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

ATTACHMENT "A"

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."

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

~~(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.

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

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:~~

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

Single Family Districts	*Specialized Use Districts*
IR Island Residential VE Village Estate VR Village Residential	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) PS Parkside Residential	*Office District* 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~~.

Comment [JK5]: Not necessary

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:

Comment [JK6]: Not necessary

(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.

Comment [JK7]: Clarifies the intent.

(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

Comment [JK8]: More accurate.

Comment [JK9]: More accurate

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 [JK10]: 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 [JK11]: 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 [JK12]: 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 [JK13]: 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.~~

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

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.~~

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

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

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

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.

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 [JK17]: 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 [JK18]: 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.~~

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

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.~~

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

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.

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 [JK21]: 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 [JK22]: 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.~~

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

~~*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.~~

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

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.~~

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

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.

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 [JK26]: 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 [JK27]: 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 [JK28]: 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 [JK29]: 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 [JK30]: 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 [JK31]: 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 [JK32]: 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 [JK33]: 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 [JK34]: 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.~~

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

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.~~

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

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.~~

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

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.~~

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

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 [JK39]: 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 [JK40]: 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 [JK41]: 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 [JK42]: 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 [JK43]: 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 [JK44]: 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.

Comment [JK45]: Grammar change. Replaces building with the term development for plans. Adds abandoned to the paragraph. These changes have no impact on the regulations.

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 th~~e~~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.

Comment [JK46]: Provides more Specific language relating to violations of this ordinance.

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.

Comment [JK47]: Grammar correction.

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

Hotels and Motels shall not be converted to Multifamily Dwellings.

Comment [JK48]: ZORC added specificity to this regulation. Staff recommended conversion of hotels or multifamily dwellings not be permitted.

Comment [JK49]: 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.

~~(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.~~

Comment [JK50]: 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.

~~(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.~~

(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.~~

Comment [JK51]: 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.

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.~~

Comment [JK52]: ZORC added "structures" which is not necessary as the definition of "building" includes "structure". Staff removed "structure". Provides for gardens and parks in sideyards.

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.

Comment [JK53]: Removes words which are not necessary. No impact on the 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 Regulations ~~ordinance~~ may be extended along the ~~established~~ same line as the existing Building ~~Lines~~ within the required Setback areas, provided that:

Comment [JK54]: Permits extending homes along the same setback as the original structure. This encourages expansion of homes and retention of current residents.

(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 [JK55]: Clarifies the intent.

(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.~~

Comment [JK56]: Above changes add more specificity to the regulations.

Comment [JK57]: Permits expansion of Mackel Homes.

Comment [JK58]: This section was amended by the Village Attorney. The changes clarify the regulations and are internally consistent..

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~~

~~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.

(4~~7~~) *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 [JK59]: Adds 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 surrounding neighborhood or district. Appeal of the Building,

Zoning, and Planning Director's decision is to the Village Council and considered as an appeal of an administrative decision. ~~If a Use is not listed as a Main Permitted Use, Conditional Use or Accessory Use, said Use is automatically considered as a Prohibited Use.~~

Comment [JK60]: 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 [JK61]: 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 [JK62]: 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~~ Eerected 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 [JK63]: 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 [JK64]: 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 [JK65]: 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.

Comment [JK66]: 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".

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.

Comment [JK67]: Secures construction sites with closed gates. This is consistent with the Florida Building Code.

Comment [JK68]: Re-locates words within the regulation. No impact on the regulations.

Sec. 30-40. Fencing of vacant Waterfront Lots.
All vacant Waterfront Lots shall have a six-foot black or green coated chain link fence along those portions of the site that face the water.

Comment [JK69]: Permits "green" coated fences and provides a choice other than "black" coated fences.

~~**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.

Comment [JK70]: The changes are more precise to achieve the intent of this section.

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 [JK71]: 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.

Comment [JK72]: 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".

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 meet~~s~~ the following criteria:

Comment [JK73]: Adds specificity.

(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

Comment [JK74]: Adds criteria to insure a variance, if granted, will still protect and maintain the character of the community.

(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.

Comment [JK75]: 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.

(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.

Comment [JK76]: Prohibits sign variances. Adds specificity the prohibition of use variances. ZORC felt that signs should confirm to the 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.

Comment [JK77]: Grammar change.

(d) *Resolution.* The resolution ~~which~~ that memorializes the approval of any type of Variance shall be recorded in the public records of Miami-Dade County at the applicant's

expense. A copy of the proof of recordation shall be submitted to the Building, Zoning, and Planning Department prior to the issuance of any building permits. No building permit shall be issued until proof of recordation has been submitted to the Building, Zoning, and Planning Department.

Comment [JK78]: Grammar change.

(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.

Comment [JK79]: Adds specificity.

(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.

Comment [JK80]: Adds specificity.

(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.

Comment [JK81]: Grammar change.

(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~~.

Comment [JK82]: Grammar change. Adds specificity.

(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.

(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.

Comment [JK83]: Density variances are not permitted. As such, the word "density" should be removed.

Comment [JK84]: Adds the word "variance" to a regulation that is within the Variance section.

(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:

Comment [JK85]: Adds the words "these regulations" instead of referring to the Code of Key Biscayne. Adds specificity.

(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.

Comment [JK86]: Grammar change.

(2) The applicant shall provide a Written statement from the Abutting Property owner consenting to the waiver. There shall be no other notice requirement.

(3) For existing construction that has received a certificate of use or certificate of occupancy, the applicant shall provide an affidavit stating ~~they~~ the applicant did not construct that portion of the project ~~which~~ that encroaches into the required Setback.

Comment [JK87]: 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 [JK88]: 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 [JK89]: 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

Comment [JK90]: Gender appropriate.

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 [JK91]: 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 [JK92]: 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~~.

Comment [JK93]: Proper legal reference.

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 the surrounding neighborhood.

Comment [JK94]: 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 [JK95]: Proper legal reference.

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 [JK96]: 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.

Comment [JK97]: ZORC removed the words "or signs". Staff included them because on commercial properties signs are posted in the yard facing each street.

(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.

Comment [JK98]: Clarifies it is the "Village Council".

Comment [JK99]: Added the word before "Council". Adds specificity.

(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.

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 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~~.

Comment [JK100]: More precise.

(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 [JK101]: 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;

Comment [JK102]: Adds "compatible to the criteria to evaluate text amendments or change of zoning requests.

(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 the surrounding neighborhood.

Comment [JK103]: Codifies past administrative and Council practice.

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

Comment [JK104]: Proper legal reference.

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.

Comment [JK105]: Inserts the word "background" to the beginning the paragraph.

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

Comment [JK106]: Inserts the word "Notice" to the beginning of the paragraph.

(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:

Comment [JK107]: Inserts the word "Criteria" to the beginning of the paragraph.

(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.

~~(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;~~

Comment [JK108]: 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.

(~~3~~4) The proposed use shall be consistent with the existing natural environment and community character of the immediate neighborhood of the proposed use;

Comment [JK109]: 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.

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

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

Comment [JK110]: Adds specificity. All uses must be consistent with the purpose of the zoning district.

(6~~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 the surrounding neighborhood ~~other property within the vicinity~~.

Comment [JK111]: Codifies past administrative and Council practice.

(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 [JK112]: 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~~.

Comment [JK113]: More precise.

(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.

Comment [JK114]: P

(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 moratorin.**~~

Comment [JK115]: Village Attorney has recommended these provisions be removed because case law has provided that moratoriums may only be adopted via due process procedures.

~~(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.~~

~~(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 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.~~

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

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

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

~~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 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.~~

~~(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.~~

~~(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.~~

~~(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.

(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 [JK116]: 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 [JK117]: Adds landscape and architecture to the criteria.

Comment [JK118]: Projects must comply with the regulations.

Comment [JK119]: Removes words that are not necessary. No impact on the regulations.

Comment [JK120]: 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 [JK121]: 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.

Comment [JK122]: This will help to insure large trees are retained on the property or replaced with several smaller canopy trees as per County regulations.

Comment [JK123]: Site plans always show elevations. No impact on the regulations.

(4) Architectural plan.

a. A scale drawing clearly illustrating the building foot-prints, proposed floor plans and elevations, including height, dimensions and color.

Comment [JK124]: The location of the building always results in a foot-print. No impact on the regulations.

b. Proposed location and elevations of Signs, including height, dimensions, Setbacks, construction material and color.

Comment [JK125]: Staff removed the capital letters for structured parking cause this would mean a new definition. No impact on the regulations.

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.

Comment [JK126]: Layout changed from singular tense to plural. No impact on the regulations.

(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.

Comment [JK127]: 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.

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

Comment [JK128]: See comment above

d. Proposed ~~nonresidential~~ Floor Area by type of Use and total gross square footage.

Comment [JK129]: See comment above

e. Percentage distribution of total gross project site, including areas proposed for landscaped open space pervious and, impervious surfaces and Building coverage.

Comment [JK130]: The opposite of impervious is pervious. No impact on the regulations.

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.

Comment [JK131]: The South Florida Building Code was replaced with the Florida Building Code.

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).

Comment [JK132]: The regulations do not permit office warehouses. As such, removal of this requirement is consistent with the regulations.

f. Details of the proposed drainage system, including drainfield cross sections and lengths, catch basin types and sizes, designated retention/detention area cross sections, and the like.

g. Description of methods to be implemented during construction to mitigate adverse quantity or quality impacts off-site.

h. In addition, the following may be required depending on the size and/or location of the project:

1. Percolation test results if percolation of exfiltration systems are proposed.

2. A map of the area showing where runoff presently goes and size, location, topography and land Use of off-site areas which drain through, onto, and from the project.

(7) Pavement marking and traffic signage plan.

(8) Proof of Concurrency. All projects requiring Site Plan review, or Development of ~~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 [JK133]: 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 [JK134]: 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 [JK135]: 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 [JK136]: 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~~.

Comment [JK137]: Not necessary as the BZP Director must provide a recommendation based on the criteria for site plan review.

(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~~.

Comment [JK138]: More precise.

(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 [JK139]: 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 neighboring properties and adjacent streets.	VR, VE, and IR Districts: Single Family Dwelling PS District: Single Family and Two-Family attached Dwelling	None	Any Use that is customarily associated with the Main Permitted Use (see section 30-111).	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use (see section 30-113).

Comment [JK140]: Clarifies the district purpose. ZORC included the "public realm" which was deleted by staff as being too broad.

(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.			
	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,			

Comment [JK141]: ZORC included this date in this location even though it is noted in a footnote. This change has no impact on the regulations

Comment [JK142]: See comment above

Comment [JK143]: See comment above

Comment [JK144]: See comment above

Comment [JK145]: This is consistent with definition of "Lot Coverage".

Comment [JK146]: FEMA prevents improvements that exceed 50% of the assessed value. As such, this provision should be removed.

Comment [JK147]: Directs the reader to the FAR criteria. Has no impact on the regulations.

	Carports, and all interior space that is air conditioned. In no instance shall the Floor Area in the attic be included within this calculation.

Comment [JK148]: 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 oval sq.ft. what can be built to more compatible with the community.

* 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.

Comment [JK149]: Clarifies the regulation.

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).

Comment [JK150]: Clarifies the regulation.

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.

Comment [JK151]: Clarifies the regulation.

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 15-20 ft. from a front of property line~~	.006 for every foot the Main Permitted Use is setback less than 20 ft. to a minimum of 15 ft.~~.001 per Linear Foot of Frontage of a Wall that is located 15-20 ft. from a front property line (maximum .03)~~

Comment [JK152]: Clarifies the table heading.

Comment [JK153]: Clarifies the table heading.

Comment [JK154]: Staff inserted the word "minimum" which provides for the ability to have larger porches.

Comment [JK155]: Established minimum dimensions for porches in order to be awarded the bonus.

Comment [JK156]: These words are not necessary.

Comment [JK157]: Provides a more accurate way to measure the bonus.

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 required 25 ft. Setback	.0002 per sq. ft., maximum .03
12.	Reduction in Building Height.	.006 per foot or fraction thereof with a maximum of .03
13.	Reveals	.001 per sq. ft. with a .02 maximum

Comment [JK158]: Reduces the bonus as this design feature is too easily achieved.

Comment [JK159]: Increases the design bonus as this design results in a superior appearance of the structure.

Comment [JK160]: See comment above.

Comment [JK161]: These words are not necessary.

Comment [JK162]: Provides a more accurate way to measure the bonus.

Comment [JK163]: New bonus. This provides for a recessed feature that adds visual interest to a building

14.	Outside Moldings with a minimum width of 4 inches.	.0001 per linear ft. with a .02 maximum

Comment [JK164]: This is a raised decorative feature that adds visual interest to a building.

(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.

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.

Comment [JK165]: ZOC moved these words to the definition section. As the definition section is not being amended, they must be retained in this regulation.

Comment [JK166]: 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 [JK167]: . Permits a small floor above the second with a maximum of 600 sq. ft. which adds visual interest to the building.,

Comment [JK168]: 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 [JK169]: The regulations will result in visual interest to the building by requiring setbacks and indentations on exterior walls.

Comment [JK170]: Results in different setbacks which add architectural interest.

Comment [JK171]: Results in different setbacks which add architectural interest.

Comment [JK172]: Results in different setbacks which add architectural interest.

Comment [JK173]: Provides architectural interest.

Comment [JK174]: 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 [JK175]: See above comment.

(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 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~~

Comment [JK176]: Removes belfries and adds ornamental tower to provide additional architectural interest. Provides greater flexibility by using ornamental features.

Comment [JK177]: Grammar changes.

Comment [JK178]: Adds specificity.

Comment [JK179]: Provides greater architectural interest.

Comment [JK180]: Expanded section name to include "drainage".

Comment [JK181]: 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 [JK182]: ZORC recommended 20% but staff believes that was a typographical arrow as 20% would result in a very high slope for the driveway. The correct slope is 10%.

~~required for the septic system. Under no circumstances shall said exclusions exceed minimum requirements for area and elevation.~~

Comment [JK183]: This section is no longer required as installation of new septic tanks are prohibited.

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.

Comment [JK184]: Provides for regulations that affect drainage near lot lines. ZORC wanted to retain all water on site.

(e) *Setback Regulations (minimum).*
~~TABLE INSET:~~

Comment [JK185]: 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 [JK187]: 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 [JK186]: The regulations will treat all of the lots on Mashta 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.

Yard	VR Village Residential	VE Village Estate	IR Island Residential ~~(Interior)~~	~~IR Island Residential (Waterfront)~~	PS Parkside Residential
Front	20 ft. *	25 ft.	25 ft.	~~25 ft.~~	20 ft. *
Rear	25 ft. *	25 ft. **	25 ft.	~~25 ft.~~	25 ft. *
Side, interior	One Story new construction or one story addition: ~~New construction or addition:~~ 7.5 ft. One Story with a second floor addition: sum of the sideyards at	~~Non-waterfront Lots:~~ One ~~Story: New~~ story new construction ~~or addition: 7.5~~ 15 ft. Two Story new construction: 15 ft. One story additions may follow	One Story: ~~New~~ new construction ~~or addition: 7.5~~ 15 ft. Two Story new construction: 15 ft. One story additions may follow	~~All stories: New construction or addition: 7.5 ft. The sum of the Side Yard Setbacks shall not be less than 30% of the width of the Lot.~~	~~One Story: New construction or addition: 7.5 ft. 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor. **** Two stories or more: The sum of the Side Yard Setbacks shall not be less than~~

	the second floor shall be 25% of Lot Width 7.5 feet for an addition of a second or higher Story which contains less than 50% of the Floor Area of the first floor. **** New construction: Two stories or more: The sum of the Side Yard Setbacks shall not be less than 25% of the width of the Lot with no Side Yard less than 7.5 feet. New construction or second floor additions: Lots with a lot width of 100 ft. or more shall have no Sideyard less than 15 ft.	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.~~	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.~~		~~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. 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 [JK188]: 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):

Comment [JK189]: Directs the reader to section that addresses swimming pool setbacks.

~~TABLE INSET:~~

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

* Waterfront Lots shall provide a four-foot Setback.
The foregoing Setbacks shall be measured from the water's edge.

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

~~TABLE INSET:~~

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

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

(3) ***Docks and mooring piles.***

a. *General Regulations.* No docking facility within the single family districts in the Village of Key Biscayne shall be constructed without prior written approval by the Village of Key Biscayne Building, Zoning and Planning Department. The Village reserves the right to deny such permit for any docking facility which is determined, under the criteria provided herein and by applicable law, to be detrimental to the equitable, safe, and adequate navigation of all Waterways in the Village including Biscayne Bay.

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

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.~~ No more than two slips

Comment [JK190]: ZORC established separate regulations for waterfront properties facing Biscayne Bay; the canals;, Hurricane Harbor and Smuggler's Cove,; and specific regulations for property at 200 – 398 Harbor Drive. The maximum projection was established in each area. There are also general regulations.

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

4. A tender shall not be considered as a watercraft.

5. No dock shall project within 50 ft. of a ~~jetty~~ breakwater

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

7. A boat lift may project from a dock within the applicable 45 or 60 degree triangle but may not encroach the required 10 foot side yard setbacks. Lift arms may extend beyond the applicable 45 or 60 degree triangle, but shall not extend beyond the mooring piles.

8. The maximum height for a watercraft on a boat lift is such that the keel may be no more than five (5) inches above the Mean High Water Level.

Comment [JK191]: A jetty is a series of rocks above the waterline that are connected to land. A breakwater is not connected to land. There is a jetty at the Yacht Club.

~~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.~~

9. Maximum Dock and Mooring Pile Extensions from a Property Line

a. Canal. No dock shall extend from a property line into any canal a distance greater than 10 feet, or ten percent of the width of the waterway, whichever is less. No mooring pile shall extend from a property line into any canal a distance greater than 25 feet or 20 percent of the canal width, whichever is less. The dock, watercraft and any mooring pile shall fit within a 45 degree triangle.

CODIFIER INSERT CANAL 45 DEGREE TRIANGLE GRAPHIC

b. Hurricane Harbor and Smuggler's Cove. No dock shall extend from a property line into Hurricane Harbor or Smuggler's Cove a distance greater than 20 feet or 10% of the waterway, whichever is less. No mooring pile shall extend from a property line into Hurricane Harbor or Smuggler's Cove a distance greater than 35 feet or 20 percent of the channel width, whichever is less. The dock, watercraft and any mooring piles shall fit within a 45 degree triangle.

c. Biscayne Bay. No dock shall extend from a property line into Biscayne Bay a distance greater than 40 feet. The dock and watercraft shall fit within a triangle with 60 degree angles along the base of the triangle. The baseline of the triangle shall not exceed 100 feet. 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. Mooring piles are permitted outside of the 60 degree triangle.

~~6~~10. 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.

(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 ~~adjacent Street(s) or side~~ Lot line shall be ~~six~~ four feet as measured from ~~the crown of the road, except~~ the Lot grade, and in no case greater than six feet above crown of road elevation.

Aarches, 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. *Additional Front Zone Regulations.*

a. Minimum setback is 2 ft. if a sidewalk is present, otherwise 0 ft.

b. Shall be at least 75% open

c. Perimeter Walls and wood fences facing a Street shall be screened with a hedge that at time of planting shall have a minimum height of 24 inches and be planted 24 inches on center. Walls and chain link fences facing a street shall have a hedge that at time of planting having a height equal to the height of the wall or chain link fence and shall be planted on 30 inches on center

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

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

Comment [JK192]: Has no impact on the regulations.

Comment [JK193]: Re-locates words in the regulations. Requires a hedge when chain link fences are used.

Comment [JK194]: Staff added the word "walls" as the regulations address them in addition to a fence.

Comment [JK195]: Implements an administrative policy.

Comment [JK196]: Implements an administrative policy.

Comment [JK197]: Re-locates words in the regulation.

Comment [JK198]: Currently regulated in the County Code.

(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.

Comment [JK199]: Permits sculptures and other artistic features in the front yard with a height of 5 ft. and occupying no more than 10 sq. ft.

(7) *Gazebos and accessory Structures.*

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

b. Location: Not permitted in the Front Yard.

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

d. Size: 200 square feet.

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

f. Roof top Access: Prohibited.

g. Number: One.

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

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

(9) *Heating, ventilation, and air conditioning equipment Setback Regulations.* The use and location of heating, ventilation, and air conditioning compressors and equipment

Comment [JK200]: Established setback regulations for compressors.

(HVAC) ~~and swimming pool equipment shall be limited as follows: HVAC compressors~~ are subject to the following Setback limitations:

Comment [JK201]: Swimming pool and equipment are regulated in paragraph 21 of this section.

~~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

Comment [JK202]: Prohibits this equipment in the front yard. ZORC wanted to improve the aesthetics of the community

Comment [JK203]: Prohibits this equipment in yard that facing a street. ZORC wanted to improve the aesthetics of the community

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.

Comment [JK204]: Requires screening color to match the house. This improves the aesthetics of the community.

(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.

Comment [JK205]: Results in greater area for drainage.

(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:

~~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 [JK206]: 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.

Comment [JK207]: Adds specificity.

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