VILLAGE OF KEY BISCAYNE

Office of the Village Manager

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

Village Manager
Genaro "Chip" Iglesias

MEMORANDUM

DATE: August 25, 2010

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager

RE: ZORC Recommendations: Amendment to the Zoning and Land Development Regulations

RECOMMENDATION

It is recommended that the Council approve the changes as recommended by ZORC and staff.

BACKGROUND

Attached is the ordinance that was recommended by the Zoning Ordinance Review Committee and staff. As requested by Council, staff has provided an explanation of the changes in the right hand margin noted as "comments". Those changes which do not have "comments" were drafted by the Village Attorney and will be explained at the meeting.

Also attached is a chronology of the workshops and meetings that were held by the Council since the ZORC transmitted their recommendations to the Council on September 1, 2009.

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CHRONOLOGY OF COUNCIL MEETINGS ON ZORC RECOMMENDATIONS

September 1, 2009	ZORC submits their recommended ordinance and the Council "accepted" same.
October 13, 2009	ZORC Chair presents the recommendations to Council.
February 16, 2010	Council held a workshop to review the following: Article I — Title, Intent, Purpose, Methods, and Fees Article II — Definitions Article III — General Provisions
March 2, 2010	Council held a workshop to review the following: Article IV — Administration of the Zoning Ordinance Article V — Schedule of District, Use, and Setback Regulations Article VI — Concurrency Management Article VII — Off-Street Parking and Loading Article VIII — Signs Article IX — Landscape Regulations
April 7, 2010	Council held a workshop to review the following: Article V — Schedule of District, Use, and Setback Regulations Sec. 30-103 — HR Hotel Resort District
June 22, 2010	Local Planning Agency (LPA) determined that the amendments to the Zoning and Land Development Regulations are consistent with the Master Plan subject to the removal of those that exceeded the height restrictions.
June 22, 2010	Village Council approves the ordinance on first reading subject to removing those regulations which required a referendum. Second reading was scheduled for August 31, 2010.

ORDINANCE NO. 2010-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, COMPREHENSIVELY UPDATING AND REVISING CHAPTER 30, "ZONING AND LAND DEVELOPMENT REGULATIONS" BASED UPON THE ZONING ORDINANCE REVIEW COMMITTEE'S (ZORC) RECOMMENDATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

WHEREAS, the Committee has proposed recommendations to the Zoning Code as presented in this Ordinance; and

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

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

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

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

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

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

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

Section 5. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading, except that any changes in this Ordinance that are subject to the provisions of Section 4.15 of the Village Charter, shall not be effective until approved by a majority vote of the electors.

PASSED AND ADOPTED on first reading this _22nd_ this day of _June_, 2010.

PASSED AND ADOPTED on second reading this ___ this day of _____, 2010.

MAYOR ROBERT L. VERNON

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

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."~~

Sec. 30-2. Intent and purpose.

~~The purpose of t~~ These Regulations are adopted and will be enforced ~~is~~ 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 development and the natural environment and of proximate development within and among zoning districts.

Sec. 30-3. Method; Zoning District.

(a) *Listing of zoning districts.* The Village ~~shall be~~ is divided into zoning districts of such number, shape and area as ~~may be deemed best suited~~ to ~~carry out~~ fulfill the 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 district ~~designation~~:
~~TABLE INSET:~~

Single Family Districts IR Island Residential VE Village Estate VR Village Residential	*Specialized Use Districts* PC Private Club GU Government Use PROS Public Recreation and Open Space PUD-1 Ocean Club PUD-2 Grand Bay PUD-3 Key Colony
Single Family and Two-Family District(s)	*Office District*

Comment [JK1]: References the Zoning and Land Development Regulations as Ch. 30 in the Code of Ordinances

Comment [JK2]: Changes location of words in the paragraph with no impact on regulations

Comment [JK3]: Changes location of words in the paragraph with no impact on regulations

PS Parkside Residential	0-1 Low Intensity Office
Multiple Family Districts RM-10 Low Density Multiple Family RM-16 Medium Density Multiple Family RM-30 High Density Multiple Family	*Commercial Districts* C-1 Low Intensity Commercial
Hotel Districts HR Hotel Resort	*Other Districts* I Institutional

Note: District Regulations may be found in Article V.

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

Comment [JK4]: Grammar change with no impact on regulations.

(c) *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.

(d) *Interpretation of district boundaries.*
(1) 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 extend throughout the whole area in the municipality bounded by the district boundary lines within which such name or symbol is shown or indicated, except as otherwise provided by this section.
(2) In cases where a boundary line is given a position within a Street or alley, Easement, canal, navigable or non-navigable Waterway, it shall be deemed to be in the center of the Right-of-Way of the Street, alley, Easement, or Waterway.
(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 boundary line shall be the property line which 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.

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 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~~.

ARTICLE II. 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. The following general rules of construction shall apply to the Regulations of this Code:

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

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

(d) The word "shall" is mandatory, the word "may" is permissive.

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

(f) The word "Lot" includes the word "Plot" or "parcel" or "tract" or "site."

(g) The words "used" or "Occupied" include the words "intended," "designed" or "arranged" to be used or Occupied.

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

(i) When this Code refers to other ordinances, codes or statutes the reference shall imply the most up-to-date ordinance, code or statutes, as amended.

(j) Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

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

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

(m) If a Use is specifically ~~enumerated~~ listed then it takes preference over general applications or interpretations of these Regulations. If a Use is ~~enumerated~~ listed 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) 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.

Sec. 30-11. Definitions.

[As used in this chapter, the following words and terms shall have the meanings respectively ascribed:]

Abutting or Adjacent Property. Property that is immediately contiguous to property that is subject to review under these Regulations or property that is located immediately across any road or public Right-of-Way from the property subject to review under these Regulations.

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.

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, an Accessory Use.

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

Adult Entertainment Establishment. An adult theater, an adult video/bookstore, an adult performance establishment, a commercial physical contact parlor, or an escort service operated for commercial or pecuniary gain, regardless of whether such Establishment is licensed under this code. "Operated for commercial or pecuniary gain" shall not depend

upon actual profit or loss. An Establishment which has a 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".

Alterations. Any change in size, shape or character of construction of a Building[,] Structure, or Sign.

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

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

Apartment Building. A Building with or without resident supervision Occupied or intended to be Occupied by more than two families living separately with separate cooking and sleeping facilities in each Unit.

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

~~*Apartment Hotel.* A multiple Dwelling under resident supervision, which maintains an inner lobby through which all tenants must pass to gain Access to the apartments and which may furnish dining room service.~~

Apartment Unit. A room or group of rooms, Occupied or intended to be Occupied as separate living quarters by one Family and containing independent cooking and sleeping facilities.

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

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

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.

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

Automobile Repair, Minor. Simple automotive repair which can be accomplished entirely within an enclosed Structure, including but not limited to minor motor tune-up

and repair, upholstering, tire repair and replacement and muffler installation, but not including any operations listed under Automobile Repair, Major, or any other operation similar thereto.

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

Comment [JK5]: Removes definition that is not used in the ordinance.

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

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

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

Balcony or Terrace. A platform that projects from the Wall of a Building and has 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 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.

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

Bed and Breakfast Inn. A Structure originally built as a single Family residence which is owner Occupied and operated to provide guest rooms with breakfast and/or dinner included as part of the room rate.

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

~~*Block.* A parcel of land entirely surrounded by Streets, streams, railroad Rights-Of-Way, parks or other public space or combination thereof.~~

Comment [JK6]: Removes definition that is not used in the ordinance.

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

Comment [JK7]: Removes definition that is not used in the ordinance.

Building. Any Structure, either temporary or permanent, having a roof, and used or built 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.

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

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

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

Cafe, Sidewalk. A Use located in the public Right-of-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.

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

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

Change of Occupancy. A discontinuance of existing Use and the substitution therefore of a Use of a different kind or class. Change of Occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of Use.
Chief Code Enforcement Officer. Includes any Village employee working under the authority and direction of the Building, Zoning, and Planning Director.

Club, Private. Nonprofit association or organization of fraternal or social character.

Club, Night. A restaurant, dining room, Bar or other similar establishment providing food or refreshments wherein floor shows or other forms of entertainment are provided.
Commercial Uses. Any activity where there is an exchange of goods or services for monetary gain. Such activities include but are not limited to Retail sales, offices, eating and drinking facilities, theaters and similar Uses.

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 communication equipment.

Communication Tower, Monopole. A Cellular Communication Tower that consists 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, no guy wires, and the sending/receiving equipment mounted at various locations on the Tower.

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

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

Concurrency. The requirement that necessary public facilities and services to maintain the Village's adopted level of service standards are Available when the impacts of Development occur.

Concurrency Determination. A determination as to whether required facilities and services needed to support Development will be Available concurrent with the impacts of such Development.

~~*Concurrency Management System.* The procedures and/or process that the Village will utilize to assure that Development Permits are not issued unless the necessary facilities and services will be Available concurrent with the impacts of Development.~~

Comment [JK8]: Removes definition that is not used in the ordinance.

Conditional Use. A Use that is not generally appropriate in a district, but would be appropriate if it is consistent with the review criteria.

~~*Consignment Shop.* A business establishment which offers merchandise for sale which has been entrusted to the business for which the owner of the merchandise is paid after the sale of the merchandise by the business.~~

Convalescent Home. A Building, or portion thereof wherein for compensation, living accommodations and care are provided for Persons suffering from illness, other than mental or contagious, which is not of sufficient severity to require hospitalization, or for Persons requiring further institutional care after being discharged from a hospital other than a mental hospital.

Cooking Facilities. Any device used for food preparation, specifically to cook, heat, or defrost food. Such devices may include, but should not be limited to, a wet-bar sink, a microwave, or toaster.

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

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

~~*Day Nursery.* (See Nursery School).~~

Deck. A platform located below the Base Flood Elevation whose horizontal surface is attached to the ground.

Dedication. A grant for designated public use.

Density. The maximum number of Units per acre, which can be developed on a parcel of land (measured to the property lines).

Department of Transportation Standards. Includes the term State Standards and as used herein shall refer to the Florida State Department of Transportation's Standard Specifications for Road and Bridge Construction as currently adopted and in use.

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.

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.

Comment [JK9]: Removes definition that is not used in the ordinance.

Comment [JK10]: Removes definition that is not used in the ordinance.

Comment [JK11]: Removes definition that is not used in the ordinance.

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

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

Comment [JK12]: Removes definition that is not used in the ordinance.

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

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

Dwelling. Any Building or part thereof, Occupied in whole or in part, as the residence or living quarters of one or more Persons, permanently or temporarily, continuously or transiently.

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

Comment [JK13]: Removes definition that is not used in the ordinance.

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

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

Dwelling, Single Family. A Dwelling Occupied by not more than one Family; a Dwelling comprised of only one Dwelling Unit.

Dwelling, Two-Family. A Dwelling Occupied by not more than two Families; a Dwelling comprised of two Dwelling Units.

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

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

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

Erected. Includes built, constructed, reconstructed, moved upon or any physical operations on the premise required for building.

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

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. The sum of the areas of the floors of a Building or Buildings, measured from the exterior faces of exterior Walls or from the exterior face of an architectural projection, from the centerline of Walls separating two attached Buildings. The calculation of Floor Area for Unit sizes is measured from the centerline of a party Wall to the interior face of an exterior Wall.
The Floor Area of a Building shall include all areas except for those areas listed below, unless otherwise provided for in this chapter:
(1) Accessory water tanks or cooling Towers.
(2) Unenclosed exterior staircases or steps, exterior open fire escapes and open stairwells.
(3) Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
(4) Unenclosed exterior Terraces, Balconies, breezeways, Porches, Carports, Gazebos, sheds or hallways or areas that provide Access to a Unit or Units.
(5) Any floor space utilized for parking within an accessory off-street Parking garage. For single Family and Two-Family Structures, the Parking garage is included in the FAR calculation if the finished floor is more than two feet above the crown of the road except as set forth in subparagraph (8). If the Parking garage is the main Permitted Use, then the Floor Area of the Parking levels shall be included in the calculation for Floor Area Ratio.
(6) Mechanical equipment rooms located above the main roof deck.
(7) Exterior unenclosed private or public Balconies.

(8) Floor Area located below BFE is excluded; however, if the ceiling is above BFE and the space is enclosed on more than two sides, 10 percent of the horizontal Floor Area of the space below BFE is included in the Floor Area.
(9) Exterior elevators and landings.
(10) Chaises.
(11) Service station or automotive repair when located in a parking garage.
In volumetric Buildings where there are no interior floors above the finished floor, the Floor Area shall be calculated as if there were a floor for every ten feet. Volumetric space between ten and 13 feet is not counted. Volumetric space above 13 feet shall be calculated as follows: Floor area = 10 percent for each one foot or fraction thereof in height × square feet of the space.
Volumetric space is not counted in the following:
(1) In entranceways that contain 225 square feet or less.
(2) Space between ten and 13 feet above the finished floor.
(3) Space above stairs.

Floor Area Ratio. The total Floor Area of a Building or Buildings on a building site divided by the area of the site.

Frontage of a Property. The Plot line that abuts a Street or separates the Plot from a Street.

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

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

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

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

Gazebo. A detached roofed trellised-covered Structure open on at least three sides.

Grade, Elevated Building. Equal to the Base Flood Elevation.

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

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

Comment [JK14]: Removes definition that is not used in the ordinance.

Comment [JK15]: Removes definition that is not used in the ordinance.

Height, Building-Maximum. As established in the Regulations governing each zoning district and shall be measured as follows: the vertical distance from the point described below to the top of the highest tie beam of the Building. The point to begin measuring the height of a Building shall be as indicated below:
(1) Non-elevated Buildings: from the crown of the road.
(2) Elevated Buildings: from the Base Flood Elevation (BFE).

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

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

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

Hotel Room or Unit. A room, or group of rooms with ingress or egress, intended for rental to transients on day-to-day, week-to-week, or month-to-month basis; but, not intended for Use or used as a permanent Dwelling. The definition includes:
(1) A sleeping room within a Hotel;
(2) A living or sleeping room within a Dwelling, having a separate entrance from outside the Dwelling other than the principal entrance of Dwelling; and
(3) A living or sleeping room within a Dwelling Unit of a Multiple Family Dwelling, having a separate entrance from outside the Dwelling Unit.

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

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

Comment [JK16]: Removes definition that is not used in the ordinance.

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.

Lot. A parcel or tract of land designated and identified as a single Unit of area in a Subdivision Plat officially recorded in the public records of Dade County, Florida. This definition includes the terms site, platted Lot, Plot, tract or parcel and land described by metes and bounds.

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

Lot, Interior. All Lots other than Waterfront Lots.

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

Lot, Through. Any Lot having frontages on two parallel or approximately parallel Streets.

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

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

Master Drainage Plan. An engineering drawing and Written report outlining the primary and secondary drainage facilities needed for the proper Development of a specific increment of the Village.

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

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

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

N/A. Not applicable.

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

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

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

Occupied. Includes arranged, designed, built, altered, converted, rented or leased to be Occupied.

Office Building. A Structure designed to provide 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: medicine, law, accounting, real estate, insurance, architecture, engineering, stockbroker, banking and financial, and private investigator (excluding bail bonds).

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

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

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

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

Comment [JK17]: Removes definition that is not used in the ordinance.

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

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

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

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

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

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

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

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

Person. Includes association, firm, co-partnership, or corporation.

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

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

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

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

Comment [JK18]: Removes definition that is not used in the ordinance.

Comment [JK19]: Removes definition that is not used in the ordinance.

Comment [JK20]: Removes definition that is not used in the ordinance.

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

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

Comment [JK21]: Removes definition that is not used in the ordinance.

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

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

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

Comment [JK22]: Removes definition that is not used in the ordinance.

Plot, Interior. A Plot other than a Corner Plot.

~~*Plot, Key.* The first Plot to the rear of a Reversed Corner Plot whether or not separated by an alley there from.~~

Comment [JK23]: Removes definition that is not used in the ordinance.

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

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.

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

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

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

Porch. An un-airconditioned roofed Structure attached to a residence which must be at least 70 percent open on each exposed side. Only supporting columns may be visible above 42 inches from the finished Porch floor level.

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

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

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

Comment [JK24]: Removes definition that is not used in the ordinance.

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

Public Utility. Includes every Person, corporation, partnership or association or other legal entity, their lessees, trustees or receivers now or hereafter, either owning, operating, managing or controlling a system or proposing construction of a system that is provided or proposes to provide water or sewer service, electricity, natural or manufactured gas, or

any similar gaseous substance, telephone or telegraph 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.

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

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

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

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

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

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

Rooming House or Boarding House. See Lodging House.

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

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

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

Setback. The minimum horizontal distance between the Lot or property line and the nearest front, side or rear line of the Building (as the case may be), including Terraces or any covered projection thereof, excluding steps (also see Yard and Required Yard).

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

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

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

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

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

Comment [JK25]: Removes definition that is not used in the ordinance.

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

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

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

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

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

Comment [JK26]: Removes definition that is not used in the ordinance.

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

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

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

Comment [JK27]: Removes definition that is not used in the ordinance.

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

Comment [JK28]: Removes definition that is not used in the ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Comment [JK29]: Removes definition that is not used in the ordinance.

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

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

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

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

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

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

~~*Sign, Pylon.* A freestanding Sign which is less than six feet high that is permanently attached to the ground without the need of posts and/or poles.~~

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

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

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

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

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

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

~~*Sign, Subdivision.* A Sign identifying a recorded Subdivision.~~

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

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

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

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

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

Comment [JK30]: Removes definition that is not used in the ordinance.

Comment [JK31]: Removes definition that is not used in the ordinance.

Comment [JK32]: Removes definition that is not used in the ordinance.

Comment [JK33]: Removes definition that is not used in the ordinance.

Comment [JK34]: Removes definition that is not used in the ordinance.

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

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

Comment [JK35]: Removes definition that is not used in the ordinance.

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

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

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

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

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

Comment [JK36]: Removes definition that is not used in the ordinance.

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

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

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

Street, Major Arterial. A Street of higher classification than Local Streets used primarily for traffic traveling a considerable distance within or through an area not served by an

expressway. A major arterial is of considerable continuity, used primarily as a main traffic artery. A major arterial may also be a Limited Access Street.

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

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

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

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

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

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.

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

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.

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

Surveyor. A land surveyor registered in this State.

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

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.

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

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

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

Comment [JK37]: Removes definition that is not used in the ordinance.

Trailer, House. (See Mobile Home.)

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

Unit. See (Apartment Unit, Duplex, Hotel Unit or Townhome.)

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

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

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

Use of Land. Includes Use of water surfaces and land under water to the extent covered by zoning districts, and over which the Village has jurisdiction.

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

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

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

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

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

Vehicle, Recreational. Any vehicle or portable Structure designed primarily to provide temporary living quarters for recreation, camping or travel use: either a vehicular Structure mounted on wheels; self-powered or designed to be pulled by another vehicle; or a Structure designed to be mounted upon and carried by another vehicle. This definition is intended to include the following:
(1) *Camping Trailer.* A vehicular portable Structure mounted on wheels, constructed with collapsible partial side Wall of fabric, plastic or other material for folding compactly while being drawn by another vehicle, and when unfolded at the site or location providing temporary living quarters.
(2) *Truck Camper.* A portable Structure, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters.
(3) *House-Bus, Camp-Bus* or *Motor Home.* A Structure built on and made an integral part of self-propelled motor vehicle chassis primarily designed to provide temporary living quarters.
(4) *Travel Trailer.* A vehicular, portable Structure built on a chassis designed to be pulled by a standard passenger automobile and to be used as temporary living quarters.

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

Comment [JK38]: Removes definition that is not used in the ordinance.

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.

Village. The Village of Key Biscayne.

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

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

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

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

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

Yard, Front. A Yard extending across the full width of the Plot along the Front Plot Line from Side Plot Line to Side Plot Line.

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

Yard, Side. A Yard extending along the Side Plot Line from the Front Yard to the Rear Yard.

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

Zoning Code. The Zoning and Land Development Regulations of the Village.

ARTICLE III. GENERAL PROVISIONS

Sec. 30-20. Scope of Regulations.

These Regulations shall govern the Development and Use of Land and activities within the Village. No Building or Structure or part thereof shall be Erected, constructed, reconstructed or altered and maintained, and no existing Use, new Use, or change of Use

Comment [JK39]: Adds specificity

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.

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.

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~~ any Development, use or activity that would violate any ~~the~~ provisions of these ~~Zoning and Land Development~~ Regulations. No permit conferring authority or presuming or purporting to confer ~~give~~ the authority to violate or cancel the provisions of the~~ose~~ Regulations shall be valid except insofar as the work or Use ~~that it authorizes~~ authorized by the permit is lawful~~. Nor~~ and consistent with these Regulations. No permit shall ~~such permit~~ prevent the Building, Zoning, and Planning Director ~~enforcing Officer~~ from ~~thereafter~~ requiring ~~the~~ correction of errors in ~~said~~ plans and specifications or ~~from preventing Building~~ causing compliance with these Regulations. The Building, Zoning, and Planning Director may prevent Development operations from being carried on ~~there under when~~ pursuant to any permit in violation of these Regulations.

Sec. 30-23. Replatted Lots and resubdivision of Hotels and Motels.
(a) *Replatted Lots.* The subdivision of any land shall be by plat or waiver of plat and shall conform to these Regulations. ~~No resubdivision of platted Lots shall be permitted except by an approved and recorded amended Plat~~. In such ~~resubdivision~~ re-subdivision, no Lot shall be created that ~~which~~ does not conform to the Regulations of the zoning district within which such land is located.

(b) ~~*Conversion Resubdivision*~~ *of Hotels or Motels.*

Hotels and Motels shall not be converted to Multifamily Dwellings.

~~(1) No resubdivision of Hotels or Motels into Multifamily Dwellings shall be permitted unless the Building Official issues a new certificate of occupancy illustrating that the resubdivision is in compliance with 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 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.~~

Comment [JK40]: Grammar change. Replaces building with the term development on plans. Adds abandoned to the paragraph. These changes have no impact on the regulations.

Comment [JK41]: Provides more Specific language relating to violations of this ordinance.

Comment [JK42]: Grammar correction

Comment [JK43]: ZORC added specifically to this regulation. Staff recommended conversion of hotels or multifamily dwellings not be permitted.

Comment [JK44]: Staff recommends that the conversion of hotels and motels to multifamily dwellings not be permitted as hotels add to the economic base of the community.

Comment [JK45]: ZORC recommended to include "change of use". This was deleted by staff as this paragraph deals with re-subdivisions of hotels and motels not change of uses.

(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 with Density, Parking, Lot Coverage, and Floor Area Ratio Regulations as set forth in the district where the property is located.~~

Sec. 30-24. Street frontage required. No Plot may be built upon unless said Plot 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.
Where a Plot is to be Occupied for a Permitted Use without Buildings, the Side Yards and Front Yard required for such Plot 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 that do not include Buildings and that are used only ~~used~~ for private gardens or public parks or recreational purposes ~~when such Uses do not include Use of Buildings.~~

Sec. 30-26. Use of residentially zoned land for Access.
No ~~land which is~~ residentially zoned land shall be used ~~for~~ as 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.~~

Sec. 30-27. Reductions of Plots below minimum requirements.

No parcel of land may be subdivided into Plots which do not~~, which has less than the minimum width and area requirements~~ of ~~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 applicable minimum size requirements set forth in these Regulations.

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 ongoing construction on the same property for which a valid building permit is in effect.

Sec. 30-29. Extension of Buildings with nonconforming Setbacks.
A legally constructed single 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

Comment [JK46]: More specific regulations on conversion of hotel or motel to multi-family. This type of application would increase the density beyond what is permitted and could not occur

Comment [JK47]: ZORC added "structures" which is not necessary as the definition of "building" includes "structure". Staff removed "structure". Provides for gardens and parks in sideyards

Comment [JK48]: Removes words which are not necessary. No impact on the regulations

Comment [JK49]: Permits extending homes along the same setback as the original structure. This encourages expansion of homes and retention of current residents

(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 Building, Zoning and Planning 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 Homes that are constructed below the Base Flood Elevation.~~

Sec. 30-30. Nonconforming Structures and Uses.

It is the purpose and intent of the Regulations within this section to provide procedures whereby lawful Nonconforming Structures and Uses as defined may be maintained where such maintenance will not have a detrimental effect upon other Persons or property within the vicinity, and in so doing to bring such Uses and Structures up to present standards to the maximum possible extent.

(1) *Nonconforming Use ~~of a conforming Building~~*. ~~The~~ A 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. If such Nonconforming Use is discontinued for a period of six months, any further Use of said Building or land 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~~.

(2) *~~Conforming Use of a~~ ~~n~~Nonconforming Building or Structure*. A lawful nonconforming Building or Structure may be utilized for any Use which conforms to the Regulations of the applicable zoning district within which the Building or Structure is located, provided that: (1) no structural Alterations, except those required by law, are made to the Building or Structure; or (2) the use of the nonconforming Building or Structure is not discontinued for a period of six months.

~~(3) *Nonconforming Use of a nonconforming Building*. The lawful Nonconforming Use of a lawful nonconforming Building may be continued although such Use and Building do not conform to the Regulations of the applicable zoning district within which the Building is located. Such Use shall not be expanded.~~

~~(4) *Nonconforming Use of Land*. The lawful Nonconforming Use of Land may be continued although such Use does not conform to the Regulations of the applicable zoning district within which the land is located. However, no such Use shall be enlarged, intensified or extended to occupy a greater area of land or reinstated following discontinuance for a period of six months.~~

~~(5) *Nonconforming Structures*. Lawful Nonconforming Structures other than Buildings are likewise permitted to remain, provided no structural Alterations other than those~~

Comment [JK50]: Above changes add more specificity to the regulations.

Comment [JK51]: Permits expansion of Mickel Homes.

~~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 modification, up to and including removal, so as to comply with the Regulations of the applicable zoning district.~~

(3~~6~~) *Maintenance and repairs.* Necessary maintenance and repairs may be made to any 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.

(~~47~~) *Compliance with Regulations.* Nothing in this section shall diminish the responsibility of an owner to maintain his Use or Structure in full compliance with all other Village, County, State or federal Regulations or licensing procedures.

(5~~8~~) *Establishment of nonconformity.* For the purpose of this section, the mere possession of a valid approval to Use land or Buildings or valid license to do so without actual demonstrable Use of such land or Structure is an insufficient basis to establish lawful nonconformity.

~~(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.~~

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. Should the Building, Zoning and Planning Director deny the request, the applicant may file an appeal of an administrative decision.

Comment [JK52]: Add specificity relating to impact on adjacent property when a duplex is subdivided.

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 Use~~ in a particular zoning district ~~within which such Use has been requested, such Use may be permitted as follows:~~ it is a Prohibited Use, unless the Building, Zoning and Planning Director issues an ~~By~~ administrative decision ~~of the Building, Zoning, and Planning Director subject to a~~ finding that such Use exhibits and maintains 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. Appeal of the Building, Zoning, and

Comment [JK53]: ZORC included that the BZP Director could not permit a prohibited use (i.e. increase, density, height or FAR). The BZP Director cannot make such a determination if that is the result of his/her decision. As such, it is not necessary to include such language in the regulations.

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 [JK54]: Adds criteria for the BZP Director in determining if uses not listed in a zoning district should be permitted.

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; and

Comment [JK55]: Staff recommends that transfer of density from one to another should not be permitted. ZORC recommended in favor of transfer of density. ZORC favored mixed used commercial and residential development along the west side of Crandon Blvd. There are no provisions to implement such transfers. As such, it should not be permitted.

(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 Comprehensive Plan ~~master plan (Future Land Use Plan, page 15)~~. In such cases, where the maximum Density may be exceeded, the repair or 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 Comprehensive Plan ~~master plan~~.

Comment [JK56]: Changes Master Plan to Comprehensive Plan. No impact on the regulations.

Sec. 30-34. Building permits.
All applications for building permits shall be accompanied by a Site Plan drawn to scale showing the actual dimensions of the Lot to be built upon, the size of the Building to be Erected, the Setback lines observed, and such other information as may be requisite and necessary to provide for the enforcement of the ~~Regulation~~ criteria 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 available for public inspection.

Sec. 30-35. Certificate of occupancy or certificate of completion.
No land shall be Occupied or used and no Building ~~hereafter~~ 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, stating or evidencing that the ~~Premises or~~ Building and site on which it is located complies with ~~all the provisions of~~ these Regulations.

Comment [JK57]: ZORC removed Chief Building Official and inserted BZP Director. Staff removed this change as only the Chief Building Official can issue a Certificate of Occupancy pursuant to the Florida Building Code.

Sec. 30-36. Moving Buildings.
No Building~~,~~ or part of a Building~~, or Buildings~~ shall be moved from the site of original construction.

Comment [JK58]: Grammar change.

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 [JK59]: Re-locates words within the regulation. No impact on the regulations.

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 these ~~Zoning and Land Development~~ 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 the 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.

~~**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.~~

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, 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:

(1) ~~*Use which involves*~~ *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*~~ *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.

Comment [JK60]: ZORC deleted the words "Zoning and Land Development". Staff re-inserted those words as the current code does not provide for a definition of "Regulations". The ZORC recommendation originally had a definition for "Regulations".

Comment [JK61]: Secures construction sites with closed gates. This is consistent with the Florida Building Code.

Comment [JK62]: Re-locates words within the regulation. No impact on the regulations.

Comment [JK63]: Permits "green" coated fences and provides a choice other than "black" coated fences.

Comment [JK64]: Changes add by legal as they add specificity.

(3) *Additions to an existing Building.* Additions to an existing Building shall comply with the provisions of these Zoning and Land Development Regulations.

(4) *Rehabilitation of existing Buildings.* The rehabilitation of an existing Building shall comply with the provisions of these Zoning and Land Development Regulations.

(5) *Change of Use for existing Buildings and/or land.* Any change of the Use of a Building and/or property shall comply with the provisions of these Zoning and Land Development 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.

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 ~~shall~~ may be granted upon a finding that the desired Variance and the petition in support thereof meets the following criteria:

(1) ~~Maintains the basic intent and purpose of the zoning, Subdivision and other land Use~~ The Variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose 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

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

(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 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.

(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

Comment [JK65]: ZORC deleted the words "Zoning and Land Development". Staff re-inserted those words as the current code does not provide for a definition of "Regulations". The ZORC recommendation originally had a definition for "Regulations"

Comment [JK66]: Adds specificity

Comment [JK67]: Adds criteria to insure a variance, if granted, will still protect and maintain the character of the community.

Comment [JK68]: Requires a variance, if approved, to be consistent with the Comprehensive Plan. This is a requirement by state statute that all approvals of development permits must be consistent with Comprehensive Plan.

Comment [JK69]: Prohibits sign variances. Adds specificity the prohibition of use variances. ZORC felt that signs should conform to the regulations.

Comment [JK70]: Grammar change

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~~.* For each Variance application that is considered by the Village Council, ~~T~~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 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, building permit, Local Business Tax Receipt, 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~~ 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 effective ~~issued~~.

(j) *Appeals.* An appeal of a decision on a variance 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 ~~i~~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.

Comment [JK71]: Grammar change

Comment [JK72]: Adds specificity.

Comment [JK73]: Adds specificity.

Comment [JK74]: Grammar change

Comment [JK75]: Grammar change. Adds specificity.

(k) *Consideration of petitions after denial or withdrawal.* When ~~an~~ 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.

(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 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).

(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 that ~~which~~ receive the approval of the Building, Zoning, and Planning Director and are subject to the following:

(1) The Building, Zoning and Planning 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 that ~~which~~ have been completed or 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.

Comment [JK76]: Density variances are not permitted. As such, the word "density" should be removed.

Comment [JK77]: Adds the word "variance" to a regulation that is within the Variance section.

Comment [JK78]: Adds the words "these regulations" instead of referring to the Code of Key Biscayne. Adds specificity.

Comment [JK79]: Grammar change.

(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.

Comment [JK80]: Grammar change.

(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.

Sec. 30-65. Administrative Variances.

(a) The ~~A~~ administrative Variance procedure shall be used for a Variance from these regulations ~~the provisions of the Code of Key Biscayne~~ 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 [JK81]: Refers to the current Zoning and Land Development Regulations.

(b) An application for an administrative Variance shall be made by the fee owner of the property on a form prescribed by the Building, Zoning and Planning Department and shall be submitted to the Building, Zoning and Planning Department, 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:

Comment [JK82]: Grammar change.

(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.
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~~ 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 shall determine who is required to sign the petition.

Comment [JKB3]: Gender neutral

(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 adjacent ~~Abutting~~ Properties. ~~If a Variance is granted, The decision of the decision of the Director of the Building, Zoning and Planning Department shall be recorded reflected on the Official Zoning Maps of the Village of Key Biscayne~~.

Comment [JKB4]: Adds specificity. Removes recording the approval of a variance from being indicated on the Official Zoning Map as variances are not changes to the Map. This is a staff recommendation. Removes the word "abutting" and replaces it with "adjacent".

(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 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 in a court of competent jurisdiction ~~pursuant to a petition for certiorari~~.

Sec. 30-66. Regulatory Variances.

The Village Council shall have jurisdiction regarding the disposition of 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 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 or development order. The resolution or development order 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 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 reasonable 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 [JK85]: This is a past practice.

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

Comment [JK86]: States in the regulations the court that has jurisdiction for appeals.

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 Use, Density, and Signs)
% or footage that may be waived	2 ft. or < 10% of requirement	> 10% but < 20%	Any percentage

Comment [JK87]: Re-states from an earlier section that sign variances are prohibited.

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 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.

(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.

(Ord. No. 2000-5, § 2, 5-9-00)

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

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

(b) Appeal. 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

Comment [JK88]: ZORC removed the words "or signs". Staff included them because on commercial properties signs are posted in the yard facing each street.

Comment [JK89]: Added the word before "Council". Adds specificity.

provisions of this chapter may file an appeal with the Building, Zoning, and Planning Director subject to the following:

(1) The appeal shall be In Writing, specifying the grounds thereof on forms as provided by the Building, Zoning, and Planning Department.

(2) The appeal shall be filed within 30 days of the date the administrative order, decision, or interpretation is rendered ~~is made~~.

(c) Public notice shall be provided as set forth in section 30-68.

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;

Comment [JK90]: Adds specificity

(2) The proposed change will result in Buildings that are consistent in scale and otherwise compatible with those within 300 feet of the site;

(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.

(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.

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

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 safe movement of vehicular and pedestrian traffic, both internal to the Use and upon the adjacent roadways that will serve the Use.

Comment [JK91]: Adds "compatible to the criteria to evaluate text amendments or change of zoning requests.

Comment [JK92]: This is a past practice.

Comment [JK93]: Inserts the word "background" to the beginning the paragraph.

Comment [JK94]: Inserts the word "Notice" to the beginning of the paragraph

Comment [JK95]: Inserts the word "Criteria" to the beginning of the paragraph

~~(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;

(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.

(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.

(d) Conditions. ~~In considering any application for conditional use approval, reasonable restrictions may be imposed by the Village Council in granting an~~ The Village Council may stipulate conditions and requirements in granting any application for a Conditional Use, when such condition 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 or development order 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) Recommendation. ~~Building, Zoning and Planning 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 Conditional Use application ~~that is~~ considered by the Council.

Comment [JK96]: Service stations and Package Stores in the C-1 Commercial District and Community Residential Facilities in the Institutional District are the only Conditional Uses in the Regulations. These uses would not exceed the adopted Level of Service. As such, this criteria is not necessary and should be removed.

Comment [JK97]: ZORC recommended this criteria be removed. See list comment above for list of Conditional Uses. Staff recommends this criteria not be removed to insure they are consistent with "the character of the neighborhood.

Comment [JK98]: Adds specificity. All uses must be consistent with the purpose of the zoning district.

Comment [JK99]: No change in the intent of the regulation.

Comment [JK100]: No change in the intent of the regulation.

(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, 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 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 effective ~~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 ~~i~~in ~~W~~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 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 or 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 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.~~

Comment [JK101]: Village Attorney has recommended these provisions be removed because state law has provided that moratoriums may only be adopted via due process procedures.

Comment [JK102]: Re-locates words within the paragraph. No impact on the regulations.

~~(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 Village Clerk Clerk of the Village Council, 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 aforesaid Village Clerk shall give reasonable notice by publication in a newspaper of general circulation in the 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.~~

~~(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 commission moratorium shall be for a period not to exceed 120 days. The Village Council Commission, 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 therefore, 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 therefore, it shall issue its order continuing the building moratorium and shall immediately take the actions~~

Comment [JK103]: Re-locates words within the paragraph. No impact on the regulations.

Comment [JK104]: Adds specificity.

Comment [JK105]: Adds specificity.

Comment [JK106]: Changes "Village Commission" to "Village Council".

~~required elsewhere within the Village of Key Biscayne Code for to implement such changes. Provided, however, that where zoning district boundary changes are involved the Village Council shall hear the matters directly without intervening administrative review.~~

Comment [JK107]: Add consistency

~~(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 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 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.~~

~~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) of these Regulations, Village of Key Biscayne Code, 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 ClerkClerk 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 of this Code.~~

~~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 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 a 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.~~

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

Comment [JK108]: Adds specificity. Corrects a mistake on jurisdiction. There is no Community Zoning Appeals Council. The Village Council hears all appeals.

Comment [JK109]: Adds specificity.

Comment [JK110]: The word "Village" is defined as the "Village of Key Biscayne". As such the words "of Key Biscayne" are not necessary.

Comment [JK111]: Removes the words "Village of Key Biscayne" as they are not necessary.

Comment [JK112]: Adds specificity.

~~During the existence of any building moratorium, no applications for Variances, Conditional Uses, zoning district 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.~~

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

~~(a) Whenever it shall be made to appear to the Village Manager that it is in the public interest to make a comprehensive determination as to whether the existing Village Comprehensive Plan master 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, the Village Councils and all agencies and shall be effective until reversed, modified or superseded by order of the Village Council after public hearing.~~

~~(c) Immediately upon issuance of any administrative order pursuant to subsection (a), the Village Manager shall notify the Village Clerk of the Village Council 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 aforesaid 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 Comprehensive Plan master plan or to provide any changes necessary or desirable in the Comprehensive Plan master 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~~

Comment [JK113]: Includes the words "Village Council" along with an "Village agency" ensures the Village Council is part of this process.

Comment [JK114]: Deletes "Master Plan" and inserts "Comprehensive Plan".

Comment [JK115]: Adds specificity.

Comment [JK116]: Adds specificity.

Comment [JK117]: Deletes "Master Plan" and inserts "Comprehensive Plan".

~~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 Comprehensive Plan master 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.~~

Comment [JK118]: Deletes "Master Plan" and inserts "Comprehensive Plan"

~~(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 Comprehensive Plan master 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.~~

Comment [JK119]: Removes words which are not necessary. Deletes "Master Plan" and inserts "Comprehensive Plan"

~~(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 therefore, the Council may reasonably extend the time limitations for the report and the moratorium if the Council finds such extension is reasonably necessary.~~

~~**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.~~

Comment [JK120]: Adds punctuation

~~(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. 30-7~~380~~. 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;

(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.

(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 district~~;~~, 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.

Comment [JK121]: Staff removed the words "architectural compatibility" because in order to make this determination there would have to be criteria. Also, the Village has a variety of architecture and it would be very difficult to design a project that is compatible with every style. Some members of ZORC believe the Village should have an Architectural Review Board for single family homes.

Comment [JK122]: Adds landscape and architecture to the criteria.

Comment [JK123]: Projects must comply with the regulations.

Comment [JK124]: Removes words that are not necessary. No impact on the regulations.

(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.

Comment [JK125]: Inserts the Village Council where the word "vote" refers the above paragraph © which clearly states it is the Village Council that has jurisdiction. No impact on the regulations

(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.

Comment [JK126]: Requires lot lines to be shown on site plan. In order to have a site plan one has to show lot lines. No impact on the regulations

(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 facility illustrating columns and all other obstructions to the movement of automobiles together with fully dimensioned driveway and Parking space layouts.

(5) Tabular summary.

a. Total gross project acreage and net buildable land area

b. Total number of proposed ~~residential~~ Units, including characteristics by number of bedrooms and bathrooms and total gross square footage.

c. Proposed ~~residential~~ Ddensities, including both net and gross acre calculations on both a Unit and Dwelling Unit and Hotel Room equivalent basis.

Comment [JK127]: This will help to insure large trees are retained on the property or replaced with several smaller canopy trees as per County regulations.

Comment [JK128]: Site plans always show elevations. No impact on the regulations.

Comment [JK129]: The location of the building always results in a foot-print. No impact on the regulations.

Comment [JK130]: Staff removed the capital letters for structured parking cause this would mean a new definition. No impact on the regulations.

Comment [JK131]: Layout changed from singular tense to plural. No impact on the regulations.

Comment [JK132]: The broader term Units will mean hotel and residential. Staff would require unit counts for hotels as part of the subdivision. Inclusion in the ordinance leaves no doubt that hotel unit counts are required.

Comment [JK133]: See comment above

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.

(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~~ Plumbing Chapter 11.

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 non-frontage lines.

e. Type and usage of Structures immediately adjacent to the site (residence, office ~~warehouse~~, 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:

Comment [JK134]: See comment above

Comment [JK135]: The opposite of impervious is pervious. No impact on the regulations

Comment [JK136]: The South Florida Building Code was replaced with the Florida Building Code.

Comment [JK137]: The regulations do not permit office warehouses. As such, removal of this requirement is consistent with the regulations

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 ~~r~~Regional ~~i~~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 ~~r~~Regional ~~i~~Impact Development ~~o~~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 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.

Comment [JK138]: Improving tree canopy is consistent with the site plan review regulations.

(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 Building, Zoning and Planning 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.

Comment [JK139]: Expands site plan review to consider neighboring properties when addressing private open spaces.

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.

Comment [JK140]: Expands site plan to discourage excessive speeds and to accommodate pedestrian and bicycle traffic. This is consistent with achieving quality developments through site plan review.

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 ~~R~~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.

(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, schools, solid waste, drainage, potable water, and parks and recreation. All applicants are required to prove Concurrency pursuant to the Land Development Regulations.

Comment [JK141]: Schools are now part of Concurrency. Including schools within the Level of Service review is consistent with the Concurrency regulations.

(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 permits.

(i) *Building, Zoning and Planning 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 effective~~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. 30-84. Delegation.

When a provision of these regulations requires the Village Manager, the Building, Zoning, and Planning 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 Building, Zoning, and Planning 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.

Comment [JK142]: Insures delegation authority is inserted into the regulations.

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 and to regulate Development within the district as relates to	VR, VE, and IR Districts: Single Family Dwelling PS District:	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).

neighboring properties and adjacent streets.	Single Family and Two-Family attached Dwelling			

(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 as of October 24, 2000 *	Minimum 10,000 sq. ft. or as platted * Maximum two platted Lots as of October 24, 2000 *	Minimum 10,000 sq. ft. or as platted * Maximum two platted Lots as of October 24, 2000 *	Minimum 7,500 sq. ft. or as platted * Maximum two platted Lots as of October 24, 2000 *
Minimum Pervious Area (% of Lot)	30%	30%	30%	30%
Maximum Lot Coverage	One Story residences, 45% Multistory residences, 35% ~~Porches and landings that are completely open on at least two sides, with the exception of railings and balustrades, shall not be included in the Lot Coverage calculation. (See Lot Coverage definition.)~~			
Maximum Floor Area Ratio (FAR)	.47 For new construction on vacant Lots and 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.			

Comment [JK143]: Clarifies the district purpose. ZORC included the "public realm" which was deleted by staff as being too broad.

Comment [JK144]: ZORC included this date in this location even though it is noted in a footnote. This change has no impact on the regulations.

Comment [JK145]: See comment above

Comment [JK146]: See comment above

Comment [JK147]: See comment above

Comment [JK148]: This is consistent with definition of "Lot Coverage"

Comment [JK149]: FEMA prevents improvements that exceed 50% of the assessed value. As such, this provision should be removed.

	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 Gross floor area ratio calculation shall include Balconies, Porches, garages, Carports, and all interior space that is air conditioned. In no instance shall the Floor Area in the attic be included within this calculation.

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

** Except where said platted lot was created by the resubdivision (through platting or otherwise) of two or more platted lots, from and after October 10, 2006. ~~Said~~ 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~~ 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).

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~~ 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
1.	Porch facing a Street which meets the following minimum standards: depth 4 ft and length 8 ft., minimum Floor Area 120 sq. ft., elevation shall not exceed the Base Flood Elevation, steps setback 5 ft. from any property line.	.00005 per sq. ft. of Floor Area to a maximum of .03 FAR increase
2.	Open and unenclosed balconies located above the first finished floor	.00005 per sq. ft. of Floor Area to a maximum of .03 FAR increase
3.	Front yard setback bonus ~~Building located~~	.006 for every foot the Main Permitted

Comment [JK150]: Directs the reader to the FAR criteria. Has no impact on the regulations.

Comment [JK151]: Establishes a maximum floor area ratio which will result in less sq. ft. of structures on the property. By excluding the attic, the total air-conditioned space remains the same. ZORC intended to limit the over sq ft. what can be built to more compatible with the community

Comment [JK152]: Clarifies the regulation

Comment [JK153]: Clarifies the regulation

Comment [JK154]: Clarifies the regulation

Comment [JK155]: Clarifies the table heading.

Comment [JK156]: Clarifies the table heading.

Comment [JK157]: Staff inserted the word "minimum" which provides for the ability to have larger porches

Comment [JK158]: Established minimum dimensions for porches in order to be awarded the bonus

	~~15–20 ft. from a front of property line~~	Use is setback less than 20 ft. to a minimum of 15 ft.~~.001 per Linear Foot of Frontage of a Wall that is located 15–20 ft. from a front property line (maximum .03)~~
4.	Garage or Carport containing two or more vehicles parked parallel with an exterior column separating each of the spaces	~~.03~~ .02
5.	Single Story Home	.03
6.	Combination One and Two Story Home with the second floor occupying less than 50 percent of the Floor Area of the first floor under roof	.10
7.	Entrances to Parking garages:	
	Interior Lot: placed in a location that does not face the Street.	~~.02~~ .03
	Corner Lot: entrance in a Side Yard	~~.02~~ .03
8.	All windows above the first floor facing an adjacent Building which are -five ft. above the finished floor	.01 per side
	or if all Building Walls along the interior side of a property do not have windows	.03 per home side
9.	Side Yard Setback which:	
	a. Exceeds the required Yard	.00005 per each sq. ft. to a maximum of .03
	b. Has a minimum 15 ft. Side Yard Setback	.03
10.	Rear yard setback bonus~~Building located within 15–20 ft. of the rear Lot line~~	.003 For every foot the Main Permitted Use is setback less than 20 ft. to a minimum of 15 ft.~~.001 per linear foot of a Wall located 15–20 ft. from the rear property line with a maximum of .03~~
11.	VR and PS Districts: Structures that provide a front Setback of less than 20~~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	.0002 per sq. ft., maximum .03

Comment [JK159]: These words are not necessary

Comment [JK160]: Provides a more accurate way to measure the bonus.

Comment [JK161]: Reduces the bonus as this design feature is too easily achieved

Comment [JK162]: Increases the design bonus as this design results in a superior appearance of the structure.

Comment [JK163]: See comment above

Comment [JK164]: These words are not necessary

Comment [JK165]: Provides a more accurate way to measure the bonus.

	required 25 ft. Setback	
12.	Reduction in Building Height.	.006 per foot or fraction thereof with a maximum of .03
13.	Reveals	.001 per sq. ft. with a .02 maximum
14.	Outside Moldings with a minimum width of 4 inches.	.0001 per linear ft. with a .02 maximum

(c) *Building and Wall height.*

(1) Maximum Building Height is 35 feet. The height of a Building shall be its overall height measured from the Base Flood Elevation to the highest point of the Building roof for Elevated Homes and from the crown of a road to the highest point of a roof for Non-Elevated Homes. ~~There shall be no limitation on the Number of Stories.~~ Maximum number of stories shall not exceed two (2) above the Base Flood Elevation; 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.

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

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

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

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

d. 25% of 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 ft. elevation. The architectural feature shall extend around the entire structure if the design permits this to occur.

Comment [JK166]: New bonus. This provides for a recessed feature that adds visual interest to a building.

Comment [JK167]: This is a raised decorative feature that adds visual interest to a building.

Comment [JK168]: ZOC moved these words to the definition section. As the definition section is not being amended, they must be retained in this regulation.

Comment [JK169]: Limits the number of stories to two whereas three is presently permitted. ZORC wanted to reduce the size of homes in terms of height but not the A/C space.

Comment [JK170]: Permits a small floor above the second with a maximum of 600 sq. ft. which adds visual interest to the building.

Comment [JK171]: Limits 2nd floor ceiling to 27 ft. ZORC wanted to make sure even two story buildings have a reduced height to be compatible with the community.

Comment [JK172]: The regulations will result in visual interest to the building by requiring setbacks and indentations on exterior walls.

Comment [JK173]: Results in different setbacks which add architectural interest.

Comment [JK174]: Results in different setbacks which add architectural interest.

Comment [JK175]: Results in different setbacks which add architectural interest.

Comment [JK176]: Provides architectural interest.

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

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

(~~4~~3) 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.

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%.

(d) Maximum *Lot elevation and drainage*.

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

~~(2) *Height.*~~

a. *"Front Zone."* When a Lot is filled for Development purposes the area delineated as the front zone may not be filled to an elevation greater than two feet above the average crown of road. However, the driveway grade shall not exceed 10% 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

Comment [JK177]: This will prevent space underneath the first floor slab from being occupied. It will also reduce the appearance of taller homes by fewer steps from grade to the entrance of the home. ZORC wanted to reduce the overall mass of the building.

Comment [JK178]: See above comment.

Comment [JK179]: Removes belfries and adds ornamental tower to provide additional architectural interest. Provides greater flexibility by using ornamental features.

Comment [JK180]: Grammar changes.

Comment [JK181]: Adds specificity.

Comment [JK182]: Provides greater architectural interest.

Comment [JK183]: Expanded section name to include "drainage".

Comment [JK184]: ZORC recommended removing this section because it was moved to the Definitions. Since we are not changing the definitions, this section must be retained.

Comment [JK185]: ZORC recommended 20% but staff believes that was a typographical error as 20% would result in a very high slope for the driveway. The correct slope is 10%.

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.* 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.~~

e. *Pools, pool Decks, Terraces.* Pools, pool Decks and Terraces which are located in compliance with the required Setbacks for all Structures and are above the height restrictions established in subsection (2) are included in the Lot Coverage calculation.

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

(3). *Grading and Drainage.* Within any zone immediately adjacent to the property line, a drainage swale shall be provided to capture the first inch of runoff. The slope to the swale shall not exceed 14%. If the grading necessary to provide this swale results in a grade above or below the adjacent property grades, a retaining structure shall be provided as determined by the Building Official.

(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: ~~New construction or addition:~~ 7.5 ft.	~~Non-waterfront Lots:~~ One ~~Story: New~~ story new construction ~~or addition: 7.5~~ 15 ft. Two Story new construction:	One Story: ~~New~~ new construction ~~or addition: 7.5~~ 15 ft. Two Story new	~~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. ****~~

Comment [JK186]: This section is no longer required as installation of new septic tanks are prohibited.

Comment [JK187]: Provides for regulations that affect drainage near lot lines. ZORC wanted to retain all water on site.

Comment [JK188]: Changes to this table permit one story additions to maintain the same setback as the current building, waterfront properties for two story homes side setbacks are increased from 7.5 ft. to 15 ft., sideyard setbacks are increased from 7.5 ft. to the sum of the sideyards = 25% of lot width. This means a 100 ft. lot would have 12.5 ft setback for each sideyard as opposed to 7.5 ft. ZORC wanted to provide greater flexibility in expanding existing homes. For new construction, ZORC wanted greater open space buildings.

Comment [JK190]: Conforms the setback approach with how it is treated in single family districts. Wording is changed but the impact of the regulations remains the same.

Comment [JK189]: The regulations will treat all of the lots on Marina Island the same. This will result in greater open space between homes as the setback for the interior lots is increased from 7.5 ft. to 15 ft.

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

	100 ft. or more shall have no Sideyard less than 15 ft.				New construction or second floor additions: Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.
Side facing a Street	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.

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

~~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
Garages	Shall provide a 20 ft. Setback if the entrance faces a Street; The elevation facing the Street shall appear as an integral residential part of the Structure including windows and finishes.	

** Within the Village Estate District the following properties shall provide a ~~Waterway~~ 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.

Comment [JK191]: The word "waterway" is not necessary as the referenced addresses are all have water frontage.

(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.

(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):
~~TABLE INSET:~~

Comment [JK192]: Directs the reader to section that addresses swimming pool setbacks.

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 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) *Driveway and Parking criteria.* The following provisions shall apply to all single

Family and Two-Family Developments:

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

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

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

d. *Width.* A maximum width of 24 feet is permitted for single Family and 36 feet for Two-Family Homes for a Lot with 75 feet or less of frontage at the property line. For all other Lots the width of a driveway or combination of driveways at the point of intersection with the Right-of-Way shall not exceed the lesser of 36 feet or 32 percent of the Lot's frontage, including side Street frontage on Corner Lots.
No Commercial Vehicle shall be parked or stored overnight except in a garage or Carport; however one vehicle that is used for commercial purposes may be placed on the property. A Sign measuring no more than three square feet may be placed on either side of such vehicle.

(5) *Fences and Walls.*

a. *Generally.* For purposes of regulating perimeter fences and Walls, there 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. *Maximum height.*

1. *Front Zone.* The height of a fence or Wall between any Building and a~~djacent Street(s) or~~ side Lot line shall be six feet as measured from the crown of the road, except arches, columns, gates and other ornamental entry features may extend to eight feet in height.

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 or Wall 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.

c. *Fence and Wall finish materials and restrictions.*

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

2. Wood fences shall have the structural side of the fence facing the interior of the property~~.~~, unless a supervisory Variance is approved.

3. Chain link fences shall be coated with black or green finish materials. Chain link fences associated with court games are permitted ~~in~~ pursuant to Section 30-100 (22). ~~subsection (21).~~ Where permitted, chain link fences shall be coated with black or green finish materials.

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~~

Comment [JK193]: Has no impact on the regulations

Comment [JK194]: Establishes a maximum height of a fence facing a street at 4 ft and they must be open with landscaping. This improves the view of a street and front yards. Currently 6 ft. fences are permitted and the effect is one of a walled-in community. Staff added "walls" because it has the same effect as fences.

Comment [JK195]: Staff added the word "walls" as the regulations address them in addition to a fence.

Comment [JK196]: Implements an administrative policy.

Comment [JK197]: Implements an administrative policy.

Comment [JK198]: Re-locates words in the regulation.

~~with Chapter 21, "Public Rights-of-Way") except for Walls and wood fences which are painted on both sides with a maximum height of 42 inches. At time of planting, the hedge~~ that at time of planting shall have a minimum height of 24 inches~~,~~ and be planted 24 inches on center ~~on 24-inch centers~~. Walls and chain link fences facing a street shall have a hedge that at time of planting has a height equal to the height of the wall or chain link fence and shall be planted on 30 inches on center.

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

(6) *Front Yard encroachments.*

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

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

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

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

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

(7) *Gazebos and accessory Structures.*

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

b. Location: Not permitted in the Front Yard.

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

d. Size: 200 square feet.

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

f. Roof top Access: Prohibited.

g. Number: One.

Comment [JK199]: Re-locates words in the regulations. Requires a hedge when chain link fences are used.

Comment [JK200]: Currently regulated in the County Code.

Comment [JK201]: Permits sculptures and other artistic features in the front yard with a height of 5 ft. and occupying no more than 10 sq. ft.

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

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

(9) *Heating, ventilation, and air conditioning equipment Setback Regulations.* The use and location of heating, ventilation, and air conditioning compressors and equipment (HVAC) ~~and swimming pool equipment shall be limited as follows: HVAC compressors~~ are 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	~~10 ft.~~ Not Permitted	~~20 ft.~~ Not Permitted	~~20 ft.~~ Not Permitted	~~20 ft.~~ Not Permitted	~~15 ft.~~ Not Permitted
Rear	10 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Side, interior	4 ft.	4 ft.	4 ft.	10 ft.	4 ft.
Side, Street	~~10 ft.~~ Not Permitted	~~10 ft.~~ Not Permitted	~~10 ft.~~ Not Permitted	~~10 ft.~~ Not Permitted	~~10 ft.~~ Not Permitted

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

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

(11) *Pavers and walkways in Side and Rear Yards.* ~~Pavers or other walkway material may be placed within the Side or Rear Yard so long as they do not materially affect the drainage characteristics of the area. The maximum width of the walkway is five feet but in no instance shall the Setback be less than four feet.~~ The maximum width shall be 3.5 ft with a minimum setback of 2 ½ feet.

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

Comment [JK202]: Established setback regulations for compressors

Comment [JK203]: Swimming pool and equipment are regulated in paragraph 21 of this section

Comment [JK204]: Prohibits this equipment in the front yard. ZORC wanted to improve the aesthetics of the community

Comment [JK205]: Prohibits this equipment in yard that facing a street. ZORC wanted to improve the aesthetics of the community

Comment [JK206]: Requires screening color to match the house. This improves the aesthetics of the community.

Comment [JK207]: Results in greater area for drainage

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

Comment [JK208]: Step setbacks are regulated in another section. Step enclosures are regulated in the Florida Building Code

(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.

(15) *Steps in Front Yard.* Steps in the Front Yard shall have a maximum width of ten feet.

(16) *Steps and landings*. The following regulations shall apply to steps and landings. ~~*Retaining Wall, required.* A retaining Wall shall be provided in the following instances:~~

(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)~~ a.~~ Retaining Wall, required. A retaining Wall shall be provided ~~in the following instances: Any~~ where any portion of a Lot that has an elevation of two feet or more above the crown of the road and is adjacent to a non-elevated Building. (See Drainage Sec. 30-100(3).

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

Comment [JK209]: Adds specificity

Comment [JK210]: Deletes retaining wall as it does not relate to steps.

Comment [JK211]: No change as this regulation is set forth in the heading of this section.

Comment [JK212]: Establishes a maximum projection and setback for steps and landings in sideyards.

Comment [JK213]: Establishes a maximum projection in the rear yard.

Comment [JK214]: Creates a separate section for retaining wall and further requires them when adjacent to a non-elevated building (Mackie). This required as the new homes have lots that are higher than the adjacent Mackel lots.

Comment [JK215]: Drain fields for septic tanks are no longer permitted.

(18~~7~~) *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 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.

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

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

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

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

b. Shall be placed in a location to minimize its view from any public Street. A line of site study (antenna location to the sidewalk) shall be submitted for Building, Zoning, and Planning 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.

Comment [JK216]: Words are re-arranged in the paragraph. No impact on the regulations. ZORC did not permit drainage in front yard and Staff re-inserted it as it has no impact on adjacent property.

Comment [JK217]: No impact on the regulations.

Comment [JK218]: Height restriction included and meter changed to yard to reflect usage in USA.

Comment [JK219]: Line of sight study will help to insure antennas cannot be seen from the sidewalk. Staff inserted the antenna location to the sidewalk for the line of sight study.

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.

Comment [JK220]: Permits the shed to be located 2 ft. from lot lines if buffered. This will result in the rear yard having more open space.

d. Size: 100 square feet.

e. Roof top Access: Prohibited.

f. Number: One.

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

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

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

Comment [JK221]: Staff added the words "swimming pool" to make sure there is no confusion with canal or bay.

~~TABLE INSET:~~

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

Comment [JK222]: ZORC had 15 ft. and staff re-inserted 0 ft. The 0 ft. setback is acceptable as the equipment is not adjacent to any property.

Comment [JK223]: See above comment.

* 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 excluding basketball courts:

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 to the side Building Line ~~at least 15 feet from the property line~~.

c. Accessory lighting fixtures, when customarily associated with the use of court games, shall be Erected so as to direct light only 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 when not facing a street, ~~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 height of 30 inch at planting and 30 inches on center.

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

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

(25) *Pipe sofit enclosure:* Pipes located below a ceiling that can be seen from a public right of way shall be enclosed in a sofit.

Comment [JK224]: Permits basketball courts in front and side yards facing a street.

Comment [JK225]:

Comment [JK226]: Results in greater setback to match the building wall setback.

Comment [JK227]: Results in screening of the court games surface.

Comment [JK228]: Improves the appearance of the building by enclosing pipes in a sofit.

(26) *Garage 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

Comment [JK229]: For lots that are 80 ft. wide, garages cannot face a street. If less than 80 ft. wide, then only a one car garage can face a street. These regulations improve the appearance of the home.

Comment [JK230]: Improves the appearance of a building by creating open railings instead of enclosed

Comment [JK231]: Improves the appearance of a building by creating open railings instead of enclosed

Comment [JK232]: Establishes regulations for temporary or portable generators with a maximum sound of 60 decibels. Generators must be turned off from 11:00 p.m. to 7:00 a.m. every day of the week

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 Building, Zoning and Planning Director may grant an exception to the time limitations if an occupant of the Building can provide a written statement from a physician that includes the medical condition which requires the residence to be air-conditioned.

(30) *Light.* All light emanating from a property shall be directed so as to be contained on the property.

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

(1) *Bed and Breakfast Inns.* Bed and Breakfast Inns are allowed in the Single Family and PS Parkside residential districts Ssubject to the following Rregulations:

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

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

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

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

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

f. The entire Building shall be substantially rehabilitated and conform to the Florida Building Code, these Regulations Code of the Village of Key Biscayne, and the Fire Prevention and Life Safety Code on the date a certificate of use and Local Business Tax Receipts are applied for;

Comment [JK233]: This is the Village's Code. No need to reference the Village.

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

h. The Building shall have central air conditioning;

i. The required off-street Parking shall be the same as for a single Family residence. The Building, Zoning, and Planning Director may require additional Parking only if the single Family character of the property is maintained with adequate landscaping and open space. Tandem Parking is allowed. The Parking area shall have a hard surface as required in section 30-180(f); and

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

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

(2) *Community residential facilities.*

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

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

c. A certificate of use and ~~an~~ 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

Comment [JK234]: Grammar correction

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.~~

fg. 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.

Comment [JK235]: Prohibits signage on boats for home occupations.

b. No customer may be permitted ~~served~~ in the home or on the property.

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 ~~D~~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

(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%		

~~(j) *Supplemental Landscaping Regulations.* These Regulations are in addition to those listed in Article 9. Single Family homes and Duplexes shall provide the following landscaping prior to the issuance of any type of occupancy or approval to occupy the Building. The landscaping shall be maintained and remain in place for the life of the Building. If the landscaping is replaced a permit is required and shall include materials that match the below specifications:~~
~~(1) One shade tree shall be provided for every 1,875 square feet. All shade trees shall have a six-foot clear trunk or height of 12 feet. Palm trees may be used at a ratio of three per one shade tree, but in no instance shall the Front Yard have less than one shade tree and three palms, or two shade trees. All palms shall have a six-foot clear trunk or height of 14 feet.~~
~~(2) In any Yard, which faces a Street, shrubs shall be provided at the ratio of 20 per tree, planted at a minimum height of 24 inches. Hedges shall be planted 24 inches on center with a continuous, unbroken, and solid screen.~~
~~(3) When the Structure has a side Wall in excess of 35 feet in length, there shall be a dense hedge along the property line adjacent to all portions of the Wall greater than 35 feet.~~
~~(4) The area within five feet of a side Lot line that is also within 25 feet of the rear property line shall be planted with a dense, landscape screen at a height of ten feet.~~
~~(5) For those portions of the Structure with a rear Setback of less than 25 feet, the area within five feet of the rear property line shall be planted with a dense, landscape screen at a height of ten feet.~~
~~(6) In-ground irrigation system shall be provided.~~

Comment [JK236]: This section was re-located to Article IX Landscape Regulations

~~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:~~

Comment [JK237]: This section was removed as the regulations appear in Article V, Sec. 30-100

~~—~~	~~Description~~	~~FAR~~
~~Applicability~~	~~The FAR Bonus Schedule is only applied to new construction on vacant Lots and Developments that exceed 50% of the assessed value of the Building. New Floor Area which does not meet this criteria shall not result in a site~~	~~N/A~~

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

~~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~~	~~.02~~
—	—	~~Corner Lot:~~	~~Entrance from a Side Yard~~	~~.02~~
~~9.~~	~~Location of windows~~	~~Windows located above the first floor which face an adjacent Building. These windows must be at least 5 ft. above the finished floor. or~~		~~.01~~
—	—	~~No windows facing an interior side property line~~		~~.03~~
~~10.~~	~~Side Yard Setback~~	~~VR and PS Districts:~~	~~.00005 per sq. ft. that exceeds the required Yard~~	~~.03~~
—	—	~~VE and IR Districts:~~	~~15 ft. Setback~~	~~.03~~
~~11.~~	~~Front Building Walls~~	~~VR and PS Districts:~~	~~Structures that provide a Front Yard Setback of less than 25 ft. which have a roof at least 3 ft. lower than the roof of the main Building~~	~~.03~~
—	—	~~VE and IR Districts:~~	~~A portion of the Building having a length of at least 10 ft. with a Front Yard Setback that exceed the required 25 ft. (.0002 per sq. ft)~~	~~.03~~
~~12.~~	~~Reduction in Building~~	~~.006 per ft. below the maximum height~~		~~.03~~

-	~~heights~~	~~permitted~~	

~~* 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 Permitted Uses*	Conditional Uses	Accessory Uses	Prohibited Uses
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. The permitted uses provide goods and services that primarily serve the residents of the Village.	Bar Commercial Uses 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. 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.	Service Station where the primary use on the site; Package Store	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)
	Antique furniture that is at least 50			

	years old and the resale of jewelry, art, and furs.* Personal Service Uses Restaurant (except on parcels that immediately abut a single Family district)			

* 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.

(b) *Development Regulations.*
~~TABLE INSET:~~

Lots Area	Maximum Number of Stories	Floor Area Ratio (See FAR Design Bonus Schedule)**	Lot Coverage
Less than or = to 21,000 sq. ft.	3 stories not to exceed 35 ft.	.20-.50 FAR may be increased to .55 by: a. .025 if subterranean parking garage receives the bonus and/or b. .025 if a parking garage is sited at least 50 ft. from a public street.	35%
More than 21,000 less than or = to 60,000 sq. ft.	3 stories not to exceed 35 ft.	.20-.50 FAR may be increased to .55 by: a. .025 if subterranean parking garage receives the bonus and/or b. .025 if a parking garage is sited at least 50 ft. from a public street.	35%
More than 60,000 but less than 100,000 sq. ft.	3 stories not to exceed 35 ft.	.20-.50 FAR may be increased to .55 by: a. .025 if subterranean parking	35%

		garage receives the bonus and/or b. .025 if a parking garage is sited at least 50 ft. from a public street.	
100,000 sq. ft. or more	3 stories not to exceed 35 ft.	.20-.50 FAR may be increased to .55 by: a. .025 if subterranean parking garage receives the bonus and/or b. .025 if a parking garage is sited at least 50 ft. from a public street.	35%

*Lots must be adjacent to one another and have at least one lot line in common.
**The FAR Design Bonus Schedule is a range based on a minimum and a maximum.
(c) *Setback Requirements.*
~~TABLE INSET:~~

Street Frontage	Side, Interior	Rear
First and second floor shall be 10 ft. Third floor shall be greater than 20 ft.	0-5 ft. based on Site Plan Review for sideyard facing a street; 0-30 ft. based on Site Plan Review for interior sideyard. If adjacent to land zoned Institutional or adjacent to a park, the sideyard setback is 35 ft.	25 ft. facing Fernwood Rd., Village Green Way or adjacent to single-family district; 35 ft. if adjacent to land zoned Institutional or adjacent to a park. 0 ft. in all other situations.

(d) *Floor Area Ratio Design Bonus Schedule.*
~~TABLE INSET:~~

Design Criteria	How to Calculate Floor Area Ratio Bonus	Maximum FAR Bonus
1.Elevation facing a street a. First floor: zoning Code requires 50%of elevation to be in windows. Bonus for additional windows. b. Steps in front of the storefront leading to the street c. Variation in vertical roof lines d. Variation in building wall plane e. Mansard or pitched roof facing a street	a. 0.0005 per sq. ft. of window b. 0.0005 per linear ft. of stair width c. 0.0003 per linear ft. of roof line providing the length of the roof element is not less that 25% of the length for the largest roof d. 0.0003 per linear ft. of wall recess or projection measured from the corner of the wall joint to corner wall joint of each recess or projected	a. 0.05 b. 0.05 c. 0.08 d. 0.08 e. 0.08 f. 0.02 g. 0.02 h. 0.08

f. Ornamental reveals, designs, or trellis g. Open balconies with 75% of each side having railings h. Porch or covered terrace (not a balcony)	element e. 0.0003 per linear ft. f. 0.002 per sq. ft. of decorative element or trellis area g. 0.0001 per sq. ft. of balcony floor area h. 0.00003 per sq. ft. of porch or terrace floor area	
2. Courtyards and passageways to interior public spaces a. Interior courtyards b. Pedestrian Passageways to interior courtyards. No pedestrian passageway can be an interior courtyard.	.000007 per sq. ft. of courtyard floor area .000007 per sq. ft. of passageway floor area	a. 0.07 b. 0.07
3. Clustering of Building(s): this bonus is limited to projects that occur on 60,000 sq. ft. or more of land.	.05 per building, provided no individual building floor area is less than 35% of the largest building floor area. Buildings may be connected by roofed passageways.	.15
4. Sites adjacent to a park that provide an alternate route to Crandon Boulevard.	Route must provide two way traffic, commercial uses fronting on >50% of frontage, and if it connects to two streets then easement to the Village.	.10
5. Use a. Automobile repair* *All new auto repair uses shall agree to a recorded development restriction limiting the use of the property for auto repair for a minimum period of 10 years. b. Service Station	a. .03 per auto repair bay; and/or b. .02 per gasoline dispenser.	a. 0.09 b. 0.08
6. Parking Garages a. finished floor located below grade in a garage that contains >50% of the required parking spaces.	0.06 per foot or fraction thereof below Grade	0.20
7.At Grade Parking Lots	0.025 when access is provided to an adjacent parking lot	0.025
8. Landscaping: Providing more landscaping than is required a. Shade trees b. Native shrub	a. 0.005 per shade tree b. 0.00005 per native shrub c. 0.00005 per sq. ft. of ground cover d. 0.00005	a. 0.05 b. 0.01 c. 0.01 d. 0.01

c. Ground cover d. Planter boxes		

(e) *Performance Standards* (all items apply to uses in the C-1 District).

(1) Service Stations, automotive repair, detailing and washing.

a. All vehicle repair shall take place within a fully enclosed Building.

b. No windows or garage doors shall be placed within 100 feet of residentially zoned property.

c. The overnight outdoor storage of vehicles is prohibited.

d. Detailing/car washing shall only be permitted in a Structure or under a permitted Canopy. Canopies shall not be placed where they will interfere with on-site Parking or traffic circulation nor visible from a street.

e. Air compressors shall be within a wholly enclosed building that prevents the transmission of noise.

(2) Burglar alarm. The alarm bell or device shall not face residentially zoned property.

(3) *Buffering and Screening:* A decorative, opaque six-foot CBS Wall shall be placed five feet from any property line adjacent to a street. The area between the property line and the Wall shall have dense landscaping. The design of the Wall and the landscaping shall be approved by the Building, Zoning, and Planning Director. The Director shall determine if the Wall and landscaping provide an adequate buffer and screen between the commercial uses and the adjacent properties. The Director may require that additional trees be placed in the swale.

(4) Restaurants may offer alcoholic beverages for consumption on the premises if the primary Use of the property is for the sale of meals. There shall be a printed menu and food shall be available for the entire time the restaurant is open. Alcohol sales may occur as long as the restaurant is open and food is available for consumption on the premises.

(5) The wall, which contains the main entrance into a business, shall have a minimum of 50 percent of the surface in windows and doors.

(6) Perimeter walls or fences that face a street shall be set back two feet from the lot line.

(7) Commercial properties may provide two way access from Fernwood Road for pedestrians, bicycles, and golf carts; however, the access shall be sited in a manner which does not result in a direct route to Crandon Boulevard.

(8) If a roof deck contains parking spaces, it shall include an opaque 42-inch high parapet.

(9) Stores and offices shall provide a knee wall or bulkhead between 18 and 24 inches in height.

(10) Buildings which are on sites that include more than one lot shall provide a covered or uncovered passageway for every 200 linear feet of building facade.
(11) When stairs are provided from a building to a sidewalk, then the width of the stairs shall not be less than ten feet.

(12) *Parking Garages.*

a. The exterior elevations of accessory parking structures shall be designed the architecturally integrated with the exterior elevation.

b. Primary entrances to a parking structure shall not be located on the main facade of the principal use which the parking structure serves.

c. Openings in parking structures shall be screened so that no cars, headlights, or light fixtures are visible from surrounding uses. The size and proportions of openings shall be compatible with neighboring buildings. Glazing, perforated metal panels, applied surface elements, landscaping or combinations of these that are compatible with other materials of the facade shall be used to screen openings.

d. Driveway and pedestrian entries to parking structures shall be integrated with the ground level facade and shall include doors compatible with the design of the building.

(13) Buildings sited at the corner of two public streets shall provide a prominent corner entrance to street level shops or lobby space.

(14) Flat roofs shall not be visible from the street or from any floor that contains commercial or office uses. Pitched or mansard roofs shall not use tar, gravel, or asphalt shingles or other similar products as determined by the Building, Zoning, and Planning Director. Flat roofs of garages shall have a parapet or other opaque screening at least 36 inches high measured from the finished deck floor, to shield automobiles from public view at the street level.

(15) Asphalt or other similar products as determined by the Building, Zoning, and Planning Director shall not be on the surface of any floor that is considered as common space which contains commercial or office uses.

(16) Common space such as, but not limited to, courtyards, plazas, and pedestrian spaces shall be landscaped in accordance with the landscape standards for vehicular use areas (See section 30-238), or hardscaped for use as plazas, courtyards, and pedestrian passages integrated into the overall site layout and pedestrian circulation system. These

spaces may include architectural trellis work over at least 30 percent of the top deck area, or treated with a combination of architectural and landscape elements to achieve a screening effect.

(17) In Shopping Centers, facades which front on a street shall contain storefronts that provide the main entrance into the place of business.

(18) All properties which have retail and/or office uses shall provide a bicycle rack or racks which contain one bicycle space per 5 retail and/or office spaces. This shall apply to all shopping centers which currently do not have bicycle racks as well as all existing new shopping centers.

Sec. 30-102. GU Government Use District.

(a) *GU Description.* Upon the acquisition of ownership of or a long term lease (five years or longer) of land by the Village, the Village Manager or designee shall indicate on the Official Zoning Map that the zoning district designation for the property is GU, Government Use.

(b) *Purpose and Uses.*
~~TABLE INSET:~~

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to permit land owned by a governmental entity to be used for any public purpose and certain limited private activities.	Governmental Buildings and facilities such as but not limited to schools, offices, post offices, parks, open space, community centers, recreational buildings, police and fire stations. Recreational activities as described in subsection (e).	None	Any Use 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)

(c) *Development Regulations.* Council shall use the following Development Regulations:
~~TABLE INSET:~~

Floor Area Ratio	Maximum Height	Lot Coverage	Lot Area	Setback

.75	35 ft.	35%	No minimum	5 ft., except where prior zoning district has a more liberal setback standard, which shall then apply

(d) *Approval Process.* Prior to establishing any new use of lands designated GU, the Village shall conduct the following public hearing(s):

(1) The Village Council shall conduct a public hearing to determine the Use(s) to which particular land purchased for Governmental Use may be put. The public hearing before the Village Council shall be held upon at least 15 days' notice of the time and place of such hearing published in a newspaper of general circulation in the Village. A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the proposed Use may be mailed to the property owners of record within a radius of 300 feet of the property on which the facility will be located, 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 proceeding taken hereunder. To provide additional notice to the public, the property shall be posted by a Sign or Signs indicating the action desired and the time and place of the public hearing thereon.

(2) At the public hearing the Village Council shall consider the Use(s) to which the land should be put, from the list of Uses in paragraph (b) above, considering among other factors a recommendation by the Village Manager (if any), the public need therefore and the existing land use pattern in the area. After considering these factors and any public comment, the Village Council shall adopt a resolution establishing the Use(s) for the property and take such action as is necessary to promote and protect the public health, safety and welfare of the citizens and residents of the Village.

(3) If the Use(s) approved by the Village Council include the construction of any Buildings or Structures on the property, the Village Council shall conduct another public hearing prior to the commencement of any construction activity. That public hearing shall be noticed in the same manner as the initial hearing described in subsection (d)(1) above. At the public hearing the Village Council shall review and evaluate a detailed Site Plan for the property, including all Buildings and improvements. At a minimum, the Site Plan shall contain a schedule of development criteria as set forth in subsection (c) above. In its review and approval, the Village Council shall apply the development regulations in subsection (c) above, except that the Village Council may waive the regulations or any part of the regulations in the interest of the public health, safety and welfare to provide the facilities to serve the public. After considering the Site Plan, recommendations of the Village Manager (if any) and public comment, the Village Council may by resolution take such action as it deems necessary or appropriate to promote and protect the public health, safety and welfare of the citizens and residents of the Village, including the approval of the Site Plan with any modifications thereto.

(e) *Permitted Recreational Activities.* Subject to the approval of a Beach Management Plan pursuant to subsection (f) and the supplementary regulations in subsection (g) the

activities as described below shall be considered Main Permitted Uses on lands within the GU District which are seaward of the Erosion Control Line (as identified in Section 1.03 of the Village Charter) where such activities occur as ancillary and supportive of principal uses conducted on the upland contiguous privately owned property.
~~TABLE INSET:~~

Type of Recreational Activities	Upland Hotel	Upland Private Beach Club	Upland Multi-Family Residential
Use of lounges/chairs/umbrellas	Yes	Yes	Yes
Food and Beverage Service	Yes	Yes	No
Special Events 1	Yes	Yes	Yes
Use of Non-Motorized Vessels 2	Yes	Yes	No 3

1 Special Events shall be limited to the following: organized athletic events, meetings, parties, weddings, fireworks displays, or professional film activities and shall be subject to obtaining a Special Event Permit pursuant to section 17-5 of the Village Code.

2 Up to six non-motorized Vessels (as defined in Section 327.02(37), Florida Statutes) shall be permitted for use in conjunction with and as accessory to hotels of at least 250 rooms or private beach clubs. They shall be operated only through an approved channel authorized under section 4-32 of the Village Code, and shall be uniformly marked and painted in a uniquely identifiable manner associated only with the hotel property or private beach club. Additionally, except for an authorized rescue vessel approved under subsection (g)(9) below, the use of motorized vessels is absolutely prohibited.

3 Nothing in this section shall be construed or interpreted to preclude individual Village residents from the legal use and enjoyment of the public beach area, or deny or impair the common law riparian rights of persons owning property which fronts the public beach area, or to require that individual residents (including specifically residents within any multifamily apartment building) obtain an approved Beach Management Plan for such activities.

(f) *Beach Management Plan Approval.* As a condition to the establishment, use and operation of any of the uses listed in subsection (e) above (except for Special Events which require a Special Event Permit), a plan for the proposed use and operation (Beach Management Plan) shall be submitted and approved by the Village. Except for the use of lounges, chairs and umbrellas, all Beach Management Plans shall require the approval of the Village Council after a public hearing noticed in accordance with section 30-68 of the Village Code. Beach Management Plans for the use of lounges, chairs and umbrellas shall be approved by the Village Manager. In the approval, the Village Manager or Village Council must find that the proposed activity(ies) comply with the requirements of this section and do not constitute a threat to public safety or welfare or constitute a danger

or impediment to the public beach area. The Village Council or the Village Manager shall impose reasonable restrictions and conditions on the approval of the Beach Management Plan in order to preserve the health, safety and welfare of the Village residents. Violation of any provision of the approved Beach Management Plan automatically results in the revocation the Beach Management Plan approval. Nothing in this section shall be construed or interpreted to preclude individual Village residents from the legal use and enjoyment of the public beach area, or deny or impair the common law riparian rights of persons owning property which fronts the public beach area, or to require that individual residents (including specifically residents within any multifamily apartment building) obtain an approved Beach Management Plan for such activities.

(1) *Beach Management Plan Application and Procedures.* In a form provided by the Village, all Beach Management Plans shall be submitted to the Village Manager and shall contain the following information:

a. A detailed and dimensioned site plan depicting the type and location of all proposed activity(ies), structures, garbage containers, storage areas and where the use of Vessels is proposed, the proposed location of a channel to be approved by Village Council pursuant to section 4-32 of the Village Code;

b. If applicable, the number of proposed Vessels;

c. Proposed hours of operation;

d. Proposed safety and emergency plans;

e. If applicable, storage, hours of use and method of fueling of an all terrain vehicle authorized under subsection (g)(10) below;

f. Indemnity and Insurance (with Village as additional insured) in a form and amount approved by Village Attorney;

g. Proof of ownership of adjacent upland property or written authorization from upland property owner;

h. Application fee plus the annual inspection fee for the approved activity as established by resolution pursuant to section 30-4 of the Village Code;

i. Any additional information as reasonably required by the Village Manager.

(g) *Supplementary Regulations.* The recreational activities identified in subsection (e) shall be subject to the following restrictions:

(1) All activities shall be conducted as accessory to the adjacent contiguous upland property.

(2) It is prohibited to conduct the sale or rental of any equipment or food and beverage item associated with any permitted activity upon the public beach. The sale or rental shall only be conducted upon the associated upland private property.

(3) None of the permitted activities shall be conducted or maintained outside of the property area contained within the extension of the side lot lines of the upland property as they extend seaward toward the waterline.

(4) Activities adjacent to the upland hotel and private beach club properties shall be setback 20 feet from the adjacent property side lot lines as extended seaward toward the waterline.

(5) Activities adjacent to the upland multi-family residential properties shall be setback 100 feet from the adjacent property side lot lines as extended seaward toward the waterline.

(6) None of the permitted activities including the storage of any equipment shall be maintained or conducted within five feet of the dune as defined pursuant to Section 161.54, Florida Statutes, or within 15 feet of the waterline, unless overnight storage on the public beach is approved pursuant to a Beach Management Plan.

(7) Except for one corporate insignia, no larger than 20 square inches identifying the applicant or the upland property owner, commercial advertising shall be prohibited on all equipment associated with any approved activity.

(8) Except as approved pursuant to a Special Event Permit, hours of operation shall be limited to between sunup and sundown each day and all equipment, furniture, and temporary structures (if any) shall be removed from the public beach by sundown each day unless overnight storage on the public beach is approved pursuant to a Beach Management Plan. This limitation shall not apply to the use of chairs and lounges for viewing fireworks displays on Independence Day or New Year's Eve.

(9) The use of non-motorized vessels shall be prohibited without the onsite provision of one personal watercraft as defined in Section 327.02, Florida Statutes, maintained in good working condition and available at all times for emergency rescue purposes. The personal watercraft shall have a four stroke engine or best available technology, be equipped with an operational marine radio or wireless phone, and shall satisfy all U.S. Coast Guard safety requirements.

(10) Except for an unenclosed motorized all terrain vehicle approved pursuant to a Beach Management Plan, it is prohibited to use or operate or to allow another to use or operate upon, or along the public beach, or upon any beach or shoreline or waters adjacent thereto, any motorized vehicle. The private use of an all terrain vehicle must be limited in use to the loading and unloading of equipment permitted under an approved Beach Management Plan. This prohibition shall not apply to any municipal, county or

state vehicle, or to any vehicle or equipment authorized by the Village to be used or operated for a public purpose.

(11) Approval of a Beach Management Plan does not exempt user from adhering to all local, state and federal statutes and regulations and requirements, including, but not limited to, Article II "Local Business Tax Receipt" of Chapter 25 "Taxation" of the Village Code.

(h) *Change Upon Sale or Lease Expiration.* Upon the sale (or expiration of a long term lease) of GU land that was owned (or leased) by the Village, the Village Council shall change the zoning district designation pursuant to the procedures established in this section.

(i) *Conflict.* This section 30-102 shall be the exclusive regulation governing lands designated GU, and to the extent that it conflicts with any other section of this chapter, this section shall control.

Sec. 30-103. Hotel Resort District.
(a) *Purpose and Uses.*
TABLE INSET:

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to promote the Development of ocean resort Hotels and multiple Family residences.	Hotel Apartment Building	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)

(b) *Development Regulations.*
~~TABLE INSET:~~

Density	Maximum Height	Lot Coverage	Minimum Lot Area
Hotel 30 Units per acre No Development shall exceed 350 Hotel Units Apartment Building 16 Units per acre If a Development contains Hotel and Apartment Units, then Lot area, which is	150 ft.	.40	The site shall be subdivided as of the date of this ordinance.

counted towards one Use, cannot be counted towards another Use.			

TABLE INSET:

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

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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 uses that provide a public	Places of worship Village	Community Residential Facilities ~~Homes~~	Any Use that is customarily associated with the Main	Any Use not listed as a Main Permitted Use, Conditional Use,

Comment [JK238]: The word "Facilities" matches state statute and should be retained.

or semi-public service.	Recreational Facilities		Permitted Use Day Care Facilities Meeting rooms Schools (See sec. 30-111)	or Accessory Use. (See sec. 30-113 for other prohibited Uses)

(b) *Development Regulations.*
TABLE INSET:

Setbacks		Maximum Height	Floor Area Ratio	Lot Coverage
New Construction		35 ft.	.25	35%
Front	50 ft.			
Side, interior or facing a Street	25 ft.			
Rear	50 ft.			
Additions in Side and Rear Yards shall provide the same Setback as the existing Building. Additions in the Front Yard shall provide a 50 ft. Setback.				

(c) *Performance standards (items apply to Uses in the I District).* Perimeter Walls or fences that face a Street shall be set back two feet from the Lot line.

Sec. 30-105. Multiple Family districts.
(a) Purpose and Uses.
~~TABLE INSET:~~

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
These districts are intended to permit the Development and maintenance of Multiple Family Buildings	In Multiple Family Districts: Apartment Buildings Duplex Townhomes In PUD Districts: The above Uses	None	Any Use that is customarily associated with the Main Permitted Use (See sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use. (See section 30-113)

	and those Uses set forth in a Site Plan approved prior to the adoption of this ordinance *			

* Key Colony pursuant to the Site Plan as approved by Dade County. Grand Bay and Ocean Club pursuant to the Site Plan as approved by the Village Council. Both Developments are previously approved Developments of Regional Impact (see notes pertaining to Future Land Use Map 1 and 2 of the master plan regarding the Development rights of these two projects).

(b) Development Regulations.

~~TABLE INSET:~~

District	Maximum Density (Units per net acre)	Maximum Height	Floor Area Ratio		Lot Coverage
RM-10 Low Density	10	35 ft.	.30		.35
RM-16 Medium Density	16	50 ft.	1 Story .30	3 Story .75	.30
			2 Story .50	4 Story+ .80	
RM-30 High Density	30	150 ft.	.40		.40
			If oceanfront/bayfront Buildings provide a 7.5 ft. dedicated Easement on each side of the property, which is improved with a hard paved surface from the Street to the beach, then the below FAR's may be used:		
			1 Story .40	6 Story 1.40	
			2 Story .60	7 Story 1.60	
			3 Story .80	8 Story 1.80	
			4 Story 1.00	9+ Story 2.00	
			5 Story 1.20		
PUD-1	*	*	*		*

Ocean Club				
PUD-2 Grand Bay	*	*	*	*
PUD-3 Key Colony	*	*	*	*

* Key Colony pursuant to the Site Plan as approved by Dade County. Grand Bay and Ocean Club pursuant to the Site Plan as approved by the Village Council. Both Developments are previously approved Developments of Regional Impact (see notes pertaining to Future Land Use Map 1 and 2 of the master plan regarding the Development rights of these two projects).

(c) Setback Regulations.

~~TABLE INSET:~~

District	Distance Between Bldgs.	Front	Side	Side Facing a Street	Rear
RM-10 Low Density	15 ft.	25 ft.	15 ft. minimum 50 ft. maximum the sum of the Side Yards must be >= 25% of Lot width	25 ft. 50 ft. maximum the sum of the Side Yards must be >= 25% of Lot width	25 ft.
RM-16 Medium Density	30 ft.	25 ft.	20 ft.	20 ft.	25 ft.
RM-30 High Density	50 ft.	25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.	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).	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).	25 ft. + 5 ft. per floor above the first floor but not to exceed 75 ft.

PUD-1 Ocean Club	*	*	*	*	*
PUD-2 Grand Bay	*	*	*	*	*
PUD-3 Key Colony	*	*	*	*	*

* Key Colony pursuant to the Site Plan as approved by Dade County. Grand Bay and Ocean Club pursuant to the Site Plan as approved by the Village Council. Both Developments are previously approved Developments of Regional Impact (see notes pertaining to Future Land Use Map 1 and 2 of the master plan regarding the Development rights of these two projects).

GRAPHIC LINK:Click here for graphic

(d) If a Building is damaged by a natural disaster or other casualty, the application of the above Development Regulations shall not preclude the repair or reconstruction of any Building or portion thereof; however, the repair and reconstruction work shall only occur within the original building envelope and with the same or fewer number of Units than existed prior to the natural disaster or other casualty.

(e) Performance standards (items apply to Uses in the RM-10 District). Perimeter Walls or fences that face a Street shall be set back two feet from the Lot line.

Sec. 30-106. Office District.

O-1 Low Intensity Office District.

(a) Purpose and Uses.

~~TABLE INSET:~~

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district permits the Development of land in a low intensity manner and Buildings which are designed to be compatible with adjacent Residential Uses.	Office	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)

(b) Development Regulations.

~~TABLE INSET:~~

Setbacks	Maximum Height	Floor Area Ratio	Lot Coverage	Minimum Lot Area
Front 20 ft.	35 ft.	0.50	40%	12,500 sq. ft. or as subdivided as of the date of the adoption of this ordinance
Side, Interior 10 ft.				
Side, Facing Street 10 ft.				
Rear 20 ft.				

(c) Performance standards.

(1) Walls facing a Street shall include a minimum of 50 percent of the surface in windows and doors.

(2) Walls facing residentially zoned property shall not have windows; however the design of the Wall shall include architectural treatments that add visual interest such as scoring, caps, columns, reveals, and similar architectural treatments. The design shall be approved by the Building, Zoning, and Planning Director.

(3) For properties that front on Crandon Boulevard, the performance standards of the C-1 Low Intensity Commercial District, subsection 30-101(e) shall apply.

(d) Burglar alarm. Shall not face residentially zoned property.

(e) Buffering and screening. A decorative, opaque six-foot CBS Wall shall be placed on any property line that is adjacent to a residential district. There shall be a five-foot Setback from the Wall. This area shall be landscaped with dense materials. The design of the Wall and the landscaping shall be approved by the Building, Zoning, and Planning Director. The Director shall determine if the Wall and landscaping provides an adequate buffer and screen between the office Uses and the Adjacent Properties.

(f) Perimeter Walls and fences that face a Street shall be set back two feet from the Lot line.

Sec. 30-107. Private Club.
(a) Purpose and Uses.
~~TABLE INSET:~~

District Purpose	Main	Conditional	Accessory Uses	Prohibited Uses

	Permitted Uses	Uses		
This district is designed to permit non-commercial, private facilities that provide recreational and social activities for their members and guests.	Main Permitted Uses: Private Club	None	Any Use that is customarily associated with the Main Permitted Uses or Conditional Uses (See sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use (See sec. 30-113)

(b) Development Regulations.
~~TABLE INSET:~~

Setbacks	Floor Area Ratio	Maximum Height	Lot Coverage	Lot Area
Front 50 ft. Side 25 ft. Rear Bayfront 25 ft. Oceanfront - No encroachment into the Coastal Construction Line area is permitted.	.15	35 ft.	.15 *	The site shall be subdivided as of the date of this ordinance

* See Lot Coverage definition in Article II. Lot Coverage shall also include non-roofed areas enclosed by Walls (excluding Building Walls) which exceed six feet in height. Lot Coverage shall also include any boat storage facility (rack) which exceeds ten feet in height when measured from the ground to the top of the uppermost boat. Additionally, an increase of up to five percent of Lot Coverage is permitted for Gazebos, Porches, or similar Structures.

(c) If a Building is damaged by a natural disaster or other casualty, the application of the above Development Regulations shall not preclude the repair or reconstruction of any Building or portion thereof; however, the repair and reconstruction work shall only occur within the original building envelope and with the same or fewer number of Units than existed prior to the natural disaster or other casualty.

(d) Site Plan review shall be required pursuant to these Regulations ~~section 30-80~~. The following criteria shall also be utilized for water and marina dependent Uses:

(1) Must have a minimum four-foot depth at mean low tide in the marina basin, canal and Access channel, and direct Access to the intracoastal waterway (if applicable) or to another dredged channel or area with a minimum of six feet clearance at mean low tide.

(2) Must be compatible with existing and surrounding land Uses and of sufficient size to accommodate the specific project and the required Parking.

(3) Oceanfront property should preserve or improve traditional public shoreline Uses and public Access to estuarine and coastal waters, preserve or enhance the quality of the estuarine and coastal waters, water circulation, tidal flushing and light penetration, and preserve archeological artifacts or zones and preserve or incorporate historic sites.

(4) Shall provide substantiation that the project is consistent with the purpose of the zoning district.

(5) Shall demonstrate that the Development is compatible in terms of scale and Uses with Adjacent Properties.

(6) Shall demonstrate that the impact on the infrastructure is consistent with the Level of Service established in the master plan.

(7) Shall list the benefits to the community in terms of urban, economic, and cultural impact.

(8) Construction or subsequent operation of any new or expanded marina shall not destroy or degrade hammocks, pinelands, salt marshes, mangrove protection areas, seagrass, hard bottom communities, or habitats used by endangered or threatened species, unless approved by the appropriate regulatory agencies.
In making the above determinations, the Building, Zoning, and Planning Director may require the applicant to provide documentation and studies supporting such findings. An application for Site Plan review shall address each of the above criteria.

Sec. 30-108. PROS Public Recreation and Open Space District.
(a) *Purpose and Uses.* The PROS Public Recreation and Open Space Use District is an alternative zoning district to the GU Government Use District, where the Village has ownership or a long term lease (five years or more) of land and desires to use the land for public recreation or open space purposes.
~~TABLE INSET:~~

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to permit public non-commercial recreational or open space Uses	Parks, swimming pools and decks Active and passive recreational	None	Any Use that is customarily associated with a Main Permitted Use (See sec. 30-111)	Any Use not listed as a Main Permitted Use, or Accessory Use (See sec. 30-113)

	Uses			

(b) *Development Regulations.* In approving development for lands designated PROS, the Village Council shall use the following Development Regulations:
~~TABLE INSET:~~

Floor Area Ratio	Maximum Height	Lot Coverage	Lot Area	Setback
.75	20 ft.	15%	No minimum	5 ft., except where prior zoning district has a more liberal setback standard, which shall then apply

(c) *Approval Process.* Prior to establishing any new use of lands that are designated PROS, the Village shall conduct a public hearing or hearings pursuant to the procedures set forth in section 30-102, GU Government Use District. Upon the sale (or expiration of a long term lease) of PROS land that was owned (or leased) by the Village, the Village Council shall change the zoning district designation pursuant to the procedures established in section 30-102, GU Government Use District.

Sec. 30-109. Supplemental Setback Regulations.
General provisions:

(1) *Determination of Yards.* When the definitions of Yards do not clearly determine the Front, Side or Rear Yard, the Building, Zoning, and Planning Director shall be guided by the pattern of Development in the vicinity of the Lot and the platting of the Lots in question in determining what is the applicable Yard.

(2) *Double frontage Lots.* The required Front Yard shall be provided on each Street frontage. Unless provided for in these Regulations, Accessory Structures shall not be provided for in either Yard.

(3) *Private roads.* The Setback shall be measured from the centerline of a private road.

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

(a) *Awnings.*

(1) *Commercial and Office Districts.* Awnings facing a Right-of-Way must maintain a Setback of at least 18 inches from the edge of pavement, and are subject to the approval of the Building, Zoning, and Planning Director. The decision shall be based on the height of the Awning, design, and relationship to the Building, sidewalk and intended Use of the space beneath the Awning.

(2) *All other districts except Single Family and PS Parkside Residential.* Awnings shall not project closer than three feet from any Lot line or have a total projection that exceeds 7.5 feet.

(b) *Canopies.* A Canopy shall be permitted to extend from an entrance door toward the Street side of any Building. The Canopy may extend to within 18 inches of the edge of pavement. Such canopies shall not exceed 15 feet in height and 12 feet in width or be screened or enclosed in any manner and shall provide an unobstructed, clear space between the grade and the bottom of the Canopy valance of at least seven feet. The location of vertical supports for the Canopy shall be approved by the Engineering Division.

(c) *Carports.* Not permitted.

(d) *Decks and Screen Enclosures (whether or not associated with a pool) Setbacks.* ~~TABLE INSET:~~

Front Setback	Side Facing a Street	Interior Side	Rear
Not permitted in Front Yard	15 ft.	10 ft.	10 ft. non-oceanfront Lots 0 ft. for oceanfront Lots

(e) *Driveways and sidewalks on private property.* Five feet from side or rear Lot line.

(f) *Fences and Walls.*

(1) *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), and the "Rear Zone" being the area from the back of the Front Zone to the rear property line.

(2) *Maximum height.*

a. *Front Zone.* Except for arches, columns, gates and other ornamental entry features which may extend to eight feet in height, the height between any Building and adjacent Street(s) shall be limited to six feet measured from the crown of the road.

b. *Rear Zone.* Six feet from the average grade of the Lot or to the allowable height of a permitted Wall on the contiguous Lot. The height, when measured from the grade of the contiguous Lot is further limited to eight feet, except by mutual consent of the contiguous Lot owners, the height may extend to four and one-half feet above BFE. For fences associated with tennis courts and other court games the maximum height is set forth in subsection (p) below.

c. *Arches.* May go up to nine and one-half feet in the Side Yard only.

(3) ~~*Finish.*~~ *Fence and Wall finish materials and restrictions*. The fence and Wall finish materials and restrictions shall be the same as the Single Family and Two-Family districts.

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

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

Comment [JK239]: Results in aesthetic improvement to fences.

Comment [JK240]: ZORC removed this regulation, however, staff retained this regulation for aesthetic reasons.

(4) *Corner Line of sight triangle on private property.* At a Street corner, the maximum height of a Wall, fence, or landscaping is 2.5 feet measured 15 feet along the intersection of property lines. Landscaping in this triangle is limited to shrubs.

(g) *Hedges.* No height limit except with regard to corner visibility where Regulations listed in subsection (f)(3) above.

(h) *Lightpoles.* 15 feet.

(i) *Marine Structures.* As set forth in section 30-100(f)(3).

(j) *Mechanical equipment.* Air conditioning, water pumps, and similar equipment shall be permitted in a Required Yard subject to the following:

(1) Not located in any Yard facing a Street.

(2) Provide a minimum five-foot Setback to the Lot line.

(3) Shall provide a solid acoustical screen at least one foot above the top of the air conditioner compressor and along the sides. Perimeter Walls may be used as the acoustical screen where the height of the Wall extends at least one foot above the equipment.

(4) If located on a roof, the equipment shall be screened from view in a manner that a Person standing on the sidewalk opposite the site cannot view the equipment.

(k) *Parking facilities, at grade Lots and garages.*

(1) At-grade Parking Lots with six or more spaces.

a. Required Setbacks:

~~TABLE INSET:~~

Parking Lot Width (not the width of the lot)	Side or Rear Yard Setback	Front Setback
50 ft. or less	5 ft.	5 ft.
More than 50 ft. but <= 200 ft.	5 ft.	7.5 ft.
More than 200 ft.	10 ft.	10 ft.

Sec. 30-111. Accessory Use Regulations.
(a) *General provisions.* Accessory Uses shall comply with the following general provisions:

(1) They shall be located on the same Lot as the Main Permitted Use.

(2) They shall be incidental to and customarily associated with the Main Permitted Use. In making this determination, the Building, Zoning, and Planning Director may require the applicant to provide evidence that said Use meets this criteria.

(3) Off-Street Parking and loading spaces shall be considered as Accessory Uses in all districts unless listed as a Main Permitted Use or Conditional Use.

(4) A Use other than those listed in this section may be considered as an Accessory Use if it is customarily associated with one of the Main Permitted Uses and if the Building, Zoning, and Planning Director finds that the Use complies with the below mandatory criteria:

a. The Use complies with items (1) and (2) above;

b. The Use is consistent with the purpose of the Zoning District in which it is located;

c. That the necessary safeguards will be provided for the protection of surrounding property, Persons and neighborhood values;

d. That the public health, safety and general welfare of the community will not be materially and adversely affected; and

e. It is consistent with the master plan.
Appeal of the Building, Zoning, and Planning Director's decision pertaining to any finding shall be to the Village Council as an appeal of an administrative decision.

(b) *Accessory Uses in the Single Family and PS Parkside Residential District.* See section 30-100.

(c) *Accessory Uses in the Commercial District.*

(1) The storage of supplies or merchandise that are associated with the Main Permitted Use.

(2) The assembly of prefabricated products that are sold or used on the Premises.

(d) *Accessory Uses in the GU Government Use District.* See subsection (a) above.

(e) *Accessory Uses in the HR Hotel Resort District.*

(1) Retail Uses sized to serve the needs of Hotel guests.

(2) Bars, restaurants, lounges, and recreational facilities sized to serve the needs of Hotel guests and residents of the island.

(f) *Accessory Uses in PUD Planned Unit Development Districts.* Private Clubs (membership to the Private Club may be open to the general public), restaurants, office, Retail, recreational facilities, and similar Uses, provided such Uses have no direct Access to the exterior of the Building and no exterior signage.

(g) *Accessory Uses in the Institutional District.* Schools, cafeterias, chapels, meeting rooms, day care facilities, and special events.

(h) *Accessory Uses in RM Multiple Family Districts.* Recreation facilities and Private Clubs (provided they are for the exclusive Use of residents and owners of the Development and their guests, and are not open for general membership), restaurants, office, Retail and similar Uses, provided such Uses have no direct Access to the exterior of the Building and no exterior signage.

(i) *Accessory Uses in the Office District.* The storage of supplies that are associated with the Main Permitted Use; Retail Uses directly serving the office Uses they are associated with on the first occupied floor of the Building only and not to exceed 50 percent of the first floor area, exterior signage or exterior entrances directly into the Retail Uses prohibited.

(j) *Accessory Uses in the PC Private Club District.* Shall include, but not be limited to the following: club houses, marinas, dock master's office, social halls, meeting rooms, Bars, dining rooms, card rooms, tennis courts, swimming pools, restaurants, Parking facilities, docks, fixed or floating, breakwaters, boat Trailers, trailered boat storage, boat ramp, outdoor dining, Gazebos, children's play area, sailing school, tennis school, summer camp, exercise facilities, outdoor grill, fish cleaning tables, members' store, mooring piles/buoys, a temporary overnight facility serving the needs of the club and those that remain on their boats overnight and similar recreational facilities, maintenance sheds, temporary Tents, marine fuel storage and sales, minor marine repairs, small boat crane/hoist, marine pump-out station, small sailboat rack storage and security entrance gate and Building.

(k) *Accessory Uses in the PROS Public Recreation and Open Space District.* See subsection (a) above.

(l) *Uses in districts not listed above.* Review criteria listed in subsection (a) above shall apply.
If a Use is not listed above, it may be permitted if the Building, Zoning, and Planning Director finds it is consistent with the criteria listed in subsection (a) above.

Sec. 30-112. Supplemental Use Regulations.
(a) *Alcoholic beverages.* The Village shall use the Miami-Dade County Ordinance for purposes of regulating the sale of alcoholic beverages, except that package stores shall be permitted as a conditional use in the C-1 Low Intensity Commercial district as set forth in Section 30-101; however, in no instance shall alcoholic beverages be offered for sale for consumption on the Premises, except in bars, as incidental to restaurants, within 500 feet of a place of worship, a school or from a parcel immediately adjacent to a single Family district. The distance measurement shall be a straight line measured from the property line where the establishment is located to the nearest point of the property line of the school or place of worship. Grocery stores shall be limited to the sale of beer and wine only for consumption off premises. No establishment, except for Hotel room service, shall offer alcoholic beverages for consumption on or off the Premises between 2:00 a.m. and 7:00 a.m. on any day of the week, except as permitted by an extended hours license granted pursuant to the Conditional Use procedures set forth in section 30-72. However, beer and wine may be sold, for off premises consumption only, 24 hours. The Village Council may grant an extended hours license, to allow an establishment to offer alcoholic beverages for consumption on or off the Premises as late as 4:50 a.m. In evaluating such requests, the Village Council shall use the following criteria:

(1) The number of off-street Parking spaces;

(2) The amount and degree of law enforcement activities; and

(3) The impact on Adjacent Properties in terms of noise and traffic.
The Village Council may require, as a condition of granting an extended hours license, conditions to mitigate the adverse impacts that such establishments have on Adjacent Properties. The extended hours license is personal to the applicant and shall not be transferred or assumed without the approval of the Village Council pursuant to the Conditional Use procedures set forth in section 30-72. An extended hours license is automatically renewed unless it is suspended by the Village Manager. Following the suspension, the Village Council shall hold a public hearing to determine it should be reinstated or revoked. The Village Manager's decision to suspend the extended hours license must be based on a determination that the Use is harmful to the health, safety, and welfare of the Village. The Council shall determine whether there is competent and substantial evidence to support the decision of the Village Manager using the process for an appeal of an administrative decision (See section 30-70). Prior to a decision to suspend an extended hours license, the Police Chief shall submit a report and recommendation to

the Village Manager. The report shall address the criteria listed in subparagraphs (1)--(3) above [sic].
The granting of an extended hours license is a privilege subject to revocation by the Village Council at any time. As such, no Person may reasonably rely on a continuation of the privilege.

(b) *Amusement devices.* Such as video games, pinball and similar mechanical devices, as an Accessory Use subject to the following Regulations:

(1) Must be accessory to a Hotel.

(2) All devices shall be located inside a wholly enclosed Building and not visible from any Street.

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

~~(1) 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;~~

~~(2) The owner of the Bed and Breakfast Inn shall permanently reside in the Building;~~

~~(3) The Structure shall maintain public rooms (living room/dining room) for use of the guests;~~

~~(4) There shall be no Cooking Facilities in guest rooms with the exception of a microwave oven. One refrigerator with maximum capacity of five cubic feet shall be permitted in each guest room;~~

~~(5) 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;~~

~~(6) The entire Building shall be substantially rehabilitated and conform to the South Florida Building Code, the Code of the Village of Key Biscayne, and the Fire Prevention and Life Safety Code on the date a certificate of use and Occupational License are applied for;~~

~~(7) One non-illuminated Building identification Sign is permitted. The Sign shall not exceed one square foot and shall only be located on the Building;~~

~~(8) The Building shall have central air conditioning;~~

~~(9) 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~~

~~(10) These Regulations apply to those facilities which may be operating in the Village but without any approval from the Village. These facilities are required to comply with these Regulations within 90 days from the date this ordinance is adopted. These Regulations also apply to prospective facilities.~~

(c~~d~~) *Commercial and office Uses adjacent to residential districts.* A six-foot perimeter CBS Wall shall be placed on any property line between any commercial or office district and an adjacent Single Family district or the PS Parkside Residential District. A three-foot Setback shall be provided between the Wall and sidewalk when present. This Setback area shall be landscaped to buffer the non-residential Development from the residential Development. In addition, the Building, Zoning, and Planning Director may require additional Street trees planted in the Right-of-Way for purposes of creating a buffer.

(d~~e~~) *Communication Towers.* It is the intent of the Village to regulate the installation of Communication Towers so as to limit possible adverse economic, aesthetic, and safety impacts from such installations, and thereby promote the health, safety, and general welfare of the community. Consistent with this intention, Communication Towers are permitted as follows:

(1) Monopole Towers are only permitted in RM-30 High Density Multiple Family District, HR Hotel Resort District, the PUD Planned Unit Development Districts, and the GU Government Use District subject to approval by the Village Council pursuant to the Conditional Use procedures set forth in these Regulations ~~section 30-72~~. The Tower(s) shall only be mounted in a location or have screening that prevents them from being seen from a public Right-of-Way. The finish on the Towers shall blend into the sky and the color of the Building. Towers which are located below the parapet are permitted in the above districts subject to approval by the Building, Zoning and Planning Director.

(2) The specific location which is proposed for the Tower must be necessary to provide service to a particular geographical area;

(3) The Tower may not adversely affect the existing character of the surrounding area; and

(4) Approval of the Tower will not be detrimental or injurious to the health, safety, and general welfare of Persons working or residing within the vicinity of the site.

(f) *Community residential facilities.* These facilities shall be considered subject to the Conditional Use procedures set forth in these Regulations ~~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 Business Tax Receipt ~~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 these Regulations ~~section 30-80~~; and

(3) Density shall not exceed 16 Units per acre. If the Community Residential 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.

(g) *Day care facilities.*

(1) Commercial, Institutional, Hotel Resort, and Planned Unit Development Districts: Day care facilities are permitted in these districts subject to the restrictions below as either Main Permitted Uses or Accessory Uses.
a. That the applicant obtain a license from the State regulatory agency responsible for the regulation of such Uses; and
b. A certificate of use, a certificate of occupancy, and an Business Tax Receipt ~~Occupational License~~ shall be required. No such certificates shall be issued unless the Fire Department approves the issuance of said certificates.

(2) If a swimming pool is on the site, refer to section 30-110(f) above for fence requirements.

~~(3) These Regulations apply to those facilities that may be operating in the Village but without any approval from the Village. These facilities are required to comply with these Regulations within 90 days from the date this ordinance is adopted. These regulations also apply to prospective facilities.~~

(h) *Height exemptions.* The height Regulations as set forth in the zoning districts, shall not apply to the following:
~~TABLE INSET:~~

(1) Airplane beacons	(14) Ornamental Towers and spires
(2) Belfries	(15) Stacks
(3) Communication Towers	(16) Steeples and domes

(4) Chimneys	(17) Smoke stacks
(5) Church spires	(18) Tanks
(6) Conveyors	(19) Roofs (see subparagraph d. below)
(7) Cooling Towers	(20) Satellite dishes (see subparagraph (j) below)
(8) Cupolas	(21) Television antenna
(9) Elevator bulkheads	(22) Towers, decorative
(10) Fire Towers	(23) Water Towers
(11) Flag poles	(24) Lighting structures for Village recreation facilities
(12) Lofts	(25) Any other Structure that is similar to those listed above
(13) Monuments	

The above listed exemptions are allowed, provided the following criteria are met:

a. The maximum height allowed in the district shall not be exceeded by more than 35 percent, except for the height of roofs, which shall be pursuant to subparagraph (4) below, and except for lighting structures for Village recreational facilities (including lighting for playing fields) which may have a height of up to 70 feet. The maximum Floor Area of any of the rooftop Structures listed above is limited to ten percent of the roof area of the entire Building. Equipment shall be screened in a manner that prevents it from being seen from the Street. The Building, Zoning, and Planning Director may require a line of sight study in order to make this determination.

b. Parapet Walls may exceed the permissible height limit provided that they shall not extend more than five feet above the flat portion of the Building roof upon which they are constructed.

c. Notwithstanding other provisions of these Regulations, the height of all Structures shall be limited by the requirements of the Federal Aviation Administration and any airport Regulations applicable to the Structure.

d. Principle Building roofs shall comply with the following requirements:

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

2. 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.

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

4. Shed roofs shall have a minimum pitch of 3:12 ratio.

5. Roof overhang. No portion of a roof, including the gutter, shall be permitted to extend more than five feet from the exterior Wall of a Building and not closer than 3.5 feet from an interior side property line or 2.5 feet from any Wall facing a Street.

6. When a scupper drainage system is used, the scupper shall have a minimum 7.5-foot Setback from any Lot line.

(i) *Home occupations in Single Family, RM Multiple Family Districts, and PUD Planned Unit Development Districts.* Are permitted subject to the following:

(1) Signage is prohibited;

(2) No customer may be permitted ~~served~~ in the home or on the property;

(3) Employees in the business are limited to full time residents of the Dwelling Unit; and

(4) The business requires a Village Business Tax Receipt ~~Occupational License~~.

(j) *Outdoor dining Regulations.* Tables and chairs may be placed outside of a restaurant on private property that is located on individual sites or within Shopping Centers. The tables and chairs may be used for dining purposes as an accessory to an indoor restaurant facility, subject to compliance with the following criteria:

(1) Tables and chairs shall not be placed in a manner that restricts direct pedestrian Access along a 44-inch wide pathway from the entrance of a Shopping Center to a elevator or steps. Tables and chairs shall not be placed in a manner that violates The Americans with Disabilities Act ("ADA");

(2) Furniture is limited to tables, chairs, and umbrellas;

(3) Signage is prohibited on outdoor furniture;

(4) The applicant shall submit evidence that the owner of the Shopping Center permits Outdoor Dining Facilities on the Premises;

(5) Furniture which is composed of PVC, plastic, fiberglass, Formica, or similar materials is prohibited;

(6) An Outdoor Dining Facility shall not require additional Parking;

(7) The Building, Zoning, and Planning Director may establish conditions as part of the approved Site Plan. An appeal of the Director's decision shall be decided by the Village Council;

(8) There shall be no outdoor music or amplification associated with the Outdoor Dining Facilities.

(9) Tables and chairs that are not permanently attached to the floor shall be stored inside the restaurant providing such service, when the restaurant is closed;

(10) Tables and chairs at each restaurant shall have a consistent design and color;

(11) Tables and chairs shall be located directly in front of the restaurant Unit served;

(12) The restaurant providing such Outdoor Dining Facility shall provide bathroom facilities in accordance with the ~~South~~ Florida Building Code;

(13) Restaurants shall have any disposable tableware and accessories marked with its trademark or indicia of ownership and shall be responsible for all litter within a 300-foot radius;

(14) All food preparation shall be from within the enclosed restaurant;

(15) Pass-through windows, take-out windows, or similar types of windows are not permitted; and

(16) A Site Plan, accompanied by all pertinent data, shall be submitted to and approved by the Village's Building, Zoning and Planning Department, Fire Department, and Police Department. Such Site Plan shall be revocable at the will of the Village if any of the criteria or conditions of approval are violated or if new Regulations are adopted by the Village and not satisfied by the restaurant facility. Site Plans shall describe the location of all furniture, lighting, and other related services and functions associated with the request for approval.

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

(1) 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.

(2) 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.

(3) 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.

(4) For purposes of this subsection, the floor space shall not:

a. be used as a separate Dwelling Unit;

b. have separate Cooking Facilities; but

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

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

(l) *Satellite dish antennas.* Shall not have a diameter that exceeds one meter. Antennas or dishes larger than one meter in the other districts shall comply with the following requirements and may only be approved by the Village Council subject to the Conditional Use procedures:

(1) Dishes shall be placed in a location to minimize its view from any Public Street. The height shall not exceed 18 feet measured from the elevation of the roof to the highest point of the dish at its maximum vertical extension. The Building, Zoning, and Planning Director may place conditions on the location and require screening to achieve this objective. Appeal of a Building, Zoning, and Planning Director's decision is to the Village Council as an appeal of administrative decision;

(2) No part of the antenna shall be within 15 feet of a rear, or interior side property line or within the waterfront view corridor (See section 30-100). It is not permitted within the Front Yard, a Yard facing a Street;

(3) The dish shall employ, to the maximum extent possible, materials and colors that blend with the surroundings;

(4) Poles shall be constructed in a manner that will not retain water (i.e. weep hoes or filled with concrete); and

(5) The dish shall be sited in a manner that prevents them from being seen from the Street. In order to make this determination, a line of site study shall be submitted to the Building, Zoning, and Planning Director.

(m) *Suites Hotel or suite Hotel Units.* When a Hotel Unit contains Cooking Facilities it shall be considered as a suite Hotel Unit and shall conform with the following:

(1) The Units shall only be permitted in new construction or in Buildings which have been substantially rehabilitated or where the suites Hotel Units are part of a request for a building permit that will result in the Building being substantially rehabilitated.

(2) Cooking Facilities shall be limited to one microwave oven. The Unit is further limited to one five-cubic-foot refrigerator.

(3) The Building shall contain a registration desk and a lobby;

(4) The Building shall have central air conditioning or flush mounted Wall units;

(5) Except for Units on the ground floor, the Building shall not have unenclosed exterior walkways that provide Access to the Units; and

(6) If a door is provided to a hallway or as a means of exit and entrance into the Unit from the exterior of a Building, then it is considered as a separate Unit for purposes of calculating Density.

(n) *Vending Machines.* Permitted as an Accessory Use if the machine(s) is located inside a Building at least ten feet from a window that faces a Street or in a courtyard when the machine(s) cannot be seen from a Street.

(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 [JK241]: Discourages use of cabanas overnight as a residential unit.

Sec. 30-113. Prohibited Uses.
~~TABLE INSET:~~

Prohibited Uses	If a Use is not specifically listed as a Main Permitted Use, Conditional Use, or Accessory Use, then such Use is considered as a Prohibited Use and not permitted anywhere in the Village. Specifically listed prohibited Uses include the following:
(a) Any type of Adult Entertainment Establishment.	
(b) Any Use that involves the sale of secondhand merchandise, except the resale of Antique furniture that is at least 50 yrs. old and the resale of jewelry, art, or furs is permitted. Those Uses which have merchandise that is at least 50 yrs. old may offer for sale other secondhand merchandise if the inventory of said merchandise occupies less than 25 percent of the floor space Occupied by the entire Use.	
(c) Outdoor sale or storage of any merchandise except outdoor and Sidewalk Cafes as permitted in section 30-111.	

Comment [JK242]: ZORC included the following but the Village Attorney recommended it not be in the Code because the current regulations address our needs.

(ZORC PREFERANCE)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

(d) Psychic Help Uses.
(e) Video arcade, pinball and similar mechanical and/or electrical game machines as a Main Permitted Use.
(f) The overnight outdoor Parking or storage of any vehicle with signage indicating a commercial business within 125 feet of any Street. Further, overnight outdoor Parking or storage of Commercial Vehicles for businesses not located on the property, is prohibited in any outdoor lot.
(g) Any other Use that the Building, Zoning, and Planning Director has determined to be inconsistent with the master plan or the district in which such Use is intended to be located. An appeal of the Director's decision shall be considered as an appeal of an administrative decision. Such appeals shall follow the procedures set forth in section 30-70 "Appeals of Administrative Decisions".
(h) Drive through facilities, except when associated with a bank.

ARTICLE VI. CONCURRENCY MANAGEMENT

Sec. 30-160. Purpose.

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

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.

Comment [JK243]: No impact on the regulations

(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~~ Comprehensive pPlan that provides the Level of Service Standards (LOS) for public facilities and services: roads, sanitary sewer, schools, solid waste, drainage, potable water, and parks and recreation. All Developments that are subject to a finding of Concurrency must be consistent with these standards.

Comment [JK244]: Changes Master Plan to Comprehensive Plan. Includes "schools" in the Level of Service requirements.

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.

(6) Any new construction that results in a reduction in square footage or density.

Comment [JK245]: ZORC recognized that reductions in sq. ft. and density has less impact than the original structure and therefore should be exempt from a Concurrency determination

Sec. 30-165. Failure to establish Concurrency.

No building permit shall be issued unless:

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

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

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

Sec. 30-166. Appeal.

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

ARTICLE VII. OFF-STREET PARKING AND LOADING

Sec. 30-180. Off-Street Parking required.

(a) Every Building, Use or Structure instituted or Erected after January 1, 2000, shall be provided with off-street Parking facilities in accordance with the provisions of this article for the use of occupants, employees, visitors and/or patrons.

(b) Off-Street Parking facilities required by this article shall be maintained and continued as long as the Use giving rise to the requirement is continued.

(c) The sale or transfer of the required Parking spaces without establishing alternative vehicle Parking facilities in accordance with this article is prohibited.

(d) Those single Family homes that do not have driveways on the date of adoption of this ordinance must come into compliance at such time as they make modifications to the property having a value greater than or equal to ten percent of the assessed value of the Building.

Sec. 30-181. Location, character and size of required Parking spaces.
(a) The off-street Parking facilities required by this article shall be located on the same Lot or parcel of land that the Use they are intended to serve is on.

(b) Parking stall and aisle dimensions.
~~TABLE INSET:~~

Orientation to aisle	45 Degrees	60 Degrees	75 Degrees	90 Degrees
Stall width	12'	10'	9'	9'
Stall length	26.5'	23'	20'	18'
Aisle width	12'	17'	21'	22'
Bumper overhang	1.8'	2.2'	2.4'	2.5'

(c) Access to a Street. Each individual Parking space shall be directly accessible from a Street or from an aisle or driveway leading to a Street according to the minimum dimensions specified in subparagraph (b) above; however, single Family homes, Duplexes and Townhomes may have tandem spaces.

(d) Striping. The required off-street Parking facilities for all Development, excluding single Family and Duplex, shall be painted with paint strips in accordance with the Building, Zoning, and Planning Director's requirements.

(e) Parking Lot aisles in Lots that contain 50 or more spaces shall be numbered. Aisles in Lots that exist prior to the effective date of this ordinance shall be numbered when the Parking Lot is resealed.

(f) Surface material. All off-street Parking facilities including Access aisles, driveways, aprons on the Right-of-Way (from the driveway to the Street) shall be surfaced with a hard dust free material (such as asphalt, brick paver, poured or stamped concrete or other similar material) and maintained in a smooth well-graded condition. There shall be an exception to this requirement allowed for up to 50 percent of the required Parking for churches and other places of worship.

(g) Drainage for all off-street Parking facilities shall meet the requirements of the Metropolitan Miami-Dade County Planning, Development, and Regulation Landscape Manual.

(h) Lighting shall be arranged and designed to prevent glare or excessive light on Adjacent Property and shall not exceed 0.5 footcandles.

(i) A Site Plan shall be submitted with every application for a building permit for any Use or Structure which is required to provide off-street Parking facilities. The Site Plan shall designate the required Parking spaces, Access aisles, driveways and the relation to Uses or Structures which the off-street Parking facilities are intended to serve.

(j) The minimum required width of Parking spaces which are adjacent to a Wall or other solid obstruction shall be 10.5 feet.

(k) Maximum ramp angles for driveway Access to above grade and/or below grade Parking Structures shall be subject to approval by the Chief Building Official.

(l) All Parking spaces shall have concrete car stops (6 feet long) or curbing, except for tandem spaces and Parking spaces in single Family and Duplex.

(m) Head-in/back-out Parking. Parking stalls shall not have direct Access from or to a Public Street or public alley; provided, however, vehicular Parking stalls may have direct Access from and to a Public Street when serving a one-Family residence, Duplex, or Townhome.

(n) Curb cuts. All curb cuts shall conform to the design and construction standards required by the Public Works Supervisor.

(o) Handicap Parking spaces. These spaces may be counted towards the required Parking calculation and designed in accordance with the Americans with Disabilities Act, as amended.

(p) Tandem Parking spaces. Single Family homes, Duplexes, and Townhomes may have required Parking spaces where vehicles are parked in front or in back of each other as long as one vehicle has direct Access to a Street.

(q) Setback for parking garages in single Family homes. A 20-foot Setback from the garage door to a property line.

Sec. 30-182. Joint Use of Parking facilities.

Parking facilities may be utilized by two or more Buildings or Uses provided that:

(1) The total of such shared Parking spaces shall not be less than the sum of the requirements of the several individual Uses when computed separately.

(2) A covenant running with the land shall be prepared for the purpose of insuring that the required Parking is provided and available at all times. The Unity of Title shall be executed by the owners of the properties concerned, approved as to form by the Village Attorney, recorded in the public records of Miami-Dade County as a covenant running with the land and shall be filed with the Building, Zoning, and Planning Department and attached to plans or permit applications that are filed with the Village.

(3) No part of an off-street Parking area required for a Building or Use shall be included as part of an off-street Parking area similarly required for another Building or Use unless as set forth in subparagraph (2) above.

(4) Nothing in this article shall prevent two or more properties [from] temporarily sharing their Parking spaces if each has the required number of Parking spaces.

Sec. 30-183. Calculation of required off-street Parking spaces.
(a) *Non-specified Uses.* The requirements for off-street Parking for any Use not specifically mentioned in sec. 30-184 shall be the same as provided in this article for the Use most similar to the one sought as determined by the Building, Zoning, and Planning Director.

(b) *Fractional measurements.* Shall be calculated to the nearest whole number. A fraction of one-half shall be rounded to the highest whole number unless otherwise specified in section 30-184.

(c) *Mixed Uses.* The total requirements for off-street Parking shall be the sum of the requirement of the various Uses computed separately, except where specific requirements are stipulated in this article. Off-Street Parking spaces for one Use shall not be considered as providing the required off-street Parking for any other Use.

(d) *[Additions to existing Structures.]* Additions to existing Structures shall provide the number of Parking spaces as required in this article for similar new construction.

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
(2) Cabana Clubs	0.5 per cabana	
(3) Churches and other places of worship	See special conditions	1 per 60 sq. ft. of Floor Area available for seating and per 4 fixed seats. Parking only required for main sanctuary or largest meeting room whichever is greater.
(4) Community Residential Facility	1 space per live in employee plus spaces listed in special	1 space for every 5 residents or any fraction thereof

	conditions	
(5) Duplex	4 spaces	If in a Development with >= 5 Units, then 1 additional per 5 Units, marked guest Parking
(6) Hotel or Motel	1 per Unit	Accessory Uses 65% of requirement if calculated as a Main Permitted Use
(7) Life Care Facility or similar Use with beds	1 per 10 beds	Minimum of 2 for facility
(8) Marina or marine dockage	1 per 3 wet slips	Dry dock storage: 1 per 10 dry slips
(9) Nightclub and/or Bar	1 per 60 sq. ft. of Floor Area available for seating	
(10) Offices	1 per 300 sq. ft.	Medical offices 1 per 250 sq. ft.
(11) Personal Service Uses	1 per 250 sq. ft.	
(12) Places of assembly such as auditoriums, movie theater, convention halls, meeting rooms ext.	See special conditions	1 per 4 fixed seats or 1 per 60 sq. ft. of Floor Area available for seating, whichever is applicable. If there is fixed seating and areas available for seating, the Parking calculation is cumulative. Plus one for each theater and 1 per each movie booth.
(13) Private Clubs	See special conditions	1 per 60 sq. ft. of Floor Area available for seating and 1 per 4 fixed seats
(14) Restaurant	1 per 4 fixed seats or 1 per 60 sq. ft. of Floor Area available for seating	There shall be no Parking requirement for a sidewalk or Outdoor Cafe so long as such seating does not exceed 25% of the total seating
(15) Restaurant, take-out	1 per 150 sq. ft.	Only applies when take-out restaurant is primary Use
(16) Retail	1 per 250 sq. ft.	
(17) Service Station	1 per 250 sq. ft. of Retail or office area	1 space per repair bay 1 space marked "reserved"
(18) Schools, public or private	See Special conditions	As established by State agency, private to Use same standards
(19) Schools, business	1 per 4 fixed seats	1 per classroom

commercial, adult or trade	and 1 space per 60 sq. ft. area available for seating	
(20) Shopping Center	1 per 220 sq. ft.	No differentiation by Use. If movie theater, see requirements for places of assembly.
(21) Single Family Residence	2 spaces	
(22) Townhome	2 per Unit	If a Development has more than 5 Units, then 1 additional space per 5 Units, marked guest.
(23) Village Civic Center	As required by the master plan and associated Parking study approved by the Village Council	
(24) Warehouse including self storage cubicles	1 per 2,000 sq. ft.	Storage space as Accessory Use - 1 space per 2,000 sq. ft.

(b) Off-Street loading spaces; general provisions.

(1) Off-Street loading spaces, when required, shall be provided on the same Lot as the Main Permitted Use. These spaces are not counted towards the required Parking spaces as established in subparagraph (a) above.

(2) For the purposes of this article, an off-street loading space shall be an area at least ten feet wide by 25 feet long with 14 feet vertical clearance. Each loading space shall be directly accessible from a Street or alley without crossing or entering any other required off-street loading space, and arranged for convenient and safe ingress and egress by motor truck and/or Trailer combination. Such loading space shall also be accessible from the interior of any Building it is intended to serve.

(3) Off-Street loading facilities that serve one Use shall not be considered as meeting off-street loading requirements of any other Use.

(4) Plans for Uses requiring off-street loading facilities under the provisions of this article shall clearly indicate the location, dimensions, clearance and Access of all such required off-street loading facilities.

(5) The location of loading spaces shall be illustrated on submitted plans within close proximity to the Building entrance in a manner that does not restrict the free movement of traffic during their utilization.

(c) Off-street loading spaces shall be provided as follows:

(1) Non-residential Uses:

a. No requirements for Buildings that contain less than 5,000 square feet.

b. One space for Buildings that contain 5,000 < 10,000 square feet of Floor Area.

c. Buildings with a Floor Area between 10,000 square feet and < 50,000 square feet shall provide two spaces.

d. One space shall be provided for every additional 50,000 square feet above the first 50,000.

(2) Multiple Family or Apt./Hotel Bldg: one space for every 50 Units; however, there shall be no loading space requirements for Developments that have less than ten Units.

(3) Places of assembly: 20,000 - 40,000 square feet - one space + one space for each 60,000 square feet over 40,000 square feet or major fraction.

(d) Uses in the C-1 District shall provide one golf cart space per 50 vehicular spaces.

ARTICLE VIII. SIGNS

Sec. 30-190. Purpose.

The purpose of this article is to promote and protect the public health, safety and general welfare of the Village of Key Biscayne by regulating existing and proposed Signs and other Street graphics within the Village. In particular, these Regulations are intended to preserve the unique aesthetic character of the Village and ensure that Signs are compatible with their surroundings. It is further intended to protect property values, create a better business climate, enhance the physical appearance of the community, preserve the natural beauty of the Village and improve vehicular and pedestrian safety and reduce visual pollution.

Sec. 30-191. Prohibited Signs.

The following are prohibited in the Village:

(1) Abandoned Signs.

(2) Animated Signs.

(3) Balloon Signs.

(4) Box Wall Signs.

(5) Buntings.

(6) Bus Bench Signs.

(7) Flags other than one United States flag and one other noncommercial flag together on a pole not to exceed 20 feet in height; one pole each permitted per Building.

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

(9) Off Premise Signs/Billboards.

(10) Pole Signs.

(11) Portable Signs.

(12) Projecting Signs, except Canopy Signs.

(13) Roof Signs.

(14) Snipe Signs.

(15) Swinging Signs.

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

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

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

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

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

(21) 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.

(22) Monument Signs.

(23) V-signs

Comment [JK246]: Permits logos as secondary signage.

Comment [JK247]: Prohibits monument signs. ZORC felt these types of signs are not consistent with the image of the Village and wall mounted signs provide sufficient identification.

Comment [JK248]: Prohibits V signs. ZORC felt these types of signs are not consistent with the image of the Village and that the regulations provide for several ways to identify buildings and uses.

Sec. 30-192. Required Signs.

The following Signs shall be placed where relevant by a property owner:

(1) *Safety Signs.* Fire safety markings as may be prescribed by fire authorities.

(2) *House numbers.*

a. Residential Building with four Dwelling Units or less -- address numerals at least four inches high but not greater than ten inches.

b. Residential Building with more than four Dwelling Units and nonresidential Buildings -- address numerals at least ten inches high.

(3) *Handicapped Parking and Access Signs.* In accordance with State handicapped Parking and Federal Disabilities Act Access requirements.

Sec. 30-193. Signs not requiring a permit.

The following Signs do not require a permit.

(1) A Government Instructional Sign.

(2) Temporary holiday decorations, provided they carry no advertising matter, and further provided that they are not in place more than seven days prior to a holiday and are removed within seven days after the holiday ends. The time limitations contained in this paragraph shall not apply during the period November 1 through January 15 each year.

(3) Temporary Signs for special events by nonprofit entities, subject to approval by the Village Manager.

(4) No-trespassing and no-dumping Signs not to exceed one and one-half square feet in area per Sign and not to exceed four per lot, except that special permission may be obtained from the Village Manager for additional Signs under proven special circumstances.

(5) Certain Temporary Signs as specified in section 28-8 hereof.

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 (maximum)	Eight feet
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

Comment [JK249]: Removes "monument signs" and clarifies "wall signs"

(2) *Instructional Sign.* (1)
~~TABLE INSET:~~

Number	To be approved as part of Site Plan
Area (maximum)	Four square feet
Sign Height (maximum)	Two feet
Other restrictions	No advertising copy or logos

(1) Sign permit not required but number and location must be approved as part of Site Plan.

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).*~~
~~TABLE INSET:~~

Comment [JK250]: Removes the regulations for "monument signs"

~~Number (maximum)~~	~~1 per parcel; A parcel that has a minimum of 300 feet of Street frontage and is served by two or more Access points may have one additional Sign (1)~~
~~Area (maximum)~~	~~24 square feet, except for gasoline station parcels where a 32-square-foot Sign shall be permitted.~~
~~Sign Height (maximum)~~	~~Four feet~~
~~Sign Width (maximum)~~	~~Eight feet~~
~~Setback (minimum):~~	—

~~From Right-of-Way line~~	~~Five feet~~
~~From side property line~~	~~20 feet~~
~~Illumination~~	~~Externally or internally Illuminated Sign only~~
~~Supplemental provisions:~~	
~~Time and Temperature Sign authorized within total permitted Sign area~~	~~—~~
~~Landscaping and visibility sight triangle on corner of lot~~	~~See section 30-197(g)~~

(1~~2~~) *Wall Sign (permitted only on Buildings where the majority of the Floor Area is in Retail Use.)* ~~(2)~~
~~TABLE INSET:~~

Type	Reverse Channel Wall Sign only
Number (maximum)	1 per ground or second floor establishment which has its own frontage and entrance facing a Public Street (3) or courtyard/Parking court
Area (maximum)	1.5 square feet for each one lineal foot of Building Frontage
Illumination	See definition of Reverse Channel Wall Sign
Supplemental provisions: See section 30-197(d) for gas station provisions	

(2~~3~~) *Canopy Sign.*
~~TABLE INSET:~~

Number (maximum)	One per establishment
Area (maximum)	Four square feet
Minimum clearance above ground	Eight feet
Supplemental provisions: Must be attached in accordance with the provisions of the ~~South~~ Florida Building Code, as may be amended from time to time.	

(3~~4~~) *Awning Sign.*
TABLE INSET:

Number	One per establishment

Lettering	One line; letters not to exceed nine inches in height
Logo	Maximum of six square feet

(4~~5~~) *Directory Sign.*
TABLE INSET:

Number (maximum)	1 per entrance into a Multitenant Building, in addition to other permitted Signs
Area (maximum)	32 square feet
Location	On Building Wall (or freestanding within internal courtyard)
Illumination	Externally or internally Illuminated Signs

(5~~6~~) *Window Sign (permanent).*
TABLE INSET:

Number (maximum)	Four per establishment
Area (maximum)	Eight square feet
Supplemental provisions:	
Instructional signage not exceeding two square feet in area affixed to or installed on windows or doors shall not be counted toward the overall Window signage square footage.	
Any graphic or attention getting device that is located three or more feet above the finish floor, that exceeds 16 square inches in area and is less than three feet from a window shall be considered a Window Sign.	

(6~~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.~~

Comment [JK251]: Removes monument signs from buildings that are being subdivided.

Comment [JK252]: This section is removed because monument signs will be prohibited.

(78) *Permitted Signage in Office District.*
~~TABLE INSET:~~

Number	One per building mounted on a wall facing the street
Area (maximum)	20 sq. ft.
Letter Height (maximum)	12 inches except for lots facing Crandon Boulevard. Signs shall have a maximum letter height of 18 inches.
Illumination	Permitted only for reverse channel letters with back lighted letters
Monument Signs	Not permitted
Directory Sign	One per building located at the entrance to the building with a maximum area of 15 square feet. It may be externally or internally illuminated with the maximum watts to permit the letters to be read at a distance not to exceed three feet from the Directory Sign. This regulation only affects Directory Signs which can be viewed from a street.

Sec. 30-196. Temporary Signs.

The following Temporary Signs are authorized in the Village:

(1) *Grand Opening or Seasonal Banner Sign (permit from Village Manager required).*
~~TABLE INSET:~~

	Residential District	Nonresidential District
Number (maximum)	One per project	One per establishment
Area (maximum)	20 square feet	20 square feet
Sign Ht. (maximum)	Four feet	Four feet
Length of display	14 days	14 days
Frequency	1 per year	1 per year

(2) *Real Estate Signs.*
~~TABLE INSET:~~

	Residential District	Nonresidential District
Number (maximum)	Two per lot	One per lot
Area (maximum)	40 square inches each	Four square feet
Sign Ht. (maximum)	Four feet	Four feet
Setback (minimum)	Five feet	Five feet

(3) *Construction Sign.*
~~TABLE INSET:~~

	Residential District	Nonresidential District
Number (maximum)	One per lot	One per lot
Area (maximum)	Four square feet	Four square feet
Sign Ht. (maximum)	Four feet	Four feet
Setback (minimum)	Five feet	Five feet
Length of display	During Remodeling or construction	During Remodeling or construction

(4) *Model Sign.*
~~TABLE INSET:~~

	Residential District	Nonresidential District
Number (maximum)	One per model Unit One per Apartment Building, and One per Office and/or Retail Building	(Not applicable)
Area (maximum)	Four square feet	
Sign Ht. (maximum)	Four feet	
Model arrow	Three per Development	
Location	Model Signs or arrows directing traffic to models are prohibited on the median and Rights-of-Way along Crandon Boulevard	
Signs	Not to exceed two square feet each	
Flags	Not permitted	
Time limit	Until certificate of completion/occupancy is issued for last house or Unit in Development	

(5) *Window Sign or Menu Board, Temporary.*
~~TABLE INSET:~~

	Residential District	Nonresidential District
Area (maximum)	Not permitted	35% of window area up to a maximum of

		12 square feet
Time limit		30 days
Size		Menu boards shall not exceed 8 1/2 inches × 11 inches
Supplemental provisions:		
Temporary Signs for special events by nonprofit entities that are in place no earlier than 14 days prior to the event and are removed no later than seven days after the event shall not be considered Window Signs for purposes of calculating maximum area.		

(6) *Garage Sale Sign.*
~~TABLE INSET:~~

	Residential District	Nonresidential District
Number (maximum)	One per Lot on site	Not permitted
Area (maximum)	Six square feet	
Height (maximum)	Four feet	
Length of display	Maximum of one weekend during six-month period	

(7) *Political Sign (see section 30-197(h) for supplemental provisions).*
~~TABLE INSET:~~

	Residential District	Nonresidential District
Area (maximum)	Four square feet	Four square feet
Sign Height (maximum)	Four feet	Four feet
Setback (minimum)	Five feet from edge of pavement	Five feet from edge of pavement

However, in no instance shall a Political Sign(s) be located on a public right-of-way which is adjacent to government owned property.

(8) *Real Estate Open House Sign (in conformance with design specifications as provided by the Village Manager).*
~~TABLE INSET:~~

	Residential District	Nonresidential District

Number (maximum)	One per property	Three per property
Area (maximum)	Six square feet	Six square feet
Sign Height (maximum)	1 1/2 × 2 feet	1 1/2 × 2 feet
Time limit	Shall only be permitted Wednesday, Saturdays and Sundays 10:00 a.m. to 4:00 p.m. Must be removed same day.	Shall only be permitted Wednesday, Saturdays and Sundays 10:00 a.m. to 4:00 p.m. Must be removed same day.
Supplemental Regulations:		
Location		
No real estate open house Signs shall be permitted to be placed in the median of or on property abutting and facing Crandon Boulevard nor within five feet of any Right-of-Way line.	Signs may be located in the public Right-of-Way provided said Sign must be Setback five feet from the edge of pavement.	Signs may be located in the public Right-of-Way provided said Sign must be Setback five feet from the edge of pavement.

Sec. 30-197. Supplemental Regulations.

(a) *Multitenant Center Sign graphics criteria.*

(1) The owner of a Multitenant Center shall submit to the Village Manager a Written statement of the uniform Sign graphics criteria of the Multitenant Center. The Village Manager shall review the criteria and make a recommendation to the Village Council, which shall have final approval. Once the criteria have been approved, it shall apply to the entire center, as well as to each individual occupant, and shall remain in effect for so long as the center exists, regardless of a change in ownership or management, unless and until the owner obtains a new uniform Sign graphics criteria approval from the Village Council. Uniform Sign graphics criteria shall include, but not be limited to, color(s), type of Sign, style of letters, size of letters (maximum or minimum) and size of Sign.

(2) A Sign application for any portion of a Multitenant Center shall contain a Written description of the uniform Sign graphics criteria established at the Multitenant Center and a sketch thereof. This shall apply to application for all types of Signs to be displayed at the location. Written consent of the owner of the Multitenant Center shall accompany all such applications.

(b) *Design review guidelines.* In reviewing Multitenant Signs, the Village Manager shall use the following design review criteria:

(1) *Number of items.* No more than five items shall be contained in any one Sign.

(2) *Entrance feature.* An entrance feature shall not be designed so as to effectively increase the size of a Sign.

(3) *Legibility.* All Signs shall be designed to be clearly legible.

(4) *Architectural features.* Signs shall not be placed on decorative architectural features.

(5) *Building compatibility.* The material and colors of all Signs shall be compatible with the materials and colors of the Building.

(6) *Illumination of Buildings by externally Illuminated Signs.* There shall be no such illumination of Buildings facing residential properties. The illumination of other Buildings by externally Illuminated Signs shall not be brighter than the standard for Parking Lot and grounds lighting.

(c) *Changeable Copy Signs.*

(1) *In general.* Changeable Copy Signs are permitted to be used only for theaters, other entertainment businesses, Hotels, religious institutions, drive-through establishments, and ~~gasoline~~ Service Stations, subject to the restrictions in subsection (2) below.

(2) *Drive-through.* Drive-through establishments shall be permitted to have a Changeable Copy Sign showing menu or featured items, provided it has a transparent protective locked cover. The Sign must be affixed to a Wall of the establishment adjacent to the drive-in service window or located freestanding within and parallel to the drive-in lane area. If freestanding, the top of the Sign shall not exceed six feet in height. (See section 30-113(h).)

(d) ~~*Gasoline*~~ Service *Station Canopies.* When calculating Building Frontage for purposes of determining Wall Sign size, ~~gasoline~~ Service *Station* Canopies shall not be included. A company logo not to exceed four square feet shall be permitted on each side of a Canopy but no Wall Sign shall be permitted thereon.

(e) *Rear of Signs.* Where the rear or side of any Sign is visible from any Street or from any adjoining residential district, such side or rear shall present a completely finished appearance.

(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.~~
~~(g) *Landscaping of Detached Signs.* Unless otherwise provided in the Village of Key Biscayne Code of Ordinances, all Detached Signs shall be placed in a planting bed of at least two feet width surrounding the Sign. This bed shall contain shrubs, flowers or other round cover, and shall be shown on the Site Plan.~~

Comment [JK253]: Removes the word "Gasoline" and replaces it with "Service" which is consistent the current definition.

Comment [JK254]: Monument signs are no longer permitted

Comment [JK255]: Monument signs are no longer permitted

(h) *Political Signs.*

(1) Although no permit is required for a Political Sign, each candidate successfully filing qualifying campaign papers and each Political Sign Sponsor shall be responsible for meeting all requirements of this chapter relative to Political Signs. The Village Clerk shall furnish a copy of this ordinance to all qualifying candidates and Political Sign sponsors and each shall sign and date an acknowledgment of receiving this document.

(2) The Village Manager may cause the removal of any Political Sign Erected on public property contrary to the provisions of this chapter. The candidate or Political Sign sponsor responsible for erecting such Political Sign shall be liable to the City for the costs incurred in the removal. The Village Manager may cause the removal of any Political Sign illegally Erected on private property in conformance with section 28-13 hereof.

(3) All Political Signs shall be removed within seven days after the election to which they relate. Upon a failure to remove a Political Sign in a timely fashion, the Village Manager may cause the removal of the Political Sign and charge the candidate or Political Sign Sponsor the actual cost of removal.

(i) *Signs on Golf Carts.*

(1) For purposes of this paragraph, a Golf Cart is defined as a motor vehicle designed and manufactured primarily for operation on a golf course for sporting or recreational purposes as defined in Chapter 316.003(68), Florida Statutes.

(2) Signs shall be attached to or painted on the vehicle and located below the roof, One sign per Golf Cart is permitted with a maximum size of two square feet. The sign shall not be illuminated.

(3) For a Golf Cart sign related to a commercial use, the business which is the subject of the sign shall have a Village of Key Biscayne Local Business Tax Receipt with an office located in a C-1 Light Intensity Commercial District, O-1 Low Intensity Office District, or at a Hotel or Motel.

Sec. 30-198. Sign permits.

(a) *Required.* Except as otherwise set forth herein, it shall be unlawful for any Person to display or install any Sign without first having obtained a permit.

(b) *Applications.*

(1) *Filing.* Applications for permits required by this chapter shall be filed with the Village Manager upon forms to be furnished by the Village Manager. Such applications

shall also respond to the structural requirements for Signs as specified in the South Florida Building Code.

(2) *Signs requiring Village Council approval.* All Multitenant Center Sign graphics criteria, require prior review and approval by the Village Council based upon the recommendations of the Village Manager.

(c) *Issuance.* Provided the terms of this ordinance have been complied with, the Village Manager shall issue a permit for each Sign and retain a copy thereof and a copy of the plan. Permits shall be numbered in order of their issuance.

(d) *Time limitation of permits.* All Signs shall be Erected on or before 90 days from the date of the issuance of a Sign permit. If the Sign is not Erected within such time, the permit shall become null and void and a new permit shall be required.

(e) *Installation inspection.* The contractor or owner securing the permit for any Sign shall notify the Village Manager and request an inspection whenever such Sign is being installed, and before any concrete is poured; a final inspection shall be requested upon completion. At the time of the final inspection, a photograph of the completed Sign shall be taken by the inspector and placed with the plans or file records of the Sign permit.

(f) *Labels.* At the time of final inspection, the inspector shall attach a label to the Sign. The permit number of the Sign shall be shown on the label and the label shall be visible from ground level.

(g) *Revocations.* The Village Manager may revoke a permit or approval, issued under the provisions of this chapter, if it is found that there has been any false statement, concealment or misrepresentation as to any material fact in the application or plans upon which the permit or approval was based.

(h) *Variances and appeals.* Shall follow the procedures set forth in Article IV.

(i) *Fees.* Sign permit fees shall be established, from time to time, by Resolution of the Village Council.

Sec. 30-199. Legal Nonconforming Signs.

(a) *Amortization of 1993 Sign Code Nonconformities.* Any Sign that lawfully existed at the time this chapter [Ordinance No. 93-4] became effective may be continued, although it does not conform to all the provisions hereof, provided that no structural Alterations are made thereto and that all such Nonconforming Signs shall be completely removed from the Premises or made to conform by December 31, 1996. If the owner of a Sign can document the facts that (1) the Sign was installed or renovated after January 1, 1990, (2) the Sign is in sound condition, and (3) the cost of such Sign or renovation exceeded $3,000.00, then the Council may extend the amortization period up to May 1, 1998.

(b) *Exception to amortization schedule.* Nonconforming Banner Signs, Buntings, Portable Signs and Snipe Signs, as well as prohibited Signs placed on public property and utility poles, shall be removed within three months of the effective date of this chapter.

(c) *Nonconformities created by amendments to this Sign ordinance.* Any Sign which may become nonconforming as a result of any subsequent amendments to this chapter shall be completely removed from the Premises, or altered to conform, not later than five years from the date such Sign becomes nonconforming.

(d) *Other termination of legal Nonconforming Signs.*

(1) By abandonment: Abandonment of a legal Nonconforming Sign shall terminate its nonconforming status.

(2) By damage or poor condition: The legal nonconforming status of a Sign shall cease whenever the Sign is damaged beyond 50 percent as determined by the Village Manager from any cause whatever, or to the extent the Sign becomes a hazard or danger.

(3) Abandoned and damaged Signs, as described in this section, shall be removed by owners in accordance with the requirements of section 28-13 hereof.

Sec. 30-200. Sign maintenance.

(a) *Maintenance.* All Signs shall be maintained in a safe, presentable and good structural condition, which shall include the replacement of defective parts, repainting, cleaning and other acts required for the maintenance of said Sign. The area around the base of the Sign shall be kept free of weeds and debris. If a Sign does not comply with the above standards, the Village Manager shall require its removal in accordance with section 28-13 hereof.

(b) *Ineffective Signs.* Except as otherwise provided in this chapter, any Sign which is located on property that becomes vacant and unoccupied for a period of 90 days or more, or any Sign which pertains to a purpose that no longer applies, shall be deemed ineffective. An ineffective Sign is prohibited and shall be removed by the owner of the Premises in accordance with section 28-13 hereof.

(c) *Dangerous or defective Signs.* No Person shall permit to be maintained on any Premises owned or controlled by him, any Sign that is in a dangerous or defective condition. Any such Sign shall be removed or repaired by the owner of the Sign or the owner of the Premises.

(d) *Unlawful Signs.* No Person shall erect on any Premises owned or controlled by him any Sign that is prohibited under section 28-3 or any Sign that in any way does not comply with the provisions of this chapter or any Sign that has not received a valid permit (unless specifically exempted there from).

Sec. 30-201. Removal of improper Signs.

(a) *Removal.* The Village Manager shall cause the removal of any Sign in violation of this chapter in accordance with the procedures set forth in the Village of Key Biscayne Code Enforcement Ordinance.

(b) *Emergency.* Notwithstanding the above, the Village Manager may cause the immediate removal of any Sign that poses an immediate danger to the health, safety or welfare of the community. The Village Manager may cause the Sign to be made safe as an alternative to removal. In either event, Village personnel may enter onto Premises, with or without the property owner's consent, for emergency repair or removal.

(c) *Removal costs.* Costs incurred by the Village's removal of a Sign shall be charged to the real property owner on whose property the Sign is located. The Village shall assess the entire cost of such demolition, removal or repair, which assessment shall include, but not be limited to, all administrative costs, postal expenses and newspaper publication costs. Such charge shall constitute a lien upon such property. The Village Clerk shall file such lien in the County's official record book showing the nature of such lien, the amount thereof and an accurate legal description of the property. No certificate of use and occupancy shall be approved for such a property until the full amount associated with the lien, or the full amount in the event no lien has yet been filed, has been paid to the Village by the property owner.

ARTICLE IX. LANDSCAPE REGULATIONS

Sec. 30-230. Purpose and intent.

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

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

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

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

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

Comment [JK256]: Adds "enforcement" to landscape regulations to the purpose and intent of this section

Comment [JK257]: ZORC provided a definition for the word "specimen". Since the definitions are not being amended, the small case letter is required.

(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 ~~a~~effects of added absorption of carbon dioxide.

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

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

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

(i) Promote the concept of planting the appropriate tree in the correct location to avoid problems 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, and shall apply to new construction on vacant Lots and for construction projects that have a value of 50 percent or greater of the assessed value of the Building(s) on a site.

Sec. 30-232. Required landscape plans.

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

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

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

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

Comment [JK258]: The word "exotic" was replaced with the correct word "invasive" and referenced to the proper agency.

Comment [JK259]: ZORC included the "GU Government Use District" which staff removed as it is addressed by reference through the words "all Village zoning districts"

Comment [JK260]: Requires a North Arrow, street names, and dimensions on Landscape Plans

Comment [JK261]: Requires trees with a diameter of 3 inches instead of 4 inches be included in the survey of trees

(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 about 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 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 shall ~~should~~ be preserved in place to the maximum extent possible or relocated within the site. ~~, but in no event shall less than 30 percent of all landscaping be done with native vegetation.~~

(3) The Landscape plan shall include native plant species to the maximum extent possible and shall in no event contain less than 30% of native landscaping.

Comment [JK262]: Additional requirements for Landscape Plans.

Comment [JK263]: References the appropriate professional Association.

Comment [JK264]: Includes mangroves as a landscape feature. Requires existing and proposed buildings to be shown on Landscape Plans.

Comment [JK265]: Grammar correction. Requires specimen trees to be retained in their current location or re-located to another location on the same site.

Comment [JK266]: Maintains the 30% native landscaping.

(34) Trees and shrubs shall be used to reduce energy consumption by shading Buildings and paved surfaces.

(5) 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.

(6) Trees and shrubs shall ~~should~~ be placed on the site in locations that take into consideration overhead utility lines, proximity to native plant communities, septic tanks, and sewer lines.

Sec. 30-234. Required irrigation plans.

(a) *Applicability.* All Developments which are required to submit a landscape plan shall also provide an in-ground irrigation system with the exception of the following:

(1) Single Family homes where drought-tolerant, xeriscape landscaping has been utilized.

(2) Duplexes and Townhomes on Sites that are 7,000 square feet or less where drought-tolerant, xeriscape landscaping has been utilized. However, hose bibs shall be placed on the Building at 75-foot intervals.

(b) *Components of an irrigation plan.* Required irrigation plans shall:

(1) Be drawn at the same scale as the landscape plan.

(2) Delineate the areas that are to be landscaped.

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

(4) Include water source, design operating pressure and flow rate per zone, total volume required for typical depths of application, and application rate.

(5) Include locations of pipes, controllers, valves, sprinklers, backflow prevention devices and electrical supply.

Sec. 30-235. Tree removal permit.

(a) *Tree removal permit required.* No Person shall cut down, destroy, remove, relocate, destructively damage or cause to be cut down, destroyed, removed, relocated or destructively damaged any tree without first obtaining a permit from the Miami-Dade County Department of Resource Management (DERM) and the Village.–However nothing in this article shall prevent a Person from destroying the following trees without receiving a permit:

Comment [JK267]: Requires that street trees should be used to shade sidewalks.

Comment [JK268]: Grammar correction.

Comment [JK269]: Exempts irrigation plans as landscaping would not require an irrigation system. This encourages the conservation of water.

Comment [JK270]: See comment above.

Comment [JK271]: ZORC required a permit from the County but removed a permit from the Village. Staff maintained the Village permit.

(1) Schinus ~~terebinthinfolius~~ terebinthifolius (Brazilian Pepper/Florida Holly)

(2) Metopium toxiferum (Poison Wood)

(3) Casurina equisetifolia (Australian Pine)

(4) Melaleuca Quinquenervia (Melaleuca)

(5) Araucaria Heterophylla (Excelsa, Northfolk Island Pine)

(6) ~~Brassala~~ Brassaia Actinophylla (Schefflera)

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

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

(1) Location of the tree to be removed.

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

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

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

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

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

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

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

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

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

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

(2) Trees that cumulatively provide the same number of inches of caliper diameter. All replacement trees must be on the same Site that the tree was removed.

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

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

(a) During any construction or land Development, protective barriers of specifications approved by the Building, Zoning, and Planning Director shall be placed and maintained around all trees to be retained on site to prevent their destruction or damage. The Developer shall use every precaution possible to avoid damaging such trees by preventing the 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.

Comment [JK272]: ZORC removed the words "the use or storage of materials and equipment" and staff restored those words. By including the above and the new regulation, trees are better protected during the construction phase.

(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

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 diameter of trees trunk at ~~five~~ four feet above crown of root structures ~~height~~: 2.5 inches.

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

(2) *Minimum number of trees.*
~~TABLE INSET:~~

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

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

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

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

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

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

Comment [JK273]: This will result in a more mature tree at planting.

Comment [JK274]: Increases the requirement by one tree. The calculation is easier.

Comment [JK275]: Provides options to meet the tree canopy requirement.

Comment [JK276]: Established minimum height requirement to meet canopy coverage.

Comment [JK277]: Is replaced by second comment above.

~~TABLE INSET:~~

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

Comment [JK278]: Added the word "minimum"

(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.

Comment [JK279]: Results in water conservation yet provides for other landscape materials to be used.

Comment [JK280]: These regulations were re-located to this section. There is no change in the regulations.

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

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

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

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

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

(e) On non-waterfront Residential lots, for those portions of the Structure with a rear Setback of less than 25 feet, the area within five feet of the rear property line shall be planted with a dense, landscape screen at a height of at least four feet at time of planting, planted 36" on center, and attaining at least a ten foot height.

Sec. 30-239. Hatracking prohibited.

All tree pruning shall conform to current standards of the National Arborist Association. Hatracking or topping shall not be permitted; however, crown reduction in excess of one-third shall be permitted under the following conditions:

Comment [JK281]: Creates a standard for tree pruning.

(1) If a tree interferes with utility lines or utility Structures.

(2) If a tree has storm damage and in the opinion of the Building, Zoning, and Planning Director should be hatracked or topped in order to preserve the tree.

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.