with ZORC's new 30-100( b)

(5) Tabular summary.

- a. Total gross project acreage and net buildable land area, taking into account Lot Coverage and Required Yards.
- b. Total number of proposed ~~residential~~ Units, including characteristics by number of bedrooms and bathrooms and total gross square ~~footage~~.
- c. Proposed ~~residential densities~~Densities, including both net and gross acre calculations on both a ~~Unit and Dwelling Unit and Hotel Room~~ equivalent basis.
- d. Proposed ~~nonresidential~~ Floor Area by type of Use and total gross square ~~footage~~.
- e. Percentage distribution of total gross project site, including areas proposed for landscaped open space, pervious and impervious surfaces and Building coverage.
- f. Number, size and ratio of off-street Parking spaces.

**Comment [FHC157]:** Deleted "residential". Unit picks up Dwelling Unit and Hotel Rooms

**Comment [FHC158]:** Deleted "nonresidential". This already requires distinction by type of Use, and we want Floor Area for residential too to determine FAR

- (6) Drainage plan. Unless the Village Engineer determines that major drainage improvements are not feasible due to existing improvements on the property, Site Plan submittals shall contain a separate paving and drainage sheet(s) containing the following:
- a. Locations and size of all Buildings, roads, Parking Lots, driveways, green areas, and other significant pervious and impervious areas.
  - b. Existing elevations at the center of proposed Structures as well as the proposed finished floor elevations.
  - c. Sufficient elevations and calculations to show retention of storm water on the site in accordance with the South Florida Building Code (S.F.B.C.), Section 4611.1.
  - d. Exterior site elevations at the following locations:
    1. Street crown at mid points of sides adjacent to Streets and at property lines extended (or at intervals of 100 feet for sites with greater than 200 feet frontage).
    2. Where the adjacent edge of pavement intersects the property lines extended.
    3. Existing and proposed elevations at the intersections and midpoints of all property lines and existing elevations ten feet outward from the midpoints of all ~~nonfrontage~~non-frontage lines.
  - e. Type and usage of Structures immediately adjacent to the site (residence, ~~warehouse~~office, and the like).
  - f. Details of the proposed drainage system, including drainfield cross sections and lengths, catch basin types and sizes, designated retention/detention area cross sections, and the like.
  - g. Description of methods to be implemented during construction to mitigate adverse quantity or quality impacts off-site.
  - h. In addition, the following may be required depending on the size and/or location of the project:
    1. Percolation test results if percolation of exfiltration systems are proposed.

2. A map of the area showing where runoff presently goes and size, location, topography and land Use of off-site areas which drain through, onto, and from the project.
- (7) Pavement marking and traffic signage plan.
  - (8) Proof of Concurrency. All projects requiring Site Plan review, or Development of regional impact review are required to provide proof of Concurrency, pursuant to the Land Development Regulations, prior to the issuance of such Site Plan approval, or Development of regional impact Development order.
  - (9) Optional information. The following may be required, if deemed necessary by the ~~Building, Zoning, and Planning~~ Director:
    - a. A map reflecting the general character and relationship of surrounding properties.
    - b. Block elevation sketches of the proposed Development.
    - c. Intended progressive stages or phasing of Development.
    - d. At the time of Site Plan approval of any Development which includes Structured Parking, the ~~Building, Zoning, and Planning~~ Director may require designation of specifically delineated dimensions between columns and/or other Structures. The ~~Building, Zoning, and Planning~~ Director may further require that following construction of footings and establishment of batter-boards for column construction at grade level, that the Developer provide to the ~~Building, Zoning, and Planning~~ Director a sealed survey establishing compliance with the previously designated critical dimensions.
    - e. Demonstration that the proposed Development will not adversely affect any endangered or threatened plant or animal species, and will to the greatest extent possible, protect natural areas, native species, potable water well-fields, and dune systems, and will provide effective erosion control, and will protect against hazardous waste.
    - f. Site Plans shall to the greatest extent possible provide maximum clustering of Buildings and impervious areas.
    - g. Site Plans shall to the greatest extent possible provide bicycle and pedestrian paths to join residential Development with employment areas and commercial areas and shall combine landscaping to the

**Comment [FHC159]:** Think about this. There is merit in Building Separation too. See HR bonuses

greatest extent possible with that of adjoining properties.

(g) **Review criteria.** In order to approve a project, the Village Council must find that it is consistent with each of the below review criteria. The Council may require conditions that are necessary to minimize any adverse impacts on Adjacent Properties.

- (1) **Natural environment.** All proposed Development shall be designed in such a manner as to preserve, perpetuate and improve the existing natural character of the site. Existing trees and other landscape features shall, to the maximum extent possible, be preserved in their natural state; and additional landscape features shall be provided to enhance architectural features, to relate structural design to the site, ~~and to conceal unattractive Uses,~~ and to improve the tree canopy in the Village. In all instances the Village's tree protection, landscaping and all other applicable Regulations shall be fully complied with as minimum standards.
- (2) **Open space.** Adequate landscaped open space shall be provided which meets the particular needs and demands of the proposed Development and all specific zoning district requirements. Legal methods assuring the continued preservation and maintenance of required open space shall be submitted to and approved by the Director and Village Attorney. The type and distribution of all open space shall be determined by the character, intensity and anticipated residential or User composition of the proposed Development.
  - a. Passive open spaces (those areas not planned for intensive activity) shall be arranged as to enhance internal spatial relationships between proposed Structures, to provide buffers between the project and adjacent ~~less-intensive~~ Uses, to facilitate pedestrian movements within the Development, and to improve the overall visual quality of the site and neighboring area.
  - b. Active open spaces (those areas containing activities such as playgrounds, tennis courts, swimming pools and other active recreational facilities) shall be located so as to permit easy Access to all residents or Users within a Development. Private recreational facilities and activities within specific projects shall, wherever possible, complement, rather than duplicate, nearby public recreational activities.
- (3) **Circulation and Parking.** All circulation systems and Parking facilities within a proposed Development shall be designed and located in such a manner as to comply with the following:
  - a. A clearly defined vehicular circulation system shall be provided which allows free movement within the proposed Development

while discouraging excessive speeds and reasonably accommodating pedestrian and bicycle traffic. Said systems shall be separated or buffered insofar as practicable from pedestrian circulation systems. Pavement widths and Access points to peripheral Streets shall be provided which adequately serve the proposed Development and which are compatible and functional with circulation systems outside the Development.

- b. Whenever possible in proposed residential Developments, living Units should be located on residential Streets or courts that are designed to discourage nonlocal through traffic.
  - c. Off-Street Parking areas shall be provided which adequately accommodate maximum vehicle storage demands for the proposed project and are located and designed in such a manner so as to conveniently serve the Uses to which they are accessory and not create incompatible visual relationships.
  - d. Safe and efficient Access to all areas of the proposed Development shall be provided for emergency and service vehicles, as required by Chapter 52.11 of the South Florida Building Code.
  - e. Sidewalks shall be provided as required by the Village Regulations.
  - f. Handicapped accessibility shall be provided as required by all applicable Regulations.
- (4) ***Community services and utilities.*** All proposed Developments shall be designed and located in such a manner as to insure the adequate provision, Use and compatibility of necessary community services and utilities.
- a. An adequate sanitary sewer collection system including all necessary extensions and connections, shall be provided in accordance with Village standards for location and design. Where necessitated by the size of the Development and/or by the unavailability of Village treatment facilities, sanitary sewage treatment and disposal systems must be provided in accordance with Village and State standards and Regulations.
  - b. An efficient solid waste collection system, including the provisions of an adequate number of properly screened local receptacles in locations which afford maximum Use and collection convenience, shall be provided in accordance with all applicable Village standards.

- c. A well designed internal system for fire protection, including the provisions of an adequate number of properly located fire hydrants and an efficient Access arrangement for emergency fire vehicles, shall be provided to insure the safety of all Persons within the project.

(5) **Building and other Structures.** All Buildings and Structures proposed to be located within a Development shall be oriented and designed in such a manner as to enhance, rather than detract from, the overall quality of the site and its immediate environment. The following guidelines shall be followed in the review and evaluation of all Buildings and Structures:

- a. Proposed Buildings and Structures shall be related harmoniously to the terrain, other Buildings and the surrounding neighborhood, and shall not create through their location, style, color or texture incompatible physical or visual relationships.
- b. All Buildings and Structures shall be designed and oriented in a manner insuring maximum privacy of Residential Uses and related activities both on the site being developed and property adjacent thereto.
- c. All permanent outdoor identification features which are intended to call attention to proposed projects and/or Structures shall be designed and located in such a manner as to be an integral part of the total project and/or structural design and shall not exceed a size and scale necessary for the recognition from vehicles moving along adjacent Streets at prescribed legal speeds.

**Comment [FHC160]:** Speak here to sun/shadow, views and air circulation?

(6) **Level of service standards.** For the purpose of the issuance of Development orders and permits, the Village has adopted level of service standards for public facilities and services which include roads, sanitary sewer, solid waste, drainage, potable water, schools and parks and recreation. All applicants are required to prove Concurrency pursuant to the ~~Land Development~~these Regulations.

**Comment [FHC161]:** Question: addition of "schools"

(7) **Other requirements.** Requirements and recommendations as provided in the Village tree and landscape Regulations shall be observed as will the requirements of all applicable standards and Regulations.

(h) **Resolution.** The resolution that memorializes the approval of a Site Plan shall be recorded in the public records of Miami-Dade County at the applicant's expense. A copy of the proof of recordation shall be submitted to the ~~Building, Zoning, and Planning Department~~ prior to the issuance of any ~~building~~Development permits.

**Comment [FHC162]:** Development instead of building permits. Defined term and broader.

~~(i) Building, Zoning and Planning (i) Director recommendation for applications which~~

~~are considered by the Village Council.~~ The Director of the ~~Building, Zoning and Planning Department~~ shall provide the Village Council with a recommendation for each Site Plan application that is considered by the Council. The recommendation shall provide a finding regarding compliance with the criteria listed in subparagraph (m) below.

(j) **Order or notice of violation.** When the ~~Building, Zoning, and Planning~~ Director determines that an application is complete, prosecution of a violation shall be stayed until the Village Council approves or denies an application which would remedy the violation. If the ~~Building, Zoning and Planning~~ Director determines that a stay would imperil public safety or property or otherwise create substantial risk of injury or would amount to a public nuisance, a stay shall not be issued.

(k) **Appeals.** Judicial review of a decision made by the Village Council shall be to a court of competent jurisdiction.

(l) **Consideration of petitions after denial or withdrawal.** When an application is denied by the Village Council or withdrawn after public notice has been provided, no other application that is substantially the same as the original application shall be filed within one year from the date of denial or withdrawal. This prohibition may be waived by the Village Council by permitting the withdrawal or denial to be without prejudice. Any subsequent application that provides Setbacks, Density, or Parking spaces that vary ten percent or more from the counts that were provided in the original application, shall be determined to be a new application and not subject to provisions of this paragraph.

(m) **Notification.** Notification shall be pursuant to section 30-68 "Public Hearing and Notice Requirements". Whenever notification to property owners is required, the applicant making the request shall submit the following to the ~~Building, Zoning, and Planning~~ Department:

- (1) A list of the names and addresses of all property owners within the notification distance that is required and a letter certifying as to the accuracy and completeness of the list by a Licensed Professional Engineer, Licensed Architect, Licensed Landscaped Architect, Licensed Real Estate Broker, Licensed Real Estate Appraiser, an attorney who is a member of the Florida Bar, a Licensed Land Surveyor, or a Land Planner who is a member of the American Institute of Certified Planners (AICP); and
- (2) Two duplicate sets of self adhesive mailing labels containing the names and addressees of property owners indicated on the certified list.

**Sec. 30-81. Delegation.**

**Comment [FHC163]:** Moved from 30-10 per recommendation

When a provision of these Regulations 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 Manager, 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.

**ARTICLE V:  
SCHEDULE OF DISTRICT, USE, AND SETBACK REGULATIONS**

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

(a) *Purpose and Uses.*

TABLE INSET:

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: <u>and to regulate Development within the district as relates to neighboring properties, adjacent streets and the public realm generally</u>	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.*

TABLE INSET:

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 * <u>as of October 24, 2000</u>	Minimum 10,000 sq. ft. or as platted * Maximum two platted Lots * <u>as of October 24, 2000</u>	Minimum 10,000 sq. ft. or as platted * Maximum two platted Lots * <u>as of October 24, 2000</u>	Minimum 7,500 sq. ft. or as platted * Maximum two platted Lots * <u>as of October 24, 2000</u>
Minimum	30%	30%	30%	30%

**Comment [FHC164]:** The "as of 10/24/00 ought to go outside the table

**Comment [FHC165]:** Increase pervious requirement for combined lots?

Pervious Area (% of Lot)				
Maximum Lot Coverage	One Story residences, 45% Multistory residences, 35% Porehes 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 additions to existing buildings. 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 (See FAR Bonus Criteria) .47 for Developments on one platted Lot.** .35 for Developments on two platted Lots.**			
Gross Floor Area Ratio	.65			

**Comment [FHC166]:** Clarify this: applies only if FAR bonuses enable max-out. The table below clarifies Max.

**Comment [FHC167]:** Define Base FAR?

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

**Comment [FHC168]:** "Effective date of this section" is dated.

\*\* 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 Any such newly created single lot shall be deemed to be two platted lots and limited to a maximum Base FAR of .35.

A development may exceed the base FAR but contain no more than Base FAR up to and limited by the maximum Base 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 FAR bonus criteria: identified below (FAR Bonus Criteria).

**Comment [FHC169]:** Base v. maximum Base. We might do better with the definitions to make this easier to grasp

The FAR bonuses, if any, 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.

TABLE INSET:

FAR Bonus Criteria	Base FAR Increase
Porch facing a Street which meets the following minimum standards: depth 4 ft and length 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
Open and unenclosed balconies located above the first finished floor	.00005 per sq. ft. of Floor Area to a maximum of .03 FAR increase
<del>Building located 15-20 ft. Front yard setback bonus from a front of property line</del>	<del>.001 per Linear Foot of Frontage of a Wall that is located 15-20 ft. from a front property line (maximum .006 For every foot the Main Permitted Use is setback less than 20 ft. to a minimum of 15 ft.)</del>
Garage or Carport containing two or more vehicles parked parallel with an exterior column separating each of the spaces	.03-.02
Single Story Home	.03
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
Entrances to Parking garages:	
Interior Lot: placed in a location that does not face the Street.	.02-.03
Corner Lot: entrance in a Side Yard	.02-.03
All windows above the first floor facing an adjacent Building which are five ft. above the finished floor	.01 per side

**Comment [FHC170]:** Porch dimensions are new. Better appearance and functionality – not merely a gimmick

**Comment [FHC171]:** change pushes building forward. Better streetscape; larger and more private realm in back. Possibly improved security. Higher bonus.

**Comment [FHC172]:** Suggest leave as is - at .03. Higher aspiration value of garage and carport not facing the street is mandated for wider lots.

**Comment [FHC173]:** What does “combination one and two story home” mean?

**Comment [FHC174]:** Higher bonus than existing. Policy of side-facing garage

**Comment [FHC175]:** important design/privacy discussion- Open ZORC item

	or if all Building Walls along the interior side of a property do not have windows	.03 per home side
	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
	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 .003 For every foot the Main Permitted Use is setback less than 20 ft. to a minimum of 15 ft.
	VR and PS Districts: Structures that provide a front Setback of less than 25 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
1	Reduction in Building Height:	.006 per foot or fraction thereof with a maximum of .03
2.	Reveals	
	width of inches	

**Comment [FHC176]:** new. Pushes building forward. More private realm. Better streetscape. I changed 25 feet to 20 feet. 20 feet is in current code.

**Comment [FHC177]:** New. Value: roofline variety. ZORC open discussion re: architectural goals and solutions.

**Comment [FHC178]:** Reveals are new. ZORC open issues on architectural details and design bonuses

**Comment [FHC179]:** Moldings new. ZORC open issues on architectural details and design bonuses.

(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; provided that 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

**Comment [FHC180]:** 2 stories max and exception in a and b. are new

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

**Comment [FHC181]:** (d), (e) and (f) are new: ZORC close-call discussion. Undulating Walls. Anti-McMansion concerns. ZORC proposition is to encourage less uninterrupted, uninteresting mass. This whole approach is part of ongoing ZORC discussion about architectural goals.

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 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 ~~the Maximum Building Height~~ 27 ft. Wall height), as the Wall is Setback from the minimum Setback line.

d. 25% of each entire exterior 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.

**Comment [FHC182]:** new. ZORC proposition is to manage height relative to grade; consistency and proportionality among neighbors.

(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.

**Comment [FHC183]:** New. ZORC proposition is to make the front-entrance a conspicuous feature in the elevation, near grade. There was ZORC consensus on this

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

a. Chimneys, 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.

**Comment [FHC184]:** new re floor area of tower.  
Consider weathervane.

- b. Mechanical equipment, HVAC, and elevators: Ten feet above the highest point of the roof, and shall be completely screened from a view measured at the front property line on the opposite side of the Street from the Structure, ~~the~~. The Director may require a line-of-sight study.
- c. Each ~~architectural feature~~ parapet shall not exceed three feet in height nor occupy more than three square feet in area.
- d. Railings and balustrades above the roof beam shall have a height of 42 inches and shall be open at least 50%.

**Comment [FHC185]:**

(d) Maximum Lot elevation.

\*\*\*

(1) Zones.

- 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 driveway 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.

**Comment [FHC186]:** New. ZORC consensus,  
as with front entrance

(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 completed and approved by the County.

e.  ~~Pools, pool Decks, Terraces.~~ (2) 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. shall not have an elevation higher than 2 1/2 feet below BFE.

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).*

TABLE INSET:

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: 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 second or higher Story which contains less than 50% of the Floor Area of the first floor.	Non-waterfront Lots: One Story new construction: 15 ft. or addition: 7.5 ft.  7.5 feet  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.	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	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

Comment [FHC187]: New. Eliminate distinction between waterfront and interior. Clean up the table.

	<p><u>New construction:</u> 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.</p> <p><u>New construction or second floor additions:</u> Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.</p>	<p>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. ****</p> <p>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.</p> <p>Waterfront Lots: 15 ft.</p>	<p>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.</p>	<p>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.</p>	<p>one story addition: New construction or addition: 7.5 ft.</p> <p>One Story with a second floor addition: sum of the sideyards at the second floor shall be 25% of Lot Width.</p> <p>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. ****</p> <p><u>New construction:</u> 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.</p> <p><u>New construction or second floor additions:</u> Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.</p>
Side	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.

facing a Street					
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\* 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.

TABLE INSET:

	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

**Comment [FHC188]:** New changes include minimum 15 ft. side setback if lot is 100 ft. wide. One story additions may follow existing Wall setback. 2<sup>nd</sup> story additions must have 15 foot setback. Consider 15 foot setback requiring dense landscaping with at least 10 foot height. Double - check setbacks against table

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.
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\*\* Within the Village Estate District the following properties shall provide a Waterway rear 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
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 and perpendicular to the Street.

**Comment [FHC189]:** Added perpendicular to house and street- ZORC discussion still open - balance owner convenience and curb appeal

(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 (see subsection (21) for swimming pool equipment setbacks):

**Comment [FHC190]:** Question 0 foot rear yard.

**Comment [FHC191]:** Change from 2.5 feet below?

**TABLE INSET:**

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:

TABLE INSET:

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 shall 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

**Comment [FHC192]:** Delivered previously to Council

area as depicted in the triangle diagramed below, and must be docked parallel to the bulkhead.

**GRAPHIC LINK:**[Click here](#)

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, or waterway a distance greater than ten feet, or ten percent of the width of the waterway, whichever is less. Notwithstanding the foregoing, no dock or mooring pile shall extend into Biscayne Bay a distance of more than 25 feet from the bulkhead.
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.
- b. *Specific Regulations.* The following provisions shall apply only to those properties located along Biscayne Bay at 200 through and including 398 Harbor Drive:
  1. No dock shall extend from a property line into Biscayne Bay a distance greater than 40 feet. The dock shall fit within a triangle with 60 degree angles along the base of the triangle as depicted below. The baseline of the triangle shall not exceed 100 feet.

**GRAPHIC LINK:**[Click here](#)

2. No mooring pile shall extend more than 20 feet from a dock and may not extend more than 60 feet from the property line into Biscayne Bay. No more than two mooring piles and one watercraft are permitted outside of the 60 degree triangle.
3. If the property line is a concave or convex arc, the projection of one side of the dock may exceed the 40-foot maximum by no more than six feet.
4. No more than one slip shall be permitted per residence. A watercraft owned by a guest may be moored no longer than 24 hours within a slip.
5. No dock or mooring pile shall project within 60 feet of a breakwater.
6. A boat lift shall not encroach into the required ten-foot side yard setbacks. Lift arms may extend beyond the 60 degree triangle, but shall not extend beyond the mooring piles.
7. The maximum height for a watercraft on a boat lift is such that the bottom of the watercraft may be no more than six inches above the Mean High Water Level.
8. A watercraft shall not exceed a maximum of 50 feet in length overall (LOA).
9. The maximum distance between mooring piles shall be 50 feet, and the maximum length of a dock running parallel to the property shall not exceed 50 feet.

Except as modified by this subsection (f)(3)b. all other provisions in Section 30-100 shall apply.

(4)— (5) *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.

**(56) Fences and Walls.**

- a. ~~Generally. For purposes of regulating perimeter fences and Walls, there is 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. (a) *Maximum height.*

1. *Front Zone.* The height of a fence or Wall between any Building and adjacent Street(s) or a 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.
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.
4. All Zones. When a fence faces a Street in the Front or Side Zones, the following applies:
  - 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.

**Comment [FHC193]:** New. Added the qualifier re: front and side zones and fixed grammar. ZORC discussion favors fencing for curb appeal, private realm to streetscape articulation, with privacy but not complete visual barricade

e- b. 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 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, unless the Abutting owner consents otherwise in writing and the Director approves the structural side facing the Abutting owner.
3. ~~Chain link fences shall be coated with black or green finish materials. Chain link fences associated with court gates are permitted in pursuant to subsection (21). Where permitted, chain link fences shall be coated with black or green finish materials. Section 30-100 (22).~~
4. Perimeter Walls and wood fences (including chain link)

~~which face~~facing 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 hedgethat at time of planting shall have a minimum height of 24 inches, and be planted on 24 inch centers24 inches on center.

Chain link fences facing 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 shall be painted on both sides.

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

(67) 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.

**Comment [FHC194]:** This subsection is new. Allow flexibility but with limits

(78) 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.

**Comment [FHC195]:** ZORC note re presentation: This subsection is presented differently; less prose; more bullet points. ZORC open item: style; formatting and presentation

- 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.

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

**Comment [FHC196]:** Check setback inconsistency where there's an adjacent sidewalk.

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

**Comment [FHC197]:** swimming pool equipment is treated in Subsection (21)

TABLE INSET:

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	<del>10 ft.</del> Not permitted	<del>20 ft.</del> Not permitted	<del>20 ft.</del> Not permitted	<del>20 ft.</del> Not permitted	<del>15 ft.</del> 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	<del>10 ft.</del> Not permitted	<del>10 ft.</del> Not permitted	<del>10 ft.</del> Not permitted	<del>10 ft.</del> 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. The acoustical around all open vertical sides of the unit(s). The screen shall extend at least one foot above the top of the compressor and shall be painted the color of the house or duplex.

(1011) **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.

(1112) **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 with a~~

minimum setback of 2 ½ feet.

(1213) *Porches, Porte-Cocheres, and Carports/Carport Canopies*  
**Setback Regulations.** The following uses are permitted to encroach into Required Yards subject to the following Setbacks:

TABLE INSET:

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

**Comment [FHC198]:** This seems wrong. Consider modern "Malibu style". ZORC open issue - architecture. Road Not Taken

or landscaping is not located along that portion of a Side Yard ~~which~~that faces the steps, then the side of the steps shall be enclosed with a solid Wall or landscaping.

**Comment [FHC199]:** ZORC -- look at projection consistency -- roofs as compared to awnings, balconies etc

(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 and the following standards.
- 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.

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~~(16) Retaining Wall, required.~~ (16) Steps and landings.

(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.~~

~~(17) Retaining Wall, required. A retaining Wall shall be provided in the following instances: a. Anywhere 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 Building.~~

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

~~(1718) 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 beyond five feet from the exterior Wall of a Building more than 5 ft. into a Required Yard, 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 Lot 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 Lot Line.~~

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

**Comment [FHC200]:** What happened to (g), shown here as deleted? It should remain

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

~~(18) Satellite dish (19) 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 for Director approval.

- 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 5 foot fence, Wall, or dense hedge exists or 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.

**Comment [FHC201]:** Policy of flexibility; convenience

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

**Comment [FHC202]:** Supervisory variance for height excess?

- (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 lot line or water's edge:
- TABLE INSET:**

**Comment [FHC203]:** Capitalize Lot Line

**Comment [FHC204]:** Study: acoustical screening or noise standard for pool pumps?

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
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Front	Not permitted **				
Rear	2 ft.	2 ft. Ø <u>15</u> ft. if waterfront	2 ft.	2 ft. Ø <u>15</u> ft. if waterfront	2 ft.
Side, interior *	2 ft.				
Side, Street *	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 Side Yard 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 to the side Building Line.~~
- c. Accessory lighting fixtures, when customarily associated with the use of court games, shall be Erected so as to direct light only upon 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 and side, 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.

Comment [FHC205]: Is this happening?

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

(26) ***Garages facing a Street:***

a. Lot width 80 ft. or less: No more than one (1) parking space in a garage shall face the Street with a minimum 20 ft. front Setback.

b. Lot width greater than 80 ft. Garage doors shall not face a street. The minimum required front 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 and minimum length 8 ft..

(29) ***Generator Regulations.***

a. Temporary or portable generators are not permitted on any multi-

family, condominium or townhome property.

- b. Generators are not permitted in any yard that faces a Street.
- c. Maximum decibel level for any generator is 60 db measured at the property line as measured with a calibrated Sound Level Meter.
- d. All generators shall be setback a minimum of five (5) feet from any property line and must be completely screened on all sides by the use of walls, fences, landscaping, or other material which extends a minimum of 6" above the top of the generator.
- e. The fuel source for all generators shall be limited to natural or propane gas.
  - i. If natural gas is used as the fuel source for the generator, the natural gas shall be provided through an underground line connected to a supply at or within the public right-of-way.
  - ii. Propane gas shall be stored in propane gas storage tank(s). Propane gas storage tank(s) shall be limited to 500 gallons or less if placed above ground and 1,000 gallons or less if buried underground. Such tank(s) shall be installed in accordance with NFPA 58, as amended. When located in any yard facing a street, propane gas storage tank(s) shall only be permitted to be located below ground. When located above ground in the rear or interior side yard, such tank(s) shall be installed on structural slabs with the necessary wind uplift connections, screened from view in accordance with subsection c. above, and located a minimum of five feet from the adjacent Side Property Line.
- f. Generators that were permitted prior to the adoption of this Section 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 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 emanating from a property shall be directed so as to be contained on the property.

Comment [FHC206]: 25-30 all new

*(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)~~ 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~~ available;
- f. The entire Building shall be substantially rehabilitated and conform to the ~~Florida~~ Building Code, ~~the Code of the Village of Key Biscayne~~ these Regulations, and the Fire Prevention and Life Safety Code on the date a certificate of use and Local Business Tax Receipts 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.

Comment [FHC207]: Why?

- 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.* — **Residential Homes.**

- 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~~ Local Business Tax Receipt 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 shall be 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 a Local Business Tax Receipt 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.
- 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 Local Business Tax Receipt (Restricted).

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

(1) **Setbacks.**

**TABLE INSET:**

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

**Comment [FHC208]:** ZORC discussion not settled. This restates already built condition. What about re-development? ZORC goal of no surprises. Same point with Key Colony and Ocean Club. Consider Comp Plan treatment re: the PUDs upon casualty or natural disaster – density and intensity equivalence

(2) **Development Regulations.**

**TABLE INSET:**

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.**

TABLE INSET:

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.**

TABLE INSET:

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%		
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- (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).

TABLE INSET:

Description		FAR
Applicability	The FAR Bonus Schedule is only applied to new construction on vacant Lots and N/A 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.	
FAR Range	Base FAR	PS and VR Districts
		One-platted lot <sup>xx</sup>
		VE and IR Districts
		One-platted lot <sup>xx</sup>
		Any district
		More than one-platted lot <sup>xx</sup>
		One Story Home regardless of zoning district or Number of platted Lots
		.36
	Max. FAR	Developments on one-platted Lot <sup>xx</sup>
		.47
		Developments on two-platted Lots <sup>xx</sup>
		.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	
	VE and IR Districts: Designs that do not receive bonus 11	
		-10
		-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

TABLE INSET:

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 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. OF OR No windows facing an interior side property line	.04
10. Side Yard Setback	VR and PS Districts: .00005 per sq. ft. that exceeds the required Yard	.03
11. Front Building Walls	VE and IR Districts: 15 ft. Setback 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 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. 30-101. Commercial districts.  
C-1 Low Intensity Commercial District.  
(a) Purpose and Uses.  
TABLE INSET:

District Purpose	Main Uses*	Permitted	Conditional Uses	Accessory Uses	Prohibited Uses
<p>This district permits the Development of land in a low intensity manner and Uses that provide for the sale of goods and products that are needed throughout the entire Village.</p> <p>The permitted uses provide goods and services that primarily serve the residents of the Village.</p>	<p>Bar</p> <p>Commercial Uses</p> <p>1. Offices: No individual or multiple business entity(ies) that are affiliated can occupy more than 10,000 sq. ft. Medical offices shall not exceed 10,000 sq. ft.</p> <p>2. Retail uses: No individual or multiple business entity(s) shall occupy more than 10,000 sq. ft.*. except for stores whose principal product is food for consumption off the premises.</p>		<p>Service Station where the primary use on the site;</p> <p>Package Store</p>	<p>Any Use that is customarily associated with the Main Permitted Uses (See Sec. 30-111)</p>	<p>Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use. (See Sec. 30-113)</p>
	<p><u>3.</u> Antique furniture that is at least 50 years old and the resale of jewelry, art, and furs.*</p> <p><u>4.</u> Personal Service Uses</p> <p><u>5.</u> Restaurant (except on parcels that immediately abut a single Family district)</p> <p><u>6.</u> <u>If a site is adjacent to a GU Government Use District with a lot area of at least 1.75 acres a hotel is permitted with the following restrictions:</u></p>				

**Comment [FHC209]:** Add as purpose – regulate Development and Use within the district

	<u>a. the ground floor is limited to retail, hotel and related accessory uses</u> <u>b. maximum height is 50 ft.</u> <u>c. maximum Floor Area Ratio is 1.0</u>			
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**Comment [FHC210]:** Entryway discussion. Add traffic mitigation and architectural review

**Comment [FHC211]:** Discussion – religious uses oriented to C / O

\* If a Use is located immediately adjacent to a single Family district, then such Use shall be closed after 6:00 p.m. Monday through Saturday. On Sunday, the hours of business are limited to 9:00 a.m. through 1:00 p.m. These restrictions do not apply from Thanksgiving through December 31 where the hours of operation shall be the same as the majority of businesses in the Village.

\*\*\*

**Sec. 30-104. Institutional District.**

(a) *Purpose and Uses.*

TABLE INSET:

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is intended to permit <u>uses and regulate Uses that provide a public or semi-public service.</u>	Places of worship, <u>Places dedicated to historical or cultural functions.</u> Village Recreational Facilities	Community Residential Facilities <u>Homes</u>	Any Use that is customarily associated with the Main Permitted Use Day Care Facilities Meeting rooms Schools (See sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use. (See sec. 30-113 for other prohibited Uses)

**Comment [FHC212]:** Add "Development"

\*\*\*

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

**Comment [FHC213]:** misplaced

\*\*\*

(f) Fences and Walls.

\*\*\*

(3) Finish.

a. *Front Zone.* All Walls between any Building and the adjacent Street(s) must shall be finished on all side(s). Masonry Walls must shall be stuccoed and painted except where adjacent and contiguous to an existing Wall or fence. The owner shall provide documentation to the 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. and w 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).

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

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

d. 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.

e. 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.

f. Walls shall be painted on both sides.

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

\* \* \*

**Sec 30-112. Supplemental Use Regulations**

\* \* \*

(f) *Community residential facilities/homes.* These facilities shall be considered subject to the Conditional Use procedures set forth in section 30-72 and restricted to those districts which list such Use as a Conditional Use subject to the following restrictions:

(1) Restrictions as set forth below:

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

b. 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; and

c. The care provided at the facility limited to personal care, shelter, sustenance, and other support services. Residents and day clients shall be ambulatory;  
(2) Site Plan Review approval as set forth in section 30-80; and  
(3) Density shall not exceed 16 Units per acre. If the Community Residential Home Facility is located on property that contains several other Uses, then only the area that is directly associated with the facility shall be used to determine density. For density purposes, two beds equals one Unit, regardless of the Number of sleeping rooms.

\* \* \*

(o) Cabanas

A cabana shall not exceed 300 sq. ft. and shall not have 220 volt electrical service. One (1) five (5) cubic foot refrigerator is permitted. Air conditioning is not permitted.

**Comment [FHC214]:** re: cabanas, what about extent of kitchenettes and bath facilities

**Sec. 30-113. Prohibited Uses.** 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.

**Comment [FHC215]:** Moved from 30-10

**Comment [FHC216]:** Text is missing

**ARTICLE VI:  
CONCURRENCY MANAGEMENT**

**Sec. 30-160. Purpose.**

The purpose of this ~~article~~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) schools, and (g) parks and open space.

**Comment [FHC217]:** 10/2 meeting: not sure about schools

**Sec. 30-161. Application for Concurrency Determination.**

(a) **Concurrency application.** All ~~building~~Development 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.

**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~~ Comprehensive Plan that provides the Level of Service Standards (LOS) for public facilities and services: roads, sanitary sewer, solid waste, drainage, potable water, schools and parks and recreation. All Developments that are subject to a finding of Concurrency must be consistent with these standards.

**Comment [FHC218]:** Not sure about schools

**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~~Development permit shall be issued unless:

- ~~(1) The Building, Zoning, and Planning~~ (1) ~~The 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.

**Secs. 30-167--30-179. Reserved.**

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

**Comment [FHC219]:** This is re-ordered. I don't recall any changes

(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 space per unit	Developments with more than 100 units shall have additional off-street parking as guest parking
(2) Nightclubs	1 space per patron	
(3) Churches and other places of worship	See special conditions	One (1) sq. ft. of floor area available for seating and passenger seats parking only

worship		required for main sanctuary or largest meeting room whichever is greater
(4) Community Residential Home	space per live-in employee plus space listed in special conditions	11 space for every 5 residents of any fraction thereof

Comment [FHC220]: There are missing sections

**ARTICLE VIII-  
SIGNS**

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**Sec. 30-191. Prohibited Signs.**

**Comment [FHC221]:** Several not defined. We urge further attention

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.~~
- ~~(9) Monument Signs.~~
- ~~(8) (10) Neon Signs (other than Reverse Channel and Wall Signs where permitted) and neon Building trim.~~
- ~~(911) Off Premise Signs/Billboards.~~
- ~~(4012) Pole Signs.~~
- ~~(4413) Portable Signs.~~
- ~~(4214) Projecting Signs, except Canopy Signs.~~
- ~~(4315) Roof Signs.~~
- ~~(4416) Snipe Signs.~~

(4617) Swinging Signs.

(18) V - Sign

~~(46)~~ (19) All Signs except those placed by governmental agencies located on public property.

(4720) Any Sign on a utility pole except for the purpose of utility identification.

(4821) Any Sign that could be confused with a traffic Signal or traffic Sign.

(4922) Any Sign that in the opinion of the Village Manager constitutes a safety hazard.

(2023) Any private Sign extending over a public Right-of-Way.

(Ord. No. 2000-5, § 2, 5-9-00)

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**Sec. 30-194. Residential district permanent Signs.**

The following Signs are authorized in all residential districts and residential-office districts:

(1) **Development Identification Sign.** Permitted only for (a) multifamily Buildings with over five Units; (b) Single Family Developments with over five Units; (c) religious institutions, schools and public Uses. Where Multifamily Dwellings are part of a larger Development, there shall be only one such Sign on each public or Private Street frontage on which the Development faces. Prior to the issuance of a permit, the owner shall covenant that such Sign shall be continually and properly maintained.

TABLE INSET:

Number (maximum)	1 Monument Wall Sign (or Sign mounted on perimeter Wall) per Street frontage, except two are permitted where attached to Wall of symmetrical entrance feature. A parcel that has a minimum of 300 feet of Street/Building frontage and is served by two or more Access points may have one additional Sign.
Area (maximum)	24 square feet
Sign Height (maximum)	Four feet
Sign Width	Eight feet

(maximum)	
Setback (minimum)	5 feet from Right-of-Way, 15 feet from side property line
Illumination	Externally or internally Illuminated Signs only
Changeable Copy Sign	Signs for religious institutions only

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**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). —~~

**Comment [FHC222]:** Did we intend to delete this?

**TABLE INSET:**

<del>Number (maximum) —</del>	<del>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) —</del>
<del>Area (maximum) —</del>	<del>24 square feet, except for gasoline station parcels where a 32 square foot Sign shall be permitted. —</del>
<del>Sign Height (maximum) —</del>	<del>Four feet —</del>
<del>Sign Width (maximum) —</del>	<del>Eight feet —</del>
<del>Setback (minimum): —</del>	<del>—</del>
<del>— From Right of Way line —</del>	<del>Five feet —</del>
<del>— From side property line —</del>	<del>20 feet —</del>
<del>Illumination —</del>	<del>Externally or internally Illuminated Sign only —</del>
<del>Supplemental provisions: —</del>	<del>—</del>
<del>Time and Temperature Sign authorized within total permitted Sign area —</del>	<del>—</del>
<del>Landscaping and visibility sight triangle on corner of lot —</del>	<del>See section 30-197(g) —</del>

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(7) *Instructional Sign.*

TABLE INSET:

Number	To be approved as part of Site Plan
Area (maximum)	Four square feet
Height (maximum)	Two feet
Other restrictions	No advertising copy

~~(1) Subdivision of an existing Building or planned Building group shall not entitle the new parcels to additional Monument Signs.~~

~~(2) In the case of a Multitenant Center, Wall Signs are permitted on Walls that face an Access drive or internal courtyard.~~

~~(3) If the Building Frontage requirement for a Monument Sign precludes an Office Building from having a Monument Sign, one Building identification Wall Sign that otherwise meets the Wall Sign standards is authorized.~~

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**Sec. 30-197. Supplemental Regulations.**

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(f) *Nuisance and safety.*

(1) *Illumination.* No externally or internally Illuminated Sign shall cause an unreasonably excessive glare intensity in an adjacent residential district.

~~(2) *Site triangle.* No Monument Sign shall be located within a 25-foot triangle at the intersection of two Public Streets (measured along the property or Right of Way line) unless it is 30 inches or less in height.~~

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**ARTICLE IX.  
LANDSCAPE REGULATIONS**

**Sec. 30-230. Purpose and intent.**

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

**Comment [FHC223]:** Add enforcement as a purpose. Resident comments

(a) Promote xeriscape by encouraging the use of drought-tolerant landscape materials, grouping of plant material by water ~~requirement~~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~~Specimen 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 ~~affect~~effects of added absorption of carbon dioxide.

(f) Contribute to the processes of air movement, air purification, ~~oxygenation~~oxygen 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 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 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.

**Comment [FHC224]:** Clarify: applicable everywhere

**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 and include~~ 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 fences, 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~~Buildings, 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, ~~but in no event shall less than 30 percent of all landscaping be done with native vegetation or relocated within the site.~~

~~—(3) The Landscape plan shall include native plant species to the maximum extent possible.~~  
~~(4) Trees and shrubs shall be used to reduce energy consumption by shading Buildings and paved surfaces.~~

~~(54)~~ Street trees shall be used to shade roadways, sidewalks and provide visual order. All Street tree planting shall conform to the Village's Street Tree Planting System.

**Comment [FHC225]:** Sidewalk shade – important policy

~~(65)~~ 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.

**Comment [FHC226]:** Single family not excepted outright, but new exception for xeriscaping

(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 ~~damaged~~damaged, any tree without first obtaining a permit from the ~~Village.~~ However nothing in this article shall prevent a Person from destroying the Miami-Dade County Department of Resource Management (DERM).

Comment [FHC227]: Add hedges too

(b) **Required tree removal.** The following trees must be removed with new Development and may be removed at any time without receiving a permit:

- (1) Schinus ~~terebinthifolius~~terebinthifolius (Brazilian Pepper/Florida Holly)
- (2) Metopium toxiferum (Poison-~~Wood~~Wood)
- (3) Casurina equisetifolia (Australian Pine)
- (4) Melaleuca ~~Quinquenervia~~Quinquenervia (Melaleuca)
- (5) Araucaria ~~Heterophylla~~Heterophylla (Excelsa, Norfolk Island Pine)
- (6) ~~Brassala Actinophylla~~Brassalia Aactinophylla (Schefflera)

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**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 ~~use or storage of materials or equipment, compaction of soil over roots~~ and/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-Wood~~ 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.
  - bc. Minimum diameter of trees trunk at fivefeifour feet heightheightabove 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	<del>three trees for Lots of 7,500 sq. ft. or less and one tree for each additional 2,500</del> <u>one tree per 1,875 sq. ft. or fraction thereof</u>
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
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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.~~

**Comment [FHC228]:** Emphasize shade trees.

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).

~~e. 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	<u>Minimum 24 inches.</u>
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.

(Ord. No. 2000-5, § 2, 5-9-00)

**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, after consultation with \_\_\_\_\_, 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.

(Ord. No. 2000-5, § 2, 5-9-00)

**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.

**Comment [FHC229]:** Enforcement issue? Possibly training or permitting? This happens too often

**Comment [FHC230]:** No changes to Article X